



*Institute of Governance Studies,
BRAC University*

Working Paper

Democratic Consolidation in Bangladesh: A Reality Check

Sultan Mohammed Zakaria

IGS Working Paper Series No. 16/2013

July 2013

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Published by the Institute of Governance Studies, BRAC University in July 2013

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Democratic Consolidation in Bangladesh: A Reality Check

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1. Introduction

“A balanced political culture—in which people care about politics but not too much—is possible only in structural circumstances where people can afford not to care too much”

—Larry Diamond

Following the “third-wave of democracy”², the number of democratic countries around the world has taken a surge. However, in terms of qualitative changes, those constitutionally transformed countries have shown little promises and liberalism³ has been proved elusive. Many newly democratic countries have only shifted from their early totalitarian system to elected authoritarianism in the guise of democracy where elections are merely held to validate the subsequent unconstitutional activities of the respective regimes and where little respects are being shown to liberal constitutional values. Fareed Zakaria, the editor of Newsweek magazine, termed this development as “*the rise of illiberal democracy*” and observed that, “*many countries are setting into a form of government that mixes a substantial degree of democracy with a substantial degree of illiberalism.*” (Zakaria 1997) There has been a growing sense of frustration nowadays that many of these new democracies are only interested in elections and less interested in consolidating the democracy.

Linz and Stephan (2001) illustrated **three** minimal conditions that must be obtained before there can be any possibility of speaking of democratic consolidation. **First** of all, in a modern polity, free and authoritative elections cannot be held, winners cannot exercise the monopoly of legitimate force, and citizens cannot effectively have their rights protected by a rule of law **unless** a state exists. In some parts of the world, conflicts about the authority and domain of the *polis* and the identities and loyalties of the *demos* are so intense that no state exists. No state, no democracy. **Second**, democracy cannot be thought of as consolidated until a democratic transition has been brought to completion. A necessary but by no means sufficient condition for the completion of a democratic transition is the holding of free and contested elections (on the basis of broadly inclusive voter eligibility) that meet the seven institutional requirements for elections in a polyarchy that Robert A. Dahl has set forth. (Dahl 1971: 3) Such elections are not sufficient, however, to complete a democratic transition. In many cases (for example, Chile as of 1996) in which free and contested elections have been held, the government resulting from elections like these lacks the *de jure* as well as *de facto* power to determine policy in many significant areas because the executive, legislative, and judicial powers are still decisively constrained by an interlocking set of “reserve domains,” military “prerogatives,” or “authoritarian enclaves.” **Third**, no

² Huntington (1991: 12) describes the post-Soviet democratic surge as the *third-wave* of democracy.

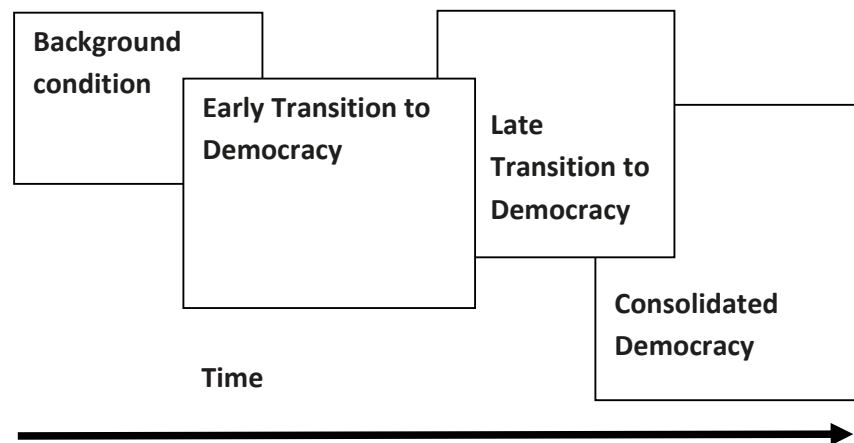
³ Liberalism has been understood as a political system marked not only by free and fair elections, but also by the rule of law, a separation of powers, and the protection of basic liberties of speech, assembly, religion, and property. [Zakaria, F. (1997)]

regime should be called a democracy unless its rulers govern democratically. If freely elected executives (no matter what the magnitude of their majority) infringe the constitution, violate the rights of individuals and minorities, impinge upon the legitimate functions of the legislature, and thus fail to rule within the bounds of a state of law, their regimes are not democracies. (Linz and Stephan 2001)

Political scientists also argue that a certain synchrony between societal and institutional evolution is necessary for democratic consolidation. Diamond (1996; 1999), in this regard, underscores the necessity of a two-tier process, which involves both the state and civil society. (Diamond 1996: 227) He sets out that the crucial preconditions for consolidation need to take shape in the realm of civil society: its independence (but not alienation) from the state, a "rich associational life" (1996: 230) that fosters the skills of democratic citizens, and tolerance, moderation, willingness to compromise, and respect for opposing viewpoints. He, however, added that if to choose a single most important and urgent factor in the consolidation of democracy, it would be political institutionalisation not civil society by illustrating that, "*citizens' support for democracy is possible only when state institutions perform in an intelligible and efficient way.*" (1996: 238) What surfaces from these considerations is not a unidirectional but an interlocking, two-tier process: consolidation is a process through which effective societal control and capable participation and "vigilance and loyalty" interact with a state's implementing capacity and robust institutions.

Sorensen (1993), on the other hand, termed the democratic consolidation as the last and final phase of democracy. In an ideal or strict form, at this stage of democracy, all the democratic institutions are formed and the new democracy has proved itself capable of transferring power to an opposition party.

Figure 1: Democratic transitional phases towards consolidating democracy



Source: Based on George Sorensen's (1993: 42) model on transitions toward democracy

Gunther (1995) is of the opinion that democratic consolidation is achieved when a consensus is reached among the key political actors to adhere to the democratic rules and accept political institutions as the only legitimate framework for political contestation. This means an agreement towards democracy from above. Przeworski (1991) observes democratic consolidation in a situation where all political conflicts are solved through democratic institutions and all players accept the uncertainty of the democratic game. Linz and Stepan (1996) discusses the five major arenas of a modern consolidated democracy that combinedly contribute to the consolidation— civil society, political society, rule of law, state apparatus and economic society. All the five arenas have their specific influence and type of interaction towards and within the democratic system. Such democratic consolidation takes place in a combined way and is not dependent on only one factor.⁴

Diamond, *et al.* (1997), on the other hand, suggested that democratic consolidation is fostered by a number of institutional, policy, and behavioural changes—many of these improve governance directly by strengthening state capacity; liberalizing and rationalizing economic structures; securing social and political order while maintaining basic freedoms; improving horizontal accountability and the rule of law; and controlling corruption. Others improve the representative functions of democratic governance by strengthening political parties and their linkages to social groups, reducing fragmentation in the party system, enhancing the autonomous capacity and public accountability of legislatures and local governments, and invigorating civil society. Some also require steady efforts to reduce military involvement in non-military issues and subject the military and intelligence establishments to civilian control and oversight. And some require legal and institutional innovations to foster accommodation and mutual security among different ethnic and nationality groups. (Diamond *et al.* 1997)

In some cases, becoming more democratic may involve completing the transition from authoritarian to democratic rule. Linz and Stepan (1978) argued in their essay that a democratic transition is completed only when the freely elected government has full authority to generate new policies, and thus when the executive, legislative, and judicial powers generated by the new democracy are not constrained or compelled by law to share power with other actors, i.e., the military.

2. Conceptual Framework

The discussions above highlighted a number of issues that are critical for democratic consolidation. The issues of civil society independence, the status of political domain and

⁴ The different faces of the process are also stressed by Linz and Stepan (1996: 6) in their definition, where the behavioural, attitudinal, and constitutional dimensions are indicated as well as the interaction among five different arenas that reinforce each other: civil society, political society, state bureaucracy, rule of law, and economic society (see Linz and Stepan 1996).

political institutions, rule of law and economic society, among others, are vitally important for democratic consolidation. (Linz and Stephan) Besides, how political conflicts are resolved (whether they are resolved through democratic institutions), and whether all players accept the uncertainty of the democratic game i.e., defeat in the election are also significant determinant of democratic stability and sustainability.

Diamond (1997) identified a number of institutional, policy, and behavioural changes required for democratic consolidation that includes:

- Strengthening state capacity
- Liberalizing and rationalizing economic structures
- Securing social and political order while maintaining basic freedoms
- Improving horizontal accountability and the rule of law
- Controlling corruption
- Strengthening political parties and their linkages to social groups
- Reducing fragmentation in the party system
- Enhancing the autonomous capacity and public accountability of legislatures and local governments
- Invigorating civil society and
- Reducing military involvement in non-military issues and subject the military and intelligence establishments to civilian control and oversight.

Besides, according to Linz and Stephan (2001: 96), five other interconnected and mutually reinforcing conditions must be present, or be crafted, in order for a democracy to be consolidated. First, the conditions must exist for the development of a free and lively *civil society*. Second, there must be a relatively autonomous *political society*. Third, throughout the territory of the state all major political actors, especially the government and the state apparatus, must be effectively subjected to a *rule of law* that protects individual freedoms and associational life. Fourth, there must be a state bureaucracy that is usable by the new democratic government. Fifth, there must be an institutionalized *economic society*. Let us explain what is involved in crafting this interrelated set of conditions.

From cultural and behavioural point of view, at the elite level, consolidation can also be discerned from the behavioural patterns (and mutual interactions), symbolic gestures, public rhetoric, official documents, and ideological declarations of leaders, parties, and organizations whereas at the mass level, public-opinion survey data are reflective to assess the degree of support for the legitimacy of democracy (in principle and in the regime's specific form), as well as to determine its depth and its resilience over time. (Gunther, Diamandouros and Phule eds. 1995)

Whether Bangladesh's democracy is consolidated or in the process of consolidation has to be measured in light of the criteria and indicators discussed herein.

3. Bangladesh democracy: an uneven journey

Bangladesh's struggle for freedom and democracy was intertwined. The founder fathers of the nation spent two decades against post-colonial Pakistani rulers for the democratic rights. Therefore, the emergence of Bangladesh in 1971 stirred much hope and promise that the newly liberated country would allow democratic freedoms, values and norms to flourish. However, the war-torn country was a completely different reality. The post-independence priority involved both the ever-difficult state building and nation building tasks. Although the democratic commitment of the founder fathers was evident in the newly orchestrated constitution, very little time, however, had been taken for upsetting the democratic dreams. Only after three years of independence, the country was derailed from its democratic path and fell in the hands of unconstitutional regimes. From 1975 to 1990, Bangladesh was directly or indirectly ruled by military authoritarians.

Later, in the wake of a successful mass upsurge against the autocratic military junta in 1990, parliamentary system of government had been restored in Bangladesh. The democratic expectations of the people were suddenly back on track and was running high that the restored democracy would meet their expectation and party(ies) in power would show respects to their aspiration. There was a hype and hope that all the political actors would practice liberal democratic values and would contribute to rebuilding/creating new democratic institutions to consolidate the nascent democratic process as emanated in the joint declaration of the three alliances (15 party, 7 party, and 5 party alliance who jointly waged an all-out movement against the General Ershad regime): *"People's fundamental rights will be protected, independence and neutrality of the judiciary and rule of law will be ensured"* (4.b of the joint declaration, declared on 21 November 1990). (The Daily Star 2011a) However, after nearly two decades of uneven democratic journey, it can hardly be claimed that the aspiration of people, who sacrificed their lives for the democratic causes, are met and democracy is consolidated. Rather behind the façade of democracy, there exists instability, weak political institutions, patrimonial politics, personalized political parties, patron-client relation and absence of political consensus. (Kochanek 2000: 108)

After the national election in 1991, the incumbent government led by Bangladesh Nationalist Party (BNP) paid little heed to fulfil the promises made under the joint declaration. The opposition, on the other hand, started its own part of negative politics vis-à-vis that of the government. It began boycotting the parliament for trivial reasons. Very soon, in a couple of years' time, the politics returned to the street with violence and street-fighting. The deadlock reached its climax in 1994, when a by-election in Magura was rigged by the ruling party and the position subsequently lost its credibility that a free and fair

election could be held under it. The opposition alliance led by Awami League started a campaign for a non-party Caretaker Government for managing the upcoming national elections. After a severe political impasse, Caretaker system of government was installed in 1996 through the 13th amendment of the constitution. It was again anticipated that Bangladesh overcame its bad days in democracy and resolved the biggest step from transition to consolidation—a smooth transfer of power through a free, fair and credible election. However, Bangladesh's political crisis is a never ending epic. Following the installation of the non-party Caretaker government, two consecutive national elections were held in 1996 and 2001 with much appraise and high approval rating at home and abroad. Nevertheless, the losing party rejected the election result in 1996 alleging a “massive rigging” in the election while in 2001 the defeated party denied the result terming it a “crude rigging”. (Burhan 2011) The Caretaker government crisis in 2006 was the last nail in the coffin while the outgoing government played with it to retain its control over the system and the opposition returned the favour by resorting to the similar means to go to power that led to a fierce battle in the street leaving scores of dead, cancellation of scheduled election and declaration of state of emergency on 11 January 2007. (The Daily Star 2006)

Under emergency regulations, some basic freedoms were suspended and controls were placed on the media. All political activities were banned until December 2008. The emergency regulations lifted on December 17, 2008 followed by an election on December 29. With about 87 percent votes cast, an electoral grand-alliance led by the AL secured a landslide victory of 263 seats (230 for the AL), and the outgoing BNP-led coalition got 32 seats (29 for the BNP and 2 for the Jamaat-e-Islami). BNP again vehemently alleged on election rigging in as many as 72 constituencies. (The Daily Star 2008a) Amid much controversy surrounding the election mechanisms, including the Caretaker system, present grand-alliance government repealed the Caretaker system in the parliament with an overwhelming majority (291 to 1 vote with the opposition remained absent). (Liton and Hasan 2011) The initiative faced with an outright rejection by the main opposition who sees the move as an effort to prolong the tenure of the present regime beyond 2014—the year of next general election.

Apart from the election mechanism debate and governance debacle, there are some mixed-results from the other fronts. Civil society has shown some promises over the years and looks vibrant if not vigilant enough. The country has also scored moderately in media freedom, civil rights and economic development. On institutionalising political mechanisms and governance, Bangladesh is yet to mark any significant progress. Political institutions remain very fragile existent and political culture has improved very little in the last two decades. In the midst of 2012, the political atmosphere looks volatile and confrontational with opposition threatening to wage an all out campaign to oust the government on the Caretaker issue. The irony of Bangladesh democracy is that, after nearly two decades of

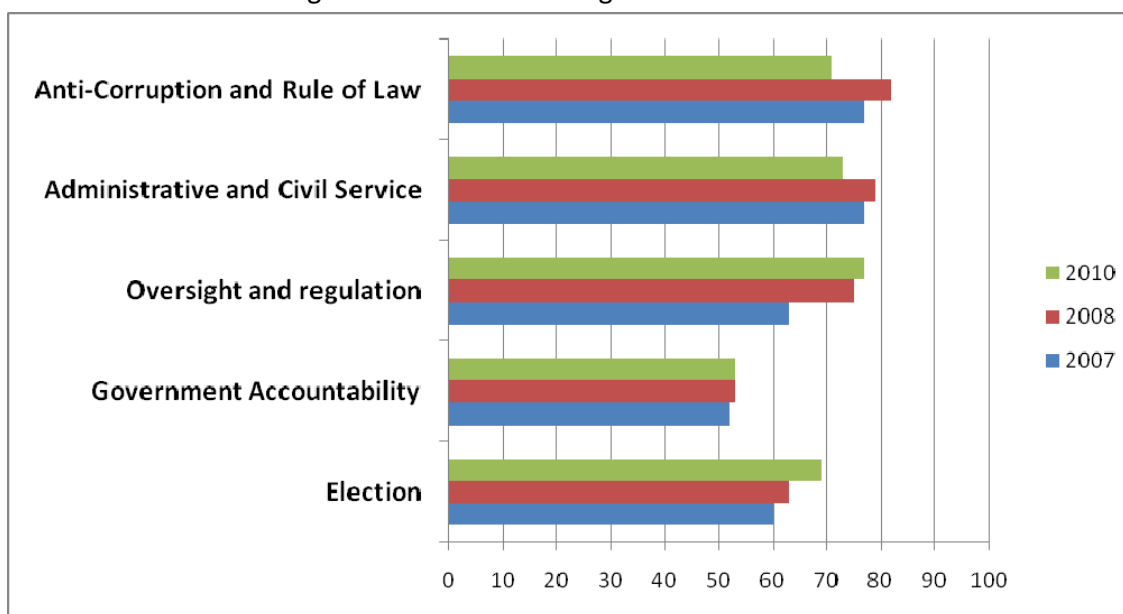
democratic rule, Bangladesh is facing the risk of going back to the square one—the risk of democratic reversal.

Table 1: The state of Bangladesh’s institutions*

Category	Score/year		
	2007	2008	2010
Election	60	63	69
Government Accountability	52	53	53
Oversight and regulation	63	75	77
Administrative and Civil Service	77	79	73
Anti-Corruption and Rule of Law	77	82	71

*Author’s compilation from the Global Integrity (2010) reports of several years.

Figure 2: The state of Bangladesh’s institutions



The above statistics of the Global Integrity illustrate the state of Bangladesh’s institutions vis-à-vis a global comparative scenario for the year 2007, 2008 and 2010. Based on the report’s quantitative Integrity indicator’s scoreboard, it demonstrates that the status of most of our state institutions is very poor. Out of 100, while the score 90+ represents a *very strong* and 80+ represents a *strong* presence of governance, none but oversight regulatory commission of our institutional mechanisms has achieved close to that level. Other categorisation includes 70+, 60+ and 50+ which represents a *moderate*, *weak*, and *very weak* status respectively. In 2010, the *oversight and regulation*—which includes national ombudsman, supreme audit institutions, taxes and customs etc.—scored 77, a *moderate*

status. The *administrative and civil service* and *anti-corruption and rule of law* both secured the *moderate* place scoring 73 and 71 respectively in 2010, and both have deteriorated from their previous two years standing. The *government accountability* mechanism of the three key pillars of the state—executive, legislative and judicial—has earned *very weak* status in 2010 with scoring only 53 while *Election*—another core pillar of democratic consolidation—scored 69 representing a *weak* status overall.

The following section has focused on some key institutions and indicators that are of critical to democratic consolidation in light of Bangladesh’s own consolidation efforts.

3.1 Political Society

The strength and character of political institutions are key factors for the viability and stability of democracy. If democracy to be consolidated, it must garner broad and deep legitimacy among all significant political actors and the citizenry at large. Citizens of new democracies form judgments about their political systems based on, with economic performances, the degree to which they deliver valued political goals: freedom, order, rule of law, accountability, representativeness, and overall efficacy.

Linz and Stephan argued that democratic consolidation requires that citizens develop an appreciation for the core institutions of a democratic political society—political parties, legislatures, elections, electoral rules, political leadership, and interparty alliances. They further elaborated that a **state of law** (rule of law) is vital to the consolidation of any democracy along with a requirement of a state to have the **administrative capacity** to perform the essential functions of government. Despite the growing prominence of civil society, the **political parties** still remain very crucial for any democracy. Their importance lies in representing political constituencies and interests, aggregating demands and preferences, recruiting and socializing new candidates for office, organizing the electoral competition for power, crafting policy alternatives, setting the policy-making agenda, forming effective governments, and integrating groups and individuals into the democratic process. Holding **elections** concurrently is also another core pillar for fostering democratic interdependence and cohesion. The presence of large numbers of elective offices, at various levels of governmental authority allows parties to mobilise crucial public base. Besides, **representativeness** and **inclusiveness**—secured through highly proportional systems of representation—foster broad commitments to democratic legitimacy by incorporating ethnic and political minorities into the democratic process. (Linz and Stephan 2001: 96)

3.1.1 Parliament

Among the political institutions, parliament remains the key as an oversight institution and the core pillar of any democracy. Ideally, the legislature can prepare a better ground for

democratic consolidation by agreeing to develop rules to transform the legislature into a vital platform for resolving mutual conflicts amongst the political actors. The chances for democratic groundwork become more tangible when these actors recognise the legislature as the prime mechanism of conflict resolution. (Hussain 2007)

However, in reality, Bangladesh Parliament has been limped with opposition boycotts for the last two decades. Since 1991, after the restoration of democracy, Bangladesh has so far five parliaments—namely the fifth (1991-1996), sixth (1996), seventh (1996-2001), eighth (2001-2006), and the ninth parliament (2009 - cont.). During the last two decades of parliamentary democracy’s history, our opposition lawmakers have been setting new records of boycotts each time. In the fifth parliament (1991-1996), the opposition has boycotted 118 days of the total 400 parliamentary working days (which are equivalent to 43 percent), while in the seventh and eighth parliament the boycott days continued to soaring—156 days (out of 383) in the seventh and 223 days (out of 373) in the eighth parliament. (Riashad 2011) In the ninth parliament, the opposition lawmakers have already boycotted 138 days as of its 12th session ended on 30th March 2012. (Liton 2012) The travesty of this boycotting culture is that, despite the absence from the parliament, the boycotting members enjoyed every rights and privileges (including financial benefits) and hypocritically rejoined the session for a day or two only to keep their membership alive (to avoid the section 67(1) (b) of the constitution which stipulates that if a member of parliament is absent from parliament for 90 consecutive days without leave, his/her seat shall be declared vacant).

Table 2: Performance of the Standing Committees in parliaments since 1991

Performance Indicators	Fifth JS	Seventh JS	Eighth JS	Ninth JS
Committee formed	46	46	48	46
Total committee meeting	1388	1485	1242	NA
Average meeting (per committee, per year)	6.03	6.46	8.63	NA
Reports submitted	49	28	47	NA
Average number of reports submitted (per committee)	1.07	0.61	0.98	NA
Committees that did not produce any report	30	29	10	NA

Source: Rahman (2008)

The limping of parliament is further evidenced in the ineffectiveness of the parliamentary committees throughout the last two decades. The above table demonstrates the sorry tale of the parliamentary committees in three different parliaments since 1991. The average committee meeting per year hovers around 7 in all three parliaments while the average number of reports submitted per committee was even worse: only 1.07 in Fifth Parliament,

0.61 in Seventh and 0.98 in Eighth Parliament. Besides, 30 committees did not produce any report at all in Fifth parliament while the number stood 29 and 10 consecutively in Seventh and Eighth parliament.

An appraisal of individual oversight techniques of these parliaments reveals that in fifth parliament, a total of 7,767 notices have been placed before the parliament for discussion and 93.9 percent have been rejected and only 3.1 percent notices have been discussed. In the seventh parliament, a total of 15,476 notices have been submitted whereas only 1.8 percent has been accepted while 96.6 percent notices have been rejected. (Hussain 2007:119-135)

Moreover, representativeness and inclusiveness is another important factor affecting the consolidation process. It can be secured through highly proportional systems of representation, foster broad commitments to democratic legitimacy by incorporating ethnic and political minorities into the democratic process. Bangladesh follows a majoritarian electoral system with first-past-the-post voting method in which the candidate with the most votes win whether the candidate receives absolute majority (50 percent support from the electorate) or not. Although the system may enhance governability, it can leave a disjunction between vote shares and seat shares. For instance, in 2001 election, Bangladesh Nationalist Party received 41.39 percent of votes but secured almost 70 percent of the seats (193 seats out of 300) whereas the main opposition Awami League run neck and neck receiving the voting share of 40.02 percent but disappointed with only 20 percent of the seats (62 seats). The election in 2008 shows the similar trend in which the main opposition obtained 33.2 percent of all votes but only with 30 seats. (Bangladesh Election Commission 2012) In a political culture like us where the winner takes all by squeezing the losers, it may leave many groups feeling poorly represented or even voiceless. Besides, the representation of women and minority are very low and still remains a source of major concern in terms of making the parliament more representational. As to the women's representation, there were only 10.6 percent women representatives in the fifth parliament while the number rose slightly to 11.2 in the seventh and slid sharply to 2 percent in the eighth parliament. (Mahtab 2001) However, the ninth parliament sees a big leap—69 women representative in total of 345 members (19.7 percent). (The Guardian 2012)

On the other hand, religious and ethnic minorities' representation in the parliament remains very much illusive. Only 6 religious minority leaders elected in fifth parliament while the seventh and eighth parliament experienced rather a decline: 5 and 3 representatives respectively. The representation increased a little in the ninth parliament—10 religious minority leaders are elected which is, however, only 3 percent of the total members of parliament as opposed to 10.5 percent religious minority population in the country. Moreover, although the ethnic population is about 2 percent of the total population, their representation in the parliament is quite meagre—total 4 MPs in the fifth parliament, 3 in

the seventh and 3 and 4 in the eighth and ninth parliament which is less than 1 percent of the total members. (Jahan 2012: 31; BBS 2004)

There are, however, a few positive developments in recent times as to the parliamentary committee formation and proceeding. In the ninth parliament, 48 standing committees have been formed in the very first session of the parliament and for the first time in Bangladesh, at least seven standing committees are now being led by the opposition members. Besides, the standing committees now meet at least once in a month and then brief the media about the meeting and decisions they took. (Hossain 2010)

Overall status of legislative accountability in Bangladesh, as the Global Integrity reports suggests, is very weak. In its 2008 and 2010 reports, it suggests that Bangladesh has scored only 56 and 47 respectively, in 0 to 100 scales with 0 being the worst and 100 being perfect, which gives Bangladesh a *very weak* status. The prominent reasons shown for such a poor scoring are that there is little or no regulations governing the conflict of interests by the members of parliament and the citizens can barely access to the asset disclosure records of MPs. The other crucial considerations were: inadequate judicial review process of the law passed by the parliament, in-existent regulations or code of conduct governing gifts and hospitality offered to members of the parliament, absence of requirements for the independent auditing of the asset disclosure forms of MPs, and absence of regulations for the MPs restricting post-government private sector employment. Besides, the reports considered that the citizens cannot access records of legislative process and documents within a reasonable time period. (Global Integrity 2010)

3.1.2 Judiciary

An independent judiciary is the *sin qua non* of any democratic government. The rule of law and accountability of the executive and other state institutions can only be enforced if the judiciary functions independently. The judiciary also acts as the mediator of disputes between the institutions of the state as well as disputes between the state and citizen.

Article 22 of Bangladesh constitution provides the separation of judiciary from the executive organs of the state and Part VI elaborated the judicial functions in details. However, the country had to wait until 2007 to literally implement the separation which was only materialised following the implementation of the judgement in *Ministry of Finance v Md. Masdar Hossain* in 2007. However, the process of separation of power intended to eradicate the influence of the executive over judiciary, fully fledged separation is yet to be institutionalized in Bangladesh. Critics often argue that the political parties are reluctant to implement complete separation of judiciary only because their inclination to use the judiciary as a political tool. (Osman 2010: 310-333) The separation is also affected due to the reliance of the judiciary on Ministry of Law, Justice and Parliamentary Affairs (MoLJPA),

Ministry of Finance, and Ministry of Establishment for performing various jobs of the judiciary as a whole. In absence of separate secretariat, the judiciary has to rely on the MoLPA for its secretarial functions as one Supreme Court Judge commented, "As we do not have a separate secretariat, we have to work through the MoLPA and that, to some extent, gives back the Executive organ, the edge it had on the Judiciary." (IGS 2008: 130) Besides, for recruiting staffs i.e., stenographers, messengers etc., and arranging other facilities for judges, the judiciary has to rely on the positive nod from the Ministry of Finance and Ministry of Establishment. The Executive tends to influence the judiciary using these mechanisms too to keep it their favourable tone. If, in some case, any judge prefers not to give in to political pressure, that reflects in his/her ACR. A judicial magistrate, in this regard, remarked on condition of anonymity, that, "Recently, one of my friends has ignored such a request and right now, he is afraid of two things: first, a bad ACR and second, a transfer." (IGS 2008: 128)

Another tool of exercising control over the judiciary is the political appointment of judges both at higher court. Following the fourth amendment, Article 115 of the Constitution allows the President to appoint judicial officers without the recommendation of the Supreme Court. Ironically the provision still remains unchanged. Using this provision, subsequent military and political governments rooted the culture of political interference in the judicial appointment. During 2001-2006, the then BNP government appointed 45 additional high court judges. In all those appointments, there has been allegation of politicisation and nepotism. (Quddusi 2006) And since assuming power in 2009, up to October 2011, the present government appointed as much as 42 high court judges, many of whom are faced with allegation for their strong political linkage while two of them were allegedly involved in murder and vandalism. (The Daily Star 2011b; 2010a) However, on March 2, 2009, in an appeal of reappointment of 10 HC judges, the then Chief Justice M M Ruhul Amin observed that, "In the matter of appointment of judges under Article 98 and 95 of the Constitution, the convention of consultation having been recognised and acted upon has matured into constitutional convention and is now a constitutional imperative."

Besides, in order to favour their loyalists and suppress opponents, the executive also remains interventionist. The judiciary, particularly at the lower levels, is often accused of being an extension of the ruling party. (Datta 2005: 427-445) The Second Proclamation Order No. IV of 1978 amended Article 116 to "...provide that the President shall exercise control over the sub-ordinate judicial officers and magistrates exercising judicial functions in consultation with the Supreme Court". Since the stakes of winning and losing power have been multiplied over the years, there is a strong sense of feeling amongst the ruling party men to establish overarching control on the distribution of public resources keeping them above legal restraints.

Besides, the very wide powers of the highest court to dispense justice have been under-utilized. Less than a dozen-suomoto case during the last ten years has been succeeded, perhaps reflecting judicial conservatism. (Mollah 2012: 61-71) Until the caretaker system abolished recently, which was usually headed by the last serving Chief Justice, the ruling party always tended to appoint someone sympathetic to its party. However, following the 15th Amendment of the Constitution, the debate is no longer relevant.

Overall, the politicisation has cost the judiciary's performance much over the last couple of decades. Its effectiveness and efficiency has been very much affected for the political interference and corruption. Fund for Peace in its Failed State Index Report 2011 ranked Bangladesh judiciary's status as weak with a score of 3 out of 10 with 0 being the worst. Global Integrity Report 2010 also categorised Bangladesh's judicial accountability as *very weak* with a score of 49 out of 100 with 100 being the perfect state. (Blandford and Jaeger 2011)

3.1.3 Political Parties

There are a number of political preconditions for democratic consolidation, as discussed above. However, the prominent and relevant ones in this context include: whether the major parties represent the political constituencies and interests, institutionalise the party systems thus increase democratic governability and legitimacy by- facilitating legislative support for government policies, channel demands and conflicts through established procedures, and, through effective governance deliberation, make the democratic process more inclusive, accessible, representative, and effective. The crisis of governance cannot be resolved without reforming political parties that may involve enhancing their organisational coherence and capacity, democratising and making more transparent their own internal governance, and fortifying their autonomy through (at least partial) public financing of parties and election campaign. (Linz and Stephan 2011: 368)

Bangladesh is the parliamentary form of democracy since the restoration of democracy in 1991. However, the form of government we are experiencing for two decades is criticized as much as autocratic—elected by more-or-less free and fair elections but turned into the *de facto* dictatorial regime. The root cause of this dictatorship, as illustrated by many experts, is the weak or no presence of intra-party democracy and one-person party leadership who has little accountability to respective parties, to the parliament, or to the people who elected them. This has been the phenomenon among all major parties that enjoyed state power since 1991. The party chief as the head of government acts like a king or a queen with absolute power and authority similar to that of typical monarch of medieval times. Most other leaders in the party and ministers as well as MPs serve their party chiefs with absolute obedience to satisfy their personal interests.

Political parties are also increasingly dominated by business people, which contributed to the exponential rise of interest politics in Bangladesh. For instance, there were only 27 per cent of the MPs elected in the 1970s who enrolled their profession as businesspersons or industrialists, which has increased to more than 50 per cent of the MPs in the fifth, eighth and ninth parliaments—53 percent in fifth parliament, 48 in seventh, and 57 and 56 in eighth and ninth parliament. On the other hand, the percentage of MPs with a legal or professional background is decreasing, from 47 per cent of the MPs in the first parliament to 22 per cent in the ninth parliament. (Jahan and Amundsen 2012: 31) This has invited black money and muscle into the politics more than ever before.

In organisational shape, as all major political parties are dominated by their party chiefs, the decisions are made mostly by the chairperson. The presidium/standing committee or working committee of the party merely endorses the decisions of their party chiefs. The internal organizational structure of these parties is also undemocratic. The party activities such as policy making, decision-making, and committee structuring are centred on the cult of the leader. The annual and bi-annual councils hardly take place on time and when they do, turns into a mere formality. Most of the parties extend the tenure of its central body even for years. These councils merely play a ceremonial role bestowing all powers on the hand of the party chiefs to select the remaining post holders of the organisations. (The Daily Star 2009a, 2009b, 2009c)

Intra Party Democracy: How far?

A party's organisational institutionalisation involves its autonomy from other actors, party's internal organisation development and that its supporters view it as an important actor. Two key features define the party institutionalisation: 1) internal decision-making procedure are formalised, and 2) the extent to which the party has coordinated structures throughout its target constituency. (NDI 2005: 6-10) Besides, the proponents of intra-party democracy prescribes that implementing intra-party democracy involves three main issues: a) selecting party candidates, b) selecting party leaders, and c) defining policy positions.

The process of selecting party candidates for various elections implies the degree of internal-democratic practices that a party poses within. Usually, established norms of selecting candidates are two-fold: through a direct ballot of eligible supporters or nomination of party assembly (an assembly of representatives chosen for this purpose). However, in Bangladesh, neither method is being followed rather there is a strong allegation against the parties that the nominations are either distributed based on individual liking/disliking of the party chiefs or sold to aspirants—in most cases to businesspersons and retired civil-military bureaucrats. Following the Article 90B (1)(b)(iv), *Representation of the People (Amendment) Order Act 2009* (which was actually in effect before 2008 election by the presidential ordinance during 2007-2008 Caretaker Government), there is now a

provision as to how the candidate shall be nominated by the parties. The law stipulates that: *“to finalize nomination of candidate by central parliamentary board of the party in consideration of panels prepared by members of the Ward, Union, Thana, Upazila or District committee, as the case may be, of concerned constituency.”* However, contrary to the law, we have seen a different practice by the parties who frequently violated 90B. One aspirant of 2008 election from AL claimed that, *“If present AL nominations are not changed, all the efforts of last two years for eliminating influence of money from elections will turn futile.”* (The Daily Star 2008b) The same has been true for the other big party BNP. (The Daily Star 2008c)

Besides, the nomination-trade and black-money driven election manoeuvring is so rampant in Bangladesh that election has turned into a tussle of black-money-magic. As reported in a local newspaper (*Prothom Alo*, January 14, 2007), prior to the January 22, 2007 scheduled-election which was cancelled later, the then opposition Awami League’s nominations in 50 seats were sold for a minimum of Tk. 5 crore to a maximum of Tk. 20 crore each, resulting in illegal transfers of huge sums of money. There are also serious allegations of illegal inter-party transfers of huge sums of money prior to the cancelled elections of January 2007. Awami League allegedly agreed to pay Tk 60-70 crore, of which Tk. 3.5 crore was paid in advance, to bring General Ershad's Jatiyo Party into the fold of the 14-party grand alliance and, on the other hand, the outgoing BNP allegedly offered to pay Tk. 50-60 crore, of which Tk. 2 crore was paid in advance, which had to be returned when the deal fell through. (The Daily Prothom Alo 2007; Majumder 2008)

Selecting party leaders is another very important indicator of intra-party democratic practices. Having regularized and inclusive procedures for leadership contests may reduce the chance of intraparty rivalries as it sets clear rules of succession. Leaders can be selected following various standard methods. In a parliamentary system as ours, there may be formal rules requiring parliamentary groups to designate their own leaders and alternatively these groups can pre-commit themselves to a candidate chosen by party conference or membership ballot. There can a third way of selecting a party leader combining the earlier two methods—having the legislative party or the party conference act as a gate-keeper, deciding which candidates will appear on a party-wide ballot (British Conservative Party in 2001 followed this method). (NDI 2005: 10) Contrary to these conventional practices, our major political parties barely allowed a succession in the last 40 years period. The existing ruling party leader Sheikh Hasina has been enjoying her leadership for 31 consecutive years since 1981 both within party as party chief and in parliament as prime minister or opposition leader while the opposition party leadership has remained unchanged for 28 consecutive years since Khaleda Zia assumed the leadership in 1984. The third major political party - Jatiya Party’s leader H M Ershad himself is the founder of his party and holding the party chairmanship since 1986.

The third important determinant of intra-party democracy is the process of setting party policies—that helps determine the content of the party’s electoral promises and other agendas. NDI (2005b) suggests that, in the most inclusive of parties, individual party members may be asked to vote on specific party position. But more usually, parties chose the less-inclusive option of asking party conference delegates to endorse a set of commitments prepared by a platform committee. However, if there is any absence of written rules on consultative votes, a question may arise in relation to party policy voting if that goes to members or regional leaders to call for a formal policy and held a vote accordingly. Regardless of the debate, political parties of Bangladesh, on the other hand, not only take a top-down approach as to their policy setting but also the its top leaders exercise absolute authority in setting the policy direction of the party. Only merely the top-echelons of the parties have been involved in rare instances; otherwise, in most cases the party chiefs of the respective parties determine the policy agenda. (The Daily Star 2009d, 2009e) Besides, under the existing constitutional arrangement (Article 70 of the Constitution), parliamentarians are not allowed to vote or even remain absent from voting against the party decision, doing which would terminate his/her membership. This has also compounded the crisis of intra-party democracy and reduces the room for open debate on party’s policy issues. The Prime Minister, who has also been the Party Chief over the last two decades of parliamentary democratic practices, usually decides on major government policies and use the parliament as “rubber-stamp” to endorse the policies. (The Daily Star 2012a)

Party-financing

The Election Commission oversees the financial accounting of political parties. According to *Political Party Registration Rules 2008*, the registered political parties must keep their accounts book as per prescribed legal format that must be audited by a certified auditor and the parties have to submit their annual income and expenditure statement to the EC within 31st July after the end of the last fiscal year. It also provides that political parties may receive any donation in cheques, and has limited the amount of donation. However, it should be mentioned that public access to the information on regular party financing is not ensured in the law.⁵ The election regulations (*Representation of the People Order 1972* and *Conduct of Election Rules 1972*) require candidates and parties to file reports on their expenditures during the campaign period. Candidates cannot spend more than Tk 1.5 million during the 90-day campaign period and the party spending limits are based on the number of candidates fielded.⁶

The Election Commission is also responsible for collecting returns from parties and candidates concerning their spending and income during the campaign period. In practice,

⁵ *Political Party Registration Rules (RPO), 2008, Article 9(B).*

⁶ Article 44B, Clause (3a), *Representation of the People (Amendment) Order Act 2009, (Act of 13 of 2009).*

statements are rarely filed. There are no disclosure laws per se—only the requirement that parties file basic financial statements. The election law prohibits the use of government resources and assets for political campaigns, but this requirement is ignored in practice. There is no state funding, and no restrictions on donations to either parties or individual candidates. (NDI 2005: 28)

However, the TIB (2009) showed that, in practice, the income and expenditure record is hardly maintained properly by the political parties. They maintain their own accounts of income and expenditure through register books, but none of the parties has any registry of assets. Income such as donations in cash and kind are not recorded in the register. Except the party chairperson, the general secretary and the treasurer, other members of most parties are kept in dark about key financial information. Until recently (before RPO 200), there was absolutely no arrangement about the disclosure of non-electoral party financing. Although, electoral financing are reported regularly, the accuracy of reports are always being questioned. Since the Election Commission has insufficient human resources, candidates could easily twist information and dodge EC by providing wrong, improper and understated account. (TIB 2009: 11-17)

As regards the fundraising activities, parties do not follow any official procedure. The bulk of party funding usually comes from either the private business sector or the assets and businesses of individual party leaders themselves. However, it is quite difficult to ascertain the sources of most party funds because there is no transparency in the donation process. It is also alleged that some parties receive money from Saudi Arabia and Pakistan. Besides, almost all funds are donated in favour of the respective party leader instead of the party itself and the party leader maintains that in private or personal account. (TIB 2009: 28)

Much has been said about the political party reforms in Bangladesh. To eliminate dictatorships and dynastical influences within the political parties, there have also been some sporadic efforts resulting nothing in the end. The Election Commission has also tried to push the reform agenda for bringing the party system into discipline. They forwarded a set of reforms for intra-party democracy including internal transparency and accountability practices, and the formation of all party committees and leadership at all levels of political parties through secret ballots of their members. (The Daily Star 2007a) Nevertheless, very little progress has been made except the party registration and a few other sporadic progresses which have been ensured through RPO 2008. During the 2007-2008 emergency regime, there was an effort, in both major parties, to initiate a leadership change, which was measurably failed leaving the reformists on the verge of political extinction. (The Daily Star 2007b)

3.1.3 Bureaucracy

Although bureaucracy has no explicit or direct link to democratic political process, there is a strong correlation between bureaucratic and democratic consolidation. It is argued that the other conditions of consolidation are much more likely to be satisfied where there are also found a bureaucracy usable by democratic leaders and an institutionalized economic society. (Linz and Stephan 2001: 99)

To satisfy the one of the foremost criteria of democratic consolidation with regard to political parties, it has to be assessed whether the major parties have a large base of political constituencies and whether they represent their interests. The following statistics suggest that the major political parties in Bangladesh represent the large political constituencies if we look at the share of their votes in successive elections. In 1991 national election, for example, the share of the votes of the position and opposition were about 61 percent (the winning party BNP secured 30.81 percent share of the total vote casted and the opposition AL obtained 30.08 percent votes). The share increased gradually in 1996 election when the incumbent AL got 37.44 percent of votes and BNP secured 33.61 percent and combinedly they secured about 71 percent of the votes. The third big party Jatiya Party won another 16.40 percent shares. Similar trend continued in 2001 and 2008 elections when BNP and AL jointly secured almost 82 and 84 percent of the votes respectively. (Hussain 2007: 112-144)

However, with regard to institutionalisation of political process, the picture is not encouraging. The confrontational politics in Bangladesh and the culture of winners take all left all the major political institutions in peril. The existing system merely allows the losing opponents to be accommodated into the process. The winning party(ies) takes absolute control over the public resources that has been earmarked in different indicators. While the biggest public resources are being allocated in government procurement (almost 70 percent of annual development plan (The Daily Star 2010b)), the ruling party loyalists (contractors and party cadres)—through an evil nexus with the bureaucrats—manipulate tender process to receive the contracts. State of Governance in Bangladesh report (2008) identified three main causes of poor political governance in Bangladesh: (1) the design of the state and its institutions, (2) the clientelist nature of politics fuelled by greed and (3) the nature of confrontational politics. It has also observed that, since the return to democracy in 1991, Bangladesh has developed a centralised winner-takes-all political system. Besides, politics in Bangladesh has become increasingly violent, polarised and punctuated by protests and boycotts of parliament whereas elections are influenced by political control, vote buying, violence and vandalism. (IGS 2008: 30-31)

There are also problems like internal democracy, financial transparency and authoritarian decision making practice within the political parties. The existing internal organisational

structure of parties allows little room to hold the party leaders internally accountable and the party chiefs of the two major party enjoys and exercise absolute power in taking all major decisions. Besides, although major political parties have their own constitution and have local level committees, council members, working committees, standing committees, presidium and advisory bodies, they barely follow the party constitution in the day-to-day activities of the party. Moreover, the fund raising and financial transactions of the parties are ambiguous and the party leadership enjoys absolute freedom and largesse to spend party funds. (IGS 2008: 24) The Global Integrity report 2010 suggests that the party financing in Bangladesh has been categorised as *very weak* with scoring 41 out of 100 in 2010 while it has scored only 17 in 2007 and 20 in 2008. (Global Integrity 2010)

Bureaucracy is another victim of political malgovernance. There have been relentless efforts to politicise the bureaucracy by successive regimes which have had direct impact on the service delivery. The State of Governance report (2008) identified that the politicians have both political and financial stakes behind such politicisation. Firstly, they want to create their 'own' force in administration to materialise their political agenda and secondly, their financial interests are being served with the help of this force. (IGS 2008: 16) The major thrust in the politicisation of the bureaucracy since 1991 has involved recruiting 'party men bureaucrats' and during the then 1991-1996 BNP regime, politicisation took place in various forms: party loyalists were placed in important civil service positions and attempts were made to manipulate the recruitment process, including the appointment of student party leaders. The next government in 1996 continued the process of politicisation when a number of civil servants, who actively took part ousting the previous regime, had been rewarded with prize posting. Punishing the 'unfriendly' government officers is also a matter of huge concern in the bureaucracy which hurt the efficiency and productivity of the same. At least 355 officers were made OSD (Officers on Special Duty, often refer to punishment of the officers) during the 1991-1996 BNP government which came down to 174 when the subsequent AL regime handed over its power in 2001. (The Daily Star 2007c) However, 2001-2006 BNP-led coalition government set a new record by making 978 officers OSD. (IGS 2008: 20-21) The extreme case of politicisation of bureaucracy exposed first in 1996 when some government employees openly joined anti-government protest (*Janatar Manch*) and recently when a group of government staffs again overtly expressed their solidarity with the ruling party by joining their political rallies. (The Daily Star 2012b)

According to the *Failed State Index 2011* of Fund for Peace, the Civil Service of Bangladesh has scored only 1.7 out of 10 with 1 being the worst, and categorised as *poor*—the least performance among all categories. (Blandford and Jaeger 2011)

3.1.4 Elections

Holding elections concurrently is another very important factor for fostering democratic interdependence and cohesion. The presence of large numbers of elective offices, at various levels of governmental authority allows parties to mobilise crucial public support. Where elections for different levels of authority are not concurrent, politicians in the various branches and levels have far fewer incentives.

Besides, an electoral democracy requires the electoral struggle be open to alternative political parties, and that it be free and fair, placing the ruling party at risk of defeat. However, although Bangladesh satisfies this electoral conception of democracy, it specifies nothing further about the degree of constitutionalism, legality, participation, and freedom that characterizes the political process. This minimalist conception of electoral democracy is often referred to as the "*fallacy of electoralism*" in which the political actors resort to extensive human rights violations, or which leave significant areas of state authority dominated by military or other unelected figures. (Karl 1995: 72-86) As to the latter situation—the dominance of unelected figures in civilian affairs—our position is remarkably true. In recent times, there is an allegation that non-elected advisors are dominating the policy making process while increasing number of military officers seconded to the civil administration are in charge of executives—currently 122 military officers are employed in the civil administration which is the highest in Bangladesh's history. (The Daily Prothom Alo 2010)

After overthrowing 15 years of military rule, Bangladesh also needed to find a credible election mechanism as the elections during the military regime were not deemed to be free and fair. Usually, an independent EC is regarded as enough of a safeguard for conducting a free and fair election and in Bangladesh the principle responsibility of holding all national and local elections lays with Bangladesh Election Commission (BEC). It has constitutionally assigned mandate to perform its function. Article 118 gives the provision for setting up an Election Commission which is independent in the exercise of its function. It is constitutionally responsible for conducting the elections in a free and fair manner. However, there are a set of limitations that affect the independence of the commission. The Commission has to depend on the government with respect to the appointment of Chief Election Commissioner and other Commissioners as well as recruiting staffs for the commission secretariat. Besides, it has total dependence on the government regarding its budgetary allocation and fund disbursement. Besides, the BEC personnel are often fearful of repercussion from politicians. (IGS 2008: 84)

Bangladesh has struggled to find a better electoral mechanism to smooth the transfer of power between regimes throughout its entire democratic journey. This has been evident from a number of political developments. For example, in 1991, the losing party alleged that

the election was fraudulent as Sheikh Hasina, the leader of the AL, argued that there were “subtle” riggings in the election. Later, following Mirpur by-election in 1993 and Magura by-election in 1994, the opposition opted for an all out movement for installing a caretaker system the movement reached the peak in 1996 Caretaker Government resulting in resolving the crisis through the introduction of Caretaker Government⁷ system. In 2006 again the Caretaker Government crisis loomed over and this time the debate was who would be going to the Chief Advisor to the Caretaker Government. At present the caretaker issue revived again as the debate now is around the mechanism for upcoming national election to be held in 2014. The Parliament repealed the Caretaker system through 15th amendment of the constitution and the crisis now is to find a viable alternative to the system and it is imperative that the competing parties agree to a workable solution which is not evident so far. Since 1991, politicians and parties also remain sceptical about the military role during the subsequent national elections and sometimes came down hard on the military blaming them for a partisan role. (The Daily Prothom Alo 2011a, 2011b)

Overall, the Global Integrity report 2010 suggests that the election process in Bangladesh has been *weak* with scoring 69 out of 100 with 70 being *moderate*, 80 being *strong* and 90 being *very strong*. It has improved little from its earlier position—scoring 60 in 2007 and 63 in 2008. The *voting and citizen participation* and *election integrity* has shown rather some promise with scoring 79 and 86 respectively. Economist Intelligence Unit’s *Democracy Index*, on the other hand, has compared global electoral process and pluralism and ranked countries individually. According to the *Democracy Index 2011* report, Bangladesh has scored 7.42, in a 0 to 10 scale with 0 representing the absolute authoritarian regime and 10 representing the full functional democracy, which demonstrates a moderate status. It has scored 7.42 in 2010, 7 and 7.42 in 2008 and 2006 respectively.

3.1.5 Rule of Law

Article 27 of the Constitution of Bangladesh says that, “all citizens are equal before the law and are entitled to equal protection of law”. Accordingly article 33(1) provides, “no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds of such arrest...” There are a set of articles in Bangladesh Constitution, including 31, 32, 33(2), and 35 etc., which guarantees the fundamental rights of the citizen.

However, in contrast the violation of human rights and law enforcement abuse is rife and every democratic regime is to share some blame. This kind of abuses are facilitated by legislation such as the 1974 Special Powers Act, which permits arbitrary detention without charge, as well as Section 54 of the Criminal Procedure Code, which allows detention without a warrant. An Anti-Terrorism Act passed in 2009 includes an overly broad definition

⁷ The Caretaker Government (CTG) provision was institutionalised through the 13th amendment of the constitution of Bangladesh in 1996 and scrapped in 2011 through the 15th amendment of the constitution.

of terrorism and generally did not meet international standards and allows a room for repression of dissents. Security forces including the Rapid Action Battalion (RAB) have been criticized for excesses like extrajudicial executions—from 2004 to March 2011, human rights watchdog body Odhikar reported that RAB allegedly executed at least 732 people accusing them of being the victim of crossfire. (Odhikar 2010) Besides the political violence in Bangladesh has been rife during the last couple of decades where the party goes in power turns into violent on opposition activists and journalists. The following tables show the pervasiveness of political violence in Bangladesh.

Table 3: Political Violence in Bangladesh from 2001-2011

Year	Killed	Injured	Total
2011	135	11532	11667
2010	220	13999	14219
2009	251	15559	15810
2008	50	3185	3235
2007	79	2688	2767
2006	384	21265	21639
2005	310	8997	9307
2004	526	6235	6761
2003	436	6281	6717
2002	420	8741	9161
2001	656	25770	26424
Total	3457	124,252	127,709

Source: Odhikar (2012)

The statistics show that, in less than a decade, 3457 people have been the victim of political violence while another 124,252 people have been injured. Although we have see the number of death has declined during recent months, the number of injured is on the rise.

Another indicator of making the rule of law in Bangladesh a farce is the withdrawal of cases by Executive Order tagging them politically motivated. This is, however, the legacy Bangladesh is carrying since 1958 while the practice is resumed following the assassination of Father of the Nation in 1975. During 2001-2006 BNP-Jamaat regime, 5888 cases were withdrawn considering them politically motivated (Dewan 2009) and at the present government three years tenure, at least 7100 cases have been withdrawn as of 21 December 2011 while another 300 have been pending for consideration. (The Daily Prothom Alo 2011c) It is estimated that nearly 10,000 accused have been set free in the guise of their political affiliation with the ruling party.

The *Global Integrity*, represents indicates that the status rule of law in Bangladesh is *weak* and shows a gradual decline over the years—scoring 88 in 2007, 79 in 2008 and 69 in 2010 out of 100 with 0 being the worst. On the other hand, *Failed State Index* demonstrates the similar trend. According to the Index’s reports, Bangladesh’s scores hover around 7 in a 1 to 10 scale with 10 being the worst. The country has scored 7.8 in 2006, 7.6 in 2008, 7.4 in 2010 and 7.1 in 2011—representing a *very weak* position persistently. The following table highlights some key statistics on the overall rule of law situation in Bangladesh.

Table 4: Failed State Index: Bangladesh’s performance by political indicators*

Category \ Year	Violation of Human Rights and Rule of Law	Security Apparatus	Rise of Factionalised Elites
2011	7.1	7.9	8.9
2010	7.4	8.1	8.9
2009	7.6	8.0	8.9
2008	8.0	8.3	9.6
2006	7.8	8.3	8.9

*Author’s compilation from Failed State Index reports of several years

The table shows Bangladesh’s performance in rule of law, security apparatus and the rise of factionalised elites. It demonstrates that, in 2011, Bangladesh’s position in security apparatus and the rule of law situation are close to worse—both scored 7.1 and 7.9 respectively which is a sheer sign of fragility and vulnerability. The score of Factionalized Elites also represents the near-worst scenario due to the intense rivalry among leading political elites, including the position and opposition leaders. There is very little sign of progress that Bangladesh made in 2006-2011 period—a marginal .7 gain in human rights and rule of situation and .4 gain in security apparatus.

3.2 Civil Society and Media

Civil society can contribute to democratic consolidation only if other institutions are also favourable, and if actors in civil society behave in a "civil" way, respecting the law and other social and political actors while accepting and not seeking to usurp or conquer democratic political authority.⁸

Although many argue that a rich, dense, vibrant, institutionalized, and highly "civic" civil society is not strictly necessary for democratic consolidation; however, democracy will be more likely to achieve consolidation, and will undoubtedly be of higher quality if such a society emerges and plays a crucial role. In transitional democracies, there are, however,

⁸ O'Donnell, G., and Schmitter, P. C., (1986: 48-56)

financial and political weaknesses of civil society which hinder its evolution. Direct international assistance to nongovernmental organizations (NGOs) and the cooperative linkages loom increasingly large in the quest for democratic consolidation.⁹

Fareed Zakaria, discussed the importance of civil society in his recent article on Arab democracy's inherent weaknesses at *Time Magazine* to underpin arguments as to why Arab world lacks democratic consolidation. He asserted that, "The term civil society was coined... to describe the activities of private businesses, an independent force that existed between the government and the family. The Middle East today has strong families and strong governments, but everything in between are underdeveloped." (Zakaria 2012)

Since the 1990s with change in donor policy to assist non-government organisations, the number of civil society organisations in Bangladesh increased exponentially. A 2004 estimate shows that the number of registered civil society organisation (CSO) in Bangladesh is 259,774 excluding the professional and religious groups and all informal and unregistered groups and organisation. The number has been increasing exponentially over the years (more than 50,000 new organisations registered in between 1997 and 2004). Such a huge of number of CSOs coupled with thriving NGO sector gives Bangladesh civil society a vibrant look. Not only the number of organisation boost sharply, but also the donation and foreign funds skyrocketed over the years. In 1991, for example, the amount of foreign fund channelled to non-government organisations was \$106 million whereas in 2005, the amount increased to \$323 million.

Bangladesh Civil society is generally rich in associations and groups. It consists both of elite and non-elite civil society groups and, naturally, intellectuals, large development NGOs, apex organizations and their leaders form the elite section of civil society. At national level, active civil society elites are group of intellectuals related to the think tanks and citizens groups. Besides, the national apex association like Federation of Bangladesh Chambers of Commerce and Industries (FBCCI) of the businesspersons receive important attention from the government and political parties. Besides, the leaders of the apex organizations of trade unions and other professional groups also emerge as powerful actors influencing the state and being influenced by the political elites.

Yet, the civil society leaders in Bangladesh are considered as less powerful and placed in a lower position than the politicians, administrators and donors. Besides, the relationship between larger and smaller NGOs is more like particularistic patron-client ties. (White 1999: 314)

As to the CSO governance, it is alleged that the governing bodies are mostly formed by relatives of the executive officer. The executive head often takes decisions unilaterally. NGO

⁹ *ibid.*

has no accountability to the other officers and workers as well as the beneficiaries on matters of financial management. Often NGOs are very rigid in providing information about their financial details. (TIB 2007) There are also corruption allegations against the NGOs. (Tasnim 2007: 108) The professional groups are highly divided along the party line too and while contesting elections within the group, party affiliation dominates the campaign. (The Daily Star 2011c)

Tasnim F. (2007: 108) reveals that the percentage of civil society organizations contacting the ruling party and opposition party is 64 percent and 51 percent respectively and that a vertical give and take relationship existing between the political parties and different civil society organizations. She further illustrated that although the civil society organizations have supported the inference on high civil society involvement in social service and welfare, there is a low rate of participation by civil society organizations in actions like advocacy, policy making, lobby, exchanging opinions with the government, sending representative to local councils etc. They have also high tendency to keep contacts with political parties to exploit benefits at national as well as local level. This submits grossly that the civil society's involvement in participatory actions concerning politics and democracy is not encouraging.

Tasnim also observed that, "instead of influencing the government and political actors, civil society itself has been penetrated, co-opted, politicized and divided by the political parties. As the civil society organizations are vertically organized and not democratic internally, they are easily prone to such politicization and polarization. This has reduced their ability to generate democratic norms, articulate interest or monitor state actions. So the civil society is yet to emerge as a vigilant force to uphold good governance and consolidate democracy."

However, although the law, society, donor initiative, social tradition has led to the proliferation of civil society organizations, confrontational politics played by the two major political parties through the instruments of clientelism, patronage, nepotism corruption, violence have co-opted, politicized, weakened and polarized the civil society groups and undermined their ability to participate in political process, contribute to governance and democracy. The adverse politics on the definitions of Bangladeshi identity, national heroes and liberation war history have influenced all social groups including the civil society itself. (Tasnim 2007: 108) Such polarization has been used for political expedience that affected the growth of civil society too. Civil society organizations were not only discriminated based on their links to ruling party or the opponents but also have been harassed, victimised and even faced legal actions. In 1999, Gono Shahajjo Shongstha was taken over by the then Government alleging that there were financial misconduct and staff harassment. PROSHIKA faced more vigorous actions since 2000 and its Chairman Kazi Faruk was detained in 2004 for different charges. However, it was alleged that the charges were politically motivated and brought out due to his affiliation with the then opposition alliance. (IGS 2006: 98)

With regard to media and press freedom, following 1991, there is a media boom with flurry of newspapers and private television channels. 2006 statistics shows that there are 742 registered news publications in total with 408 dailies, 4034 weeklies, and 37 fortnightlies. There are also 23 private TV channels as of December 2011, most of whom are broadcasting live news and programmes 24/7. (The Daily Prothom Alo 2011d)

Bangladesh constitution provides guarantee for freedom of expression subject to “reasonable restrictions”. However, the press is effectively hurt by politicisation and constrained by national security legislation as well as sedition and criminal libel laws. According to Freedom House (2010), “with hundreds of daily and weekly publications, the privately owned print media continue to present an array of views, although political coverage at a number of newspapers is highly partisan, and outlets presenting views that were critical of the government faced some pressure in 2009.” It further argued that, “military intelligence and public relations officials monitor media content, and while they no longer issued regular guidance to media outlets regarding content, they did occasionally caution specific journalists on coverage of particular stories or topics. A number of journalists reported receiving threatening telephone calls and other forms of intimidation from intelligence agencies, and some practiced self-censorship when covering sensitive topics.”

International Press Institute (IPI)’s Executive Director Alison Bethel Mckenzie recently expressed her concern that, “partisan journalism and lack of security of the journalists are the major threats to quality journalism flourishing in Bangladesh.” (The Daily Star 2012c) Accordingly to *Odhikar* report 2010, at least 02 journalists were killed while 52 others were injured, 35 threatened and 29 were assaulted. 15 journalists were also attacked. (Odhikar 2012)

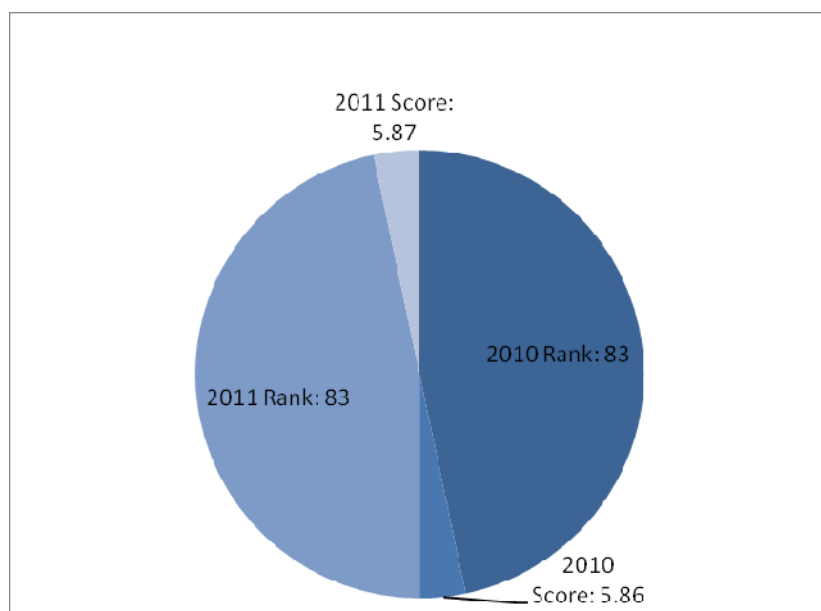
Table 5: Freedom of Media scenario in Bangladesh from 2001-2011

Year	Killed	Injured	Assaulted	Attacked	Arrested	Abducted	Threatened	Sued	Misc	Total
2011	0	139	43	24	01	0	53	23	08	291
2010	4	118	43	17	02	1	49	13	16	263
2009	3	84	45	16	01	2	73	23	19	266
2008	0	38	25	09	04	0	30	02	07	115
2007	0	35	35	01	12	0	83	13	5	184
2006	1	183	53	28	06	0	114	111	0	496
2005	2	142	53	15	11	4	249	130	0	606
2004	5	111	32	25	09	2	293	120	0	597
2003	0	65	41	0	19	2	90	62	0	279
2002	3	102	39	0	26	1	138	139	1	449
2001	2	113	0	0	04	0	0	0	0	119
Total	20	1130	409	135	95	12	1172	636	56	3665

Source: Odhikar (2012)

The above statistics compiled by Odhikar from different news reports of violence against journalists show that, the journalists are not safe in this part of the world. While the trend of violence against journalists shows a decline from the previous 2001-2006 regime, it is still worrying that there are 291 incidents of injury, assault, attack, threats etc. have been recorded in 2011 which is the highest in last four years' period. The irony of the fact that the journalists were least affected during 2007-2008 emergency regime which has been often referred to as unconstitutional. From 2001-2011, a total 3665 incidents occurred against the journalists in which either they were killed, injured, assaulted, attacked, arrested, or sued. Although the media in Bangladesh has been flourishing over the last couple of decades, this kind of threatening reality discourages objective journalism which in turn hinders a culture of healthy debate and openness in society.

Figure 3: Media Freedom: Economist Intelligence Unit's ranking*



*Economist Intelligence Unit (2011)

According to Economist Intelligence Unit, in 2011 Bangladesh scored 5.86 out of 10 with respect to media freedom with 10 represents an ideal situation which positions the country 83rd in comparative global scenario. It has been downgraded from its 2010's position when it scored 5.87, albeit the same ranking. As per the report, the media freedom in Bangladesh falls in *hybrid regime* category where typically journalists are harassed and there are pressures on them while carrying out their duty.

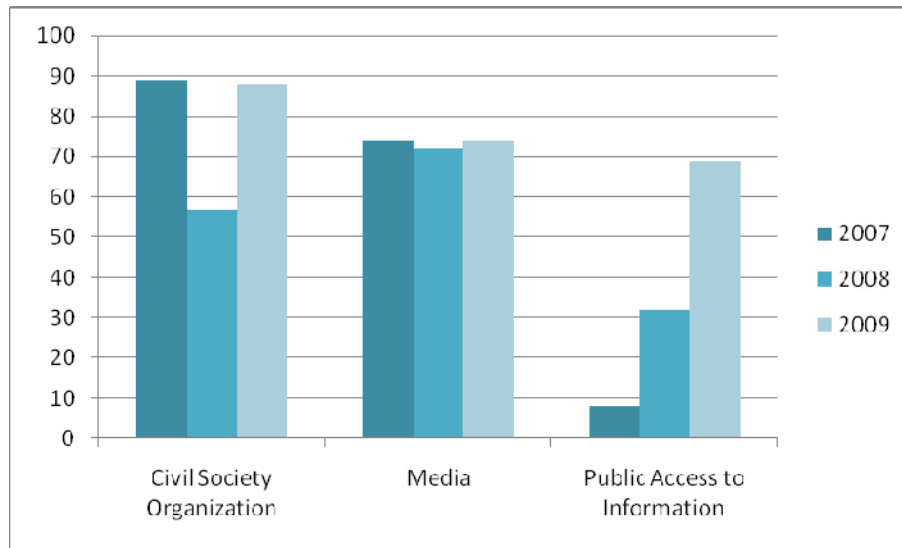
Table 6: Global Integrity Report: Bangladesh Civil Society*¹⁰

Category	Score/year		
	2007	2008	2010
Overall	57	54	77
Category-wise			
Civil Society Organization	89	57	88
Media	74	72	74
Public Access to Information	8	32	69

*Author's compilation from the Global Integrity reports of several years.

¹⁰ Global Integrity, *op. cit.*

Figure 4: Global Integrity Report: Bangladesh Civil Society



According to the Global Integrity report of 2010, the state of Bangladesh’s civil society, public information and media retains a *moderate status* and is promising to touch upon the *strong* category. While 70+ score represents entails *moderate* status and 80+ indicate a strong presence of governance, it has score 88 in civil society organisation category while the media scored 74 and public access to information secured 69 points. Given the ranks of other institutions, as discussed above, civil society and media performed quite well. The score also shows that is a huge uplift of public access information in three years period—from 8 in 2007 to 69 in 2010—thanks to *Right to Information Act* enacted on March 29, 2009. However, overall, the country has made some progress scoring 57 in 2007 to 77 in 2010.

3.3 Socio-Economic Development

Although, ideally, democratic consolidation is largely a matter of political crafting, Przeworski shows that there is a powerful impact of economic development and performance on the consolidation process. (Przeworski 1991) The study demonstrates a strongly positive correlation between the affluence of a nation and the likelihood of democratic persistence. During the period of Przeworski’s study (1950-90) democracy (understood simply as electoral democracy) had a 12 percent chance of breakdown in any given year among the lowest-income countries. The expected life of democracy increases with per-capita income up to the highest income level of over \$6,000 (in 1985 purchasing-power-parity U.S. dollars). At that level of affluence "democracies are impregnable and can be expected to live forever." He further suggested that democracies are significantly more likely to persist when they experience real economic growth (especially rapid growth, in excess of 5 percent annually).

In Diamandouros' analysis of the three success stories of Southern Europe, an important additional reason why socioeconomic development facilitates democratic consolidation has been shown. (Gunther *et al.* 1995) Rapid economic development (particularly in Spain and Greece) in the two decades before 1975- transformed not only social structures but also values. Because of these societies were more secularized and educated; and class, gender, and urban-rural inequalities attenuated, the values and belief systems of these societies became more "open-ended and positive-sum." They also became more flexible, moderate, conciliatory, and tolerant of different interests. This in turn facilitated an essential feature of consolidated and stable democracy, the predominance "of dialogue and compromise in the daily practices, tactics, and strategies of both individual and collective actors." Here again we see the centrality of change in political culture to the consolidation of democracy.

As to these theoretical propositions, Bangladesh lies in the mixed zone. While it is still a low-income country with GDP per capita \$1659 in PPP terms, its economy has been growing faster for the last two decades at an average of around 5% annually (World Bank 2010). Nevertheless, one-third (31.5 %) of its population still lives below the poverty line (BBS 2010) thus demonstrating that the benefits of growth are not equally distributed.

Regarding inequality, the Gini co-efficient¹¹ of income shows that the national level income inequality of Bangladesh has increased in the last one and a half decade from 0.432 in 1995/96 to 0.458 in 2010 (Dev *et. al* 2008, Titumir and Rahman 2011). Although there is no clear-cut consensus among experts as to the correlation between inequality and democracy¹², it generally poses threats to the society's stability, which is, in the long run, detrimental to a sustainable democratic polity.

Nevertheless, although traditional theorists (Saymour Martin and others) argue that democracy is the direct result of economic growth and that it can only stand where the foundations have been laid by a highly educated population and a culture of democracy, Acemoglu and Robison (2006, 2007) oppose the idea, claiming that democracy can flourish in any kind of society, as long as the distribution of benefits implied by the democratic process are consistent with the underlying distribution of power. They further assert that a democracy is likely to collapse if such economic and political conditions are not met.

Bangladesh's dubious political society is dominated by a winner-takes-all culture, with the ruling party's all out effort to corner the oppositions; and benefits, resources or power not properly shared with political elites beyond party line, instead heavily concentrated in the hands of the ruling class.

¹¹ Gini co-efficient is a popular composite indicator of measuring inequality. It can vary between 0 and 1 with 1 being the most unequal state and 0 the most equal state.

¹² Robert Dahl (1971), Huntington (1991) etc. suggest that democracy is not possible in highly unequal societies, whereas Bollen and Jackman (1985), Przeworski (2000) found no relationship between measures of inequality and democracy. [Acemoglu and Robinson 2006]

Table 7: Bangladesh Economy: some basic figures

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
GDP Growth (%)	4.9	4.6	5.4	5.2	4.9	5.9	5.3	4.4	5.3	6.3	6.0	6.6	6.4	6.2	5.7	6.1	6.7
GDP Per Capita (\$)	323	339	346	353	359	364	356	354	380	408	429	435	475	547	608	675	700
GDP Per Capita (PPP) (\$)	675	704	741	775	809	860	909	948	1000	1079	1165	1266	1372	1473	1569	1659	--
GNI Per Capita (current) (\$)	330	350	360	360	370	380	380	380	400	440	480	500	520	570	640	700	--
Size of GDP (\$ billion)	37.94	40.7	42.3	44.1	45.7	47.1	47	47.6	51.9	56.6	60.3	61.9	68.4	79.6	89.4	100.35	
Export (\$ billion)	4.12	4.51	5.08	5.88	6.03	6.59	7.23	6.79	7.38	8.75	9.99	11.74	13.53	16.18	17.36	18.47	--
Import (\$ billion)	6.58	7.60	7.63	8.06	8.53	9.06	10.10	9.06	10.40	11.77	13.89	15.62	18.26	22.87	23.72	25.10	--

Source: World Bank statistics of several years

The above World Bank statistics shows that Bangladesh economy has been steadily growing over the past two decades. The country's GDP growth hovers persistently around 5-6 percent while the GDP per capita increased from \$323 to \$675 and GNI per capita rose from \$330 to \$700 during 1995-2010 periods. GDP Per Capita (purchasing power parity) increased almost three-fold—from \$675 to \$1659 in 1995-2010 periods. The country's export earning rose from \$4.12 billion in 1995 to 18.47 billion in 2010. However, it still remains in the low income category (GNI per capita \$1005 or less). As Przeworski presented a strong positive correlation between the affluence of a nation and the democratic persistence, he however mentioned that there is a 12 percent chance of breakdown among the lowest income countries. While he correlated that the expected life of democracy increases with per-capita income up to the highest income level of over \$6,000, Bangladesh lags far behind. The only indicator that encourages Bangladesh is the pace of real economic growth which has been persistent around 5 percent through the last couple of decades.

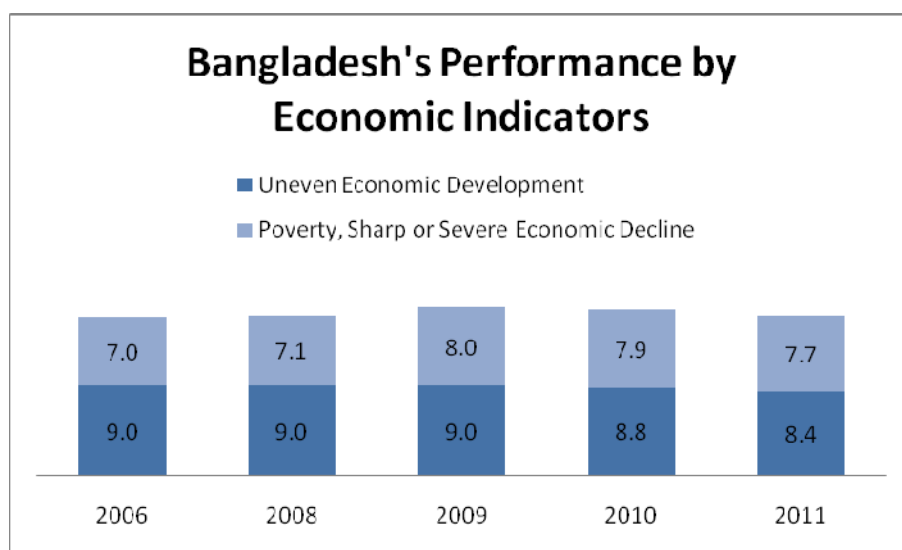
According to Fund for Peace’s *Failed State Index* of several years, Bangladesh’s economic development score was 8.4 in 2011 in a 1 to 10 scale with 10 being the worst, which illustrates that there are, as the report put, “*serious ethnic, religious, or regional disparities and the governed tend to be uneven in their commitment to social contract*”. (The Fund for Peace 2012) In the poverty, sharp or severe economic decline data, the country has scored no better: 7.7 in 2011 illustrating that, *poverty and economic decline strain the ability of the state to meet its social obligation, including things as inflation and unemployment.*” It has earned the score 7.9 in 2010, 8.0 in 2009, 7.1 and 7.1 in 2008 and 2006 respectively.

Table 8: Bangladesh’s Performance by Economic Indicators

Category Year	Uneven Economic Development	Poverty, Sharp or Severe Economic Decline
2011	8.4	7.7
2010	8.8	7.9
2009	9.0	8.0
2008	9.0	7.1
2006	9.0	7.0

*Author’s compilation of *Failed State Index* reports of several years

Figure 5: Bangladesh’s Performance by Economic Indicators



The Uneven Development indicator dropped significantly due to the country’s pursuit of tax reforms. Bangladesh’s Poverty and Decline score improved slightly as growth in the non-agricultural sectors fuelled increased consumption.

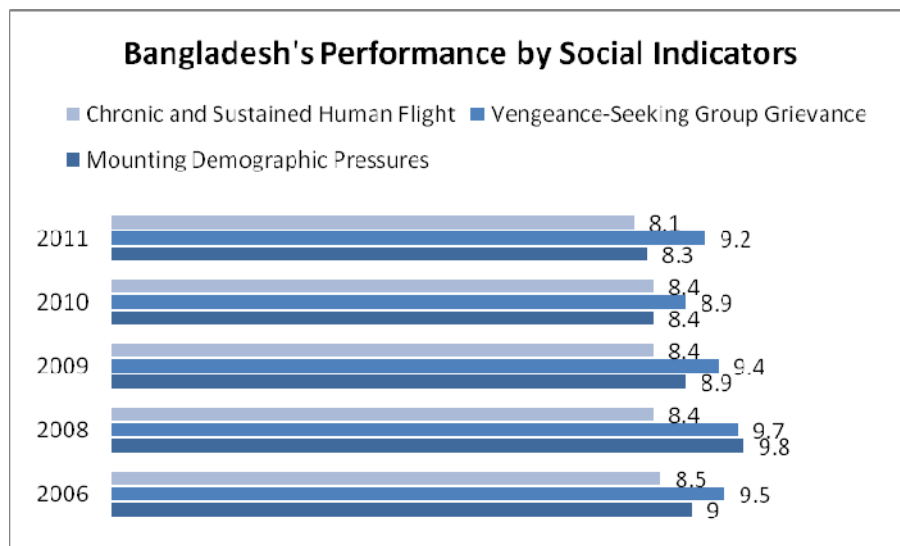
Among the South Asian nations, in 2011, Bangladesh positions the second—only next to Maldives—in Uneven Economic Development while performed poorly in Poverty, Sharp or Severe Economic Decline in which the country positions 4th out of eight South Asian nations.

Table 9: Bangladesh’s Performance by Social Indicators*¹³

Year \ Category	Mounting Demographic Pressures	Vengeance-Seeking Group Grievance	Chronic and Sustained Human Flight
2011	8.3	9.2	8.1
2010	8.4	8.9	8.4
2009	8.9	9.4	8.4
2008	9.8	9.7	8.4
2006	9.0	9.5	8.5

* Author’s compilation of Failed State Index reports of several years

Figure 6: Bangladesh’s Performance by Social Indicators



Failed State Index’s social indicators of several years illustrate that the country is nearly most at-risk of collapse and violence as indicated in several years’ reports. On *mounting demographic pressure* category, the data shows that there are huge pressures on the population such as disease and natural disasters that make it difficult for the government to meet its social obligations. In 2011, in a scale of 1 to 10 with 1 being most stable and 10 being the most at-risk of collapse and violence, the country scored merely 8.3 representing a close to the worst situation. Although the country has made a tiny progress from its 2006

¹³ The Fund for Peace *op. cit.*

and 2008 position—the score was 9.0 and 9.8 respectively—it has barely made any significant strides. Similarly, Bangladesh has scored dearly in the *vengeance-seeking group grievances* category scoring 9.2 in 2011. The earlier situation also represents its consistent worst performance: 8.9 score in 2010, 9.4 in 2009, and 9.7 and 9.5 in 2008 and 2006 respectively. This illustrates that *there exists tensions and violence between groups which undermines the state's ability to provide security and when the security is not guaranteed, violence and fear may ensue*. On the *chronic and sustained human flight* category, the country stands no where better than the other two categories. It has consistently scored around 8 out of 10 which demonstrate that in Bangladesh when there is little opportunity, people migrate, and thus creating a vacuum of human capital in the country.

Besides, in Heritage Foundation's 2009 report on economic freedom, Bangladesh performed very dearly as the country has been ranked 160 with 47.5 score (80-100 = Free; 70-79.9 = Mostly Free; 60-69.9 = Moderately Free; 50-59.9 = Mostly Un-free; and 0-49.9 = Repressed) which left the country in the *repressed* category. (Miller and Holmes 2009) In doing so, the Foundation considered 10 components of economic freedom i.e., business freedom, trade freedom, fiscal freedom, government size, monetary freedom, investment freedom, financial freedom, property rights, freedom and corruption and labour freedom—measuring each freedom between 0 and 100 scale. It has also showed a positive correlation (*Correlation: 0.67, R² = 0.432*) between economic freedom and democratic governance.

3.4 Negative politics: A negative factor affecting consolidation

A democratic system weakens when there is an explicit rejection of the legitimacy of a democratically elected regime by (significant) parties, movements, or organizations. However, Bangladeshi political actors, on a number of occasions, failed to show respect to this principle of democratic consolidation. Since 1991, the opposition parties or allies, on and off, publicly challenged the legitimacy of the government. In a most recent occasion, on January 01, 2011, the present opposition leader Begum Khaleda Zia, in a public meeting, declared that *"this government is illegal and all its actions will be declared illegal after its departure from power."* (The Daily Star 2011d) Similarly, when her party was in power, the then opposition Awami League often used to exchange the same rhetoric questioning the legitimacy of the government and asking it to quit immediately. (The Daily Star 2004)

Another factor undermining the democratic consolidation process is the willingness by political competitors to use force, fraud, or other illegal means to acquire power or influence policies. Both leading parties—the position and the opposition—are to blame for flexing their muscles when they are in opposition. During 2001-2011, at least 3,457 political activists have been killed while another 124,252 activists have been injured—most of whom were the victims of political clash. (Odhikar 2012)

A democratic consolidation effort also face serious setbacks when one or more political actors resort to “*knocking at the barracks door*” for military support in their political struggle. In Bangladesh both the main opposition and position often blame each other to play with the similar tricks and exchange tirades that one is seeking military’s support to oust the other. There are ample evidences that the political actors resort to any means -- howsoever illegal it might be -- to achieve their political purpose. In 1996, for example, there was an allegation that some political parties stirred a fraction of disgruntled military officers led by Lt. General Nasim (who later removed from his position for alleged coup attempt) to stage coup against the non-party Caretaker Government. (Ahsan 2010) Another example of deploying illegal means was also in 1996 when the then opposition allegedly encouraged public officials to join in the anti-government mass-protest. (Jahan 2006) In the most recent event of a foiled coup attempt—which the army in a rare press appearance revealed—the government instantly pointed its finger towards the main opposition to have a role in it. (The Daily Star 2012d) Besides, the two archrivals also accused one another of fresh links with all the coups that have taken place in the military since 1975. BNP’s general secretary Mirza Fakhrul Islam claimed, in a recent discussion, that, “Awami League men were involved in the assassinations of Ziaur Rahman in 1981, the military coup in 1982, and in forming the unconstitutional government in 2007”, while Awami League out to blame BNP and its founder General Ziaur Rahman for having a mastermind role in 1975 bloody coup and subsequently allowing the military to play with politics. (The Daily Star 2012e)

Another indicator as we discussed may be the categorization of democratically loyal opponents as disloyal and an instrument of outside actors. Over the years, this issue has dominated our politics much more than any other issues. Bangladeshi political parties tend to depict oppositions, even sometimes the positions, the agent of foreign instruments and conspiratorial groups which creates barriers to confidence and trust-building process with one another. The examples of such categorisation are plenty; however, we can look at some very recent remarks of the leaders of both ruling and oppositions where they called one another as outside agents. On January 09, 2012, Khaleda Zia, the opposition leader, at her anti-government rally at the northern district- Lalmonirhat, blamed the government for turning Bangladesh into India's vassal state. (The Daily Star 2012f) Such manifestation, however, is not one sided. The position also came out to term the opposition as an ISI-agent (ISI is the Pakistani Intelligence agency) and blamed it to have received election funds. (The Daily Star 2012g)

4. Conclusion

To consolidate a nascent democracy, there are a number of elements that need to be satisfied. This paper tried to portray a relative picture of the journey of Bangladesh democracy for the last two decades through the lens of a framework of democratic consolidation theory. It can be claimed that Bangladesh has made little progress since the

restoration of democracy in 1991. Despite the economy of the country has expanded markedly and been experiencing moderate persistent growth showing a better prospect of being a middle-income country in less than a decade, and the presence and voice of civil society and media is now more pronounced than ever, the other political and state institutions remain very much fragile. Parliament, the key political institution amongst all, remains ineffective and fails to provide an avenue for dialog and to mitigate conflicts between and among political actors. Political parties, the other significant institution for democratic strengthening, are also performing dearly. Lacking intra-party democracy and internal policy debates, mainstream political parties are mainly consumed by personality cult deliberately leaving out citizens' voice from being heard, and allowing little influence of commons in party decision-making and agenda-setting. Ineffectiveness and under-performing nature of other State machineries is very much tied with the failure of these two key political institutions--parliament and political party.

For understanding the distortive nature of Bangladesh democratic practice, it is however felt that a much in-depth inquiry is needed on key political institutions like the political parties and parliament to diagnose the constraints that handicapped these institutions. Therefore, a critical analysis of the very dynamics and politico-economic-cultural setting that these parties operate could provide a more detail scrutiny and would enable us to meaningfully suggest or provide any practicable solution to the present democratic crisis.

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