

**‘ABOLITION OF NON-PARTY CARETAKER GOVERNMENT SYSTEM IN
BANGLADESH: CONTROVERSY AND REALITY’**

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ABSTRACT: *The Thirteenth Amendment of the Constitution of the People’s Republic of Bangladesh, in 1996, introduced the Non-Party Caretaker Government (NCG) system in Bangladesh, with a view to holding free and fair elections for the national Parliament. Three elections have been successfully carried out under the NCG system (1996, 2001, 2008). The unique form was brought into effect due to extreme distrust between the ruling and the opposition political parties. Bangladesh’s people were mostly satisfied with this system, as NCG performed its duties successfully. However, the NCG was abolished by the Parliament in 2011 on the basis of an adverse decision of the Supreme Court. The political Parties (ruling and main opposition) are engaged in a confrontation now over whether the elections will be held under NCG or under the current, political, Government. This paper intends to explore the reasons for and realities of the abolition of NCG. The research fully depends on secondary literature. The study reveals that NCG is still indispensable to ensure free and fair elections, considering the present political culture in Bangladesh.*

KEYWORDS: Caretaker Government, Constitution, Abolition, Controversy, Reality.

INTRODUCTION

The Non-Party Caretaker Government (NCG) system was introduced in Bangladesh as a progressive concept. It was brought into effect through the Thirteenth Amendment of the Constitution in 1996. Three elections (1996, 2001 & 2008) have been held under NCG successfully and the power to govern the country’s people has been transferred to the winning party peacefully (Nizam Ahmed, 2004; Rahman, 2010). In earlier times, ruling parties tried to dictate the outcomes of elections by terrorizing their oppositions, especially when the elections were held under the partisan Governments. Thus, Bangladeshis had lost their faith in elections. Over the period of 1971-2001, five elections were held under political Governments, where almost all ruling parties were alleged to have used force to win the elections. The excesses of ruling Parties made oppositions search for a mechanism that would bring neutrality in elections. It was thought that the citizens could be protected, by the caretaker Government, from Parties seeking any undue benefits in elections.

Thus, Bangladesh was successful in creating a new mechanism in its political arena to hold a free and fair election, called Non-Party Caretaker Government (NCG) (Nizam Ahmed, 2004) The

hope for democracy would sustain and deepen as the neutral government took the responsibility to oversee the elections. Yet the true purpose of the mechanism was not to broaden democracy but to benefit the political leaders of all the Parties. Caretaker Government worked very well as two elections (1996 & 2001). (Millam, 2010). These elections were free and fair. The general election in 2008, also under NCG, was also successful.

In recent years, the debate on the issue of Caretaker Government resumed when the 13th Amendment of the Constitution was declared illegal by the Appellate Division of the Supreme Court, in 2011. However, the judges conceded that, in the near term, the next two elections might still be held under Caretaker Governments (Panday, 2011).

NCG: Concept and Practice

Caretaker government, in political science, is not a new concept. The concept is observed in many developed democratic nations when outgoing Governments choose to perform their duties as Caretaker Governments. Caretaker Governments are found in European democracies, when the incumbent government rules the country until power is transferred to newly-elected Government through elections (Rahman, 2010; 11). European countries regularly have Caretaker Governments, partisan or non-partisan, when no Party has a majority in the newly-elected Parliament. In such a case, Parties carry on coalition negotiations which can take months. During this period, a non-Party or technocratic Government are often appointed to keep the State operating while there is no permanent Government. As many as 24 technocratic Governments were in power in EU nations between 1945 and 2012. (Valbruzzi and McDonnell, 2013; 8).

During this period of Caretaker Government, there actually is no Government but the President or King will appoint persons to act as Ministers, or instruct the current Ministers to stay in their positions, “as caretakers”, meaning they will not change policies or make any non-urgent decisions. Belgium recently had a caretaker Government for 590 days after the 2010 elections (Bouckaert and Brans, 2012; 1). Even Britain has experienced non-political or “grand coalition” Governments in emergency situations, which have carried out free and fair elections (Hasanuzzaman, 1998; 180). A coalition Government, of Prime Minister Churchill’s Conservative Party and its opposition Labour Party, was formed by Churchill to deal with the crisis of German bombing, blockade and expected invasion during World War II, in 1940-1945. This coalition Government conducted the 1945 election, which saw the Conservatives thrown out and the election of the first Labour Government with a majority in Parliament (Hasanuzzaman, 2004; 180).

In Australia, in 1975, when the Liberal and National Parties, in opposition, stopped the Senate from approving a Budget for many months, the Governor-General appointed their leader, Malcolm Fraser, the Liberal Party leader, Prime Minister. When the Labor House of Representatives voted no-confidence in Fraser, Fraser asked the Governor-General to dissolve the House of Representatives and Senate and call new elections. During the election period, the Liberal and National Ministers appointed by Prime Minister Fraser governed the country and conducted the election. They won the 1975 election with a huge majority and thus became an elected Government. (Kelly, 1983) Australia has, since then, evolved “caretaker conventions”, concerning the behaviour of Governments during elections. (Tiernan and Menzies, 2007).

Traditionally, a Caretaker Government does not have the authority to make any major policy decision. It carries out the day-to-day administrative work of the State.

Morally, a Caretaker government should not introduce any new program or start new policies (Ahmed 2004; 6). A Non-Party Caretaker Government can be defined as ‘a Government which has very short tenure, and does not have so much authority to introduce any changes in structure, rules and policies of the existent government.’ (Rahman, 2010). Generally, the Government which takes the responsibility to run the administration during the interim period is called a Non-Party Caretaker Government. Such a Government cannot make any new policy, write new legislation or make any commitment to introduce new, large expenditures (Rahman, 2010).

Background of Caretaker Government of 1990.

The concept of Caretaker Government is not unknown in developing countries like Bangladesh, as well as in Europe and other western countries (Karim, 2004; 3). In 1960, a general election was held by General Ne Win’s caretaker government in Burma. In Fiji, a Caretaker Government organized general elections in 2000 (Ahmed, 2004; 5). In 1993, the general election of Pakistan was held by a non-partisan Caretaker Government (hereafter “NCG”). General elections in Namibia (1993), Haiti (1995) and Mozambique (1995) were held by Caretaker Governments under the auspices of United Nations. South Africa formed a sort of Caretaker Government in 1994 during the general elections (Hasanuzzaman, 1998; 179-180).

Nine Parliamentary elections were held in Bangladesh in the first four decades of its independence (1971-2008). Among the nine parliamentary elections, five elections (first, second, third, fourth and sixth) were held under Party Governments and, four (fifth, seventh, eighth and ninth) under NCGs.

One of the most inevitable reasons for introducing the NCG was the belief that holding elections under NCG can ensure the free and fair polls in a credible manner. Elections under Party Governments were not free from being rigged. Almost all ruling parties were accustomed to using force and threats to win elections. *AL*, considered the champion of democracy and which led the liberation war in 1971, was accused of using intimidation to win elections.

The normal political process, created by the 1973 Constitution after independence in 1971, stopped after the military coup in August 1975. Even before then, President Mujibur Rahman had stopped normal politics by banning all political Parties except his Bangladesh Farmer-Labour People’s League (BAKSAL, from its Bengali acronym), on 25 January 1975. After the 1975 coup, which led to the death of the President, his family and many of his Ministers, government became unstable, with revolving-door Presidents and Generals seizing power for short periods.

From 1978, Gen *Ziaur Rahman* (1975-1981), through his Bangladesh Nationalist Party (“BNP”), created an effective Government under his control. After his assassination in 1981, General *Hossein Mohammed Ershad* dominated the Government with his National Party (called “JP” for half of its Bengali name “Jatiya Party”) (1982-1990). These Generals, while restoring order and stability, sought to legitimise their rule through their political Parties and even conducted

elections. However, with the overbearing influence of the military, these elections became less and less credible. Few voters participated and, by 1986, the election degenerated into “Yes” or “No” to the Government. Also, vote-rigging and voter intimidation were common. BNP won the second Parliamentary election in 1978. The third and fourth Parliamentary elections went in favour of JP, in 1986 and 1988, respectively. Both Parties were roundly accused of having manipulated the electoral process. As a result, the legitimacy of the elections that were held under the military governments [Zia and Ershad] did not get the recognition of the main opposition Parties.

Especially, in the 1986 election, the scale of intimidation broke all past records. Many polling stations and constituencies were absolutely captured by JP-backed musclemen. In this regard, three different political alliances (eight Parties led by AL, seven Parties led by BNP and five ‘leftist’ five Parties) were formed. They would not accept the election result and organised massive popular demonstration against the *Ershad* Government as being illegitimate due to ballot-rigging (Nizam Ahmed, 2004). In 1987, three multi-Party alliances signed an agreement that they would not take part in any elections under any *Ershad* Government. They suspected that elections under military government would never be free and fair.

The fourth Parliamentary election, held in 1988, was boycotted by the three multi-Party alliances. Subsequently, All-Party Students Unity (APSU) was formed, in October 1990, affiliated with the main opposition alliances. APSU exerted extreme pressure upon the *Ershad* government to resign, with a view to restoring democracy through fair polls. The three opposition alliances expressed their aspirations in an heroic struggle demanding for ‘neutral caretaker government’ (Islam, 1988; 167 and Nizam Ahmed, 2004).

The opposition alliances and APSU set as their goal the formation of a neutral caretaker government to replace *Ershad*, and transfer power to a newly-elected sovereign in October (Baxter and Rahman 1991; 684). In November 1990, the three alliances presented their Joint Declaration to the nation, the main focus being to create a neutral caretaker government. They mentioned some specific points on the issue of NCG on their declaration. The *Ershad* government faced a mass upsurge which took place in November-December 1990, organized by the three alliances and APSU. A state of emergency was declared by *Ershad* on November 27. But he failed to stop the agitation of the opposition. Finally, he resigned on December 4, effective December 8. He dissolved parliament on December 6.; (Hasanuzzaman 1998; 183 and Baxter 1991; 151). *Shahabuddin Ahmed*, the Chief Justice, took over the position of Acting President in this critical situation. Ershad had appointed him as vice-president to maintain the constitutional process despite political turmoil (Hasanuzzaman 1998 and Baxter 1991; 162).

Earlier, the three opposition alliances had nominated him to lead the NCG in the transition from authoritarianism to democracy. The fifth Parliamentary election was held in a free, fair and impartial manner under *Shahabuddin’s* NCG, on 27 February 1991. The different political Parties got a level-playing field on which to contest the elections from this NCG. *Shahabuddin’s* Government was successful in restoring the credibility of the electoral system and the confidence of the people in the electoral process. The election result was acceptable to all political Parties without any serious allegation of misconduct. Although AL claimed that there was subtle rigging

of the election, but the people did not pay heed to them. In spite of getting more seats than other political parties, BNP had to form a Government with the support of BJI (an Islamic Party) in March 1991. AL appeared as the main opposition in the fifth Parliament (Nizam Ahmed 2004).

Demand For Constitutionalisation Of The Caretaker Government Concept (1996)

It was widely known that fundamentalist *Jammat-i-Islami* first introduced the idea of NCG in 1983, but the idea was not supported by the main oppositions such as BNP, AL and left fronts (Hasanuzzaman 1998; 183). After accomplishing a creditable election under NCG in 1991, NCG became the obvious alternative to partisan Governments holding elections of dubious integrity.

However, the main political parties (BNP, AL) did not consider institutionalizing the NCG concepts in the early years of the fifth Parliament. The JP did not support the concept of NCG from its very inception. However, *Matiur Rahman Nizami*, Parliamentary leader of BJI, submitted a Private Members' Bill, proposing to hold all future Parliamentary elections under NCG. The NCG Bill proposed by BJI did not arouse the interest of the major Parties for more than two years after its submission to the Parliamentary Secretariat in December 1991. In late 1993, AL and JP changed their minds and submitted their distinct Bills for NCG. The NCG Bill of AL was submitted on 28 October 1993 by *Abdur Rahim* and the NCG Bill of JP was submitted by *Monirul Haque Chowdhury* in mid-November 1993. There were almost no differences among the three NCG Bills submitted by AL, JP and BJI. The main difference was observed on the issue of choosing the head of the NCG. AL proposed that the President would appoint the Chief Justice as the head of the NCG with primary responsibility to oversee the conduct of Parliamentary elections. On the other hand, the Bills of JP and BJI, recommended that the President would have some discretion to appoint the head of the NCG. Initially, the NCG Bills did not have any influence on people, as the opposition Parties made no serious effort to popularise this idea (Nizam Ahmed 2004).

AL, JP and JI brought a charge that BNP had meddled and used government machinery to win the *Magura* by-election, held in March, 1994. On the issue of the *Magura* by election, the main opposition Parties decided that they would not take part in any election except under NCG, argued that elections could not be free, fair and clean under BNP government (Hossain 1995; 172). The major opposition Parties came to believe that they would have no chance in the 1996 Parliamentary elections, no matter how many people wanted to vote for them. As the elections got closer and closer, opposition leaders realized that free and fair elections were the precondition for their political survival. So, this realization thrust NCG forward as a top priority. So, in that year, the main opposition Parties (AL, BNP, JI) boycotted the Parliament continuously, in support of their demand for constitutionalisation of NCG. AL and JP determined to avoid sitting on various standing committees of the Parliament. Although BJI agreed with the modalities of NCG and the effectiveness of boycotting Parliamentary sessions, they attended meetings of different Parliamentary committees and submitted questions and other notices until October 1994. The three main opposition Parties did not make any formal communication with each other. However, an all-Party committee was formed to draft a common bill on NCG. On 7 June 1994, the common Bill on NCG was prepared and the boycotting Parties gave a deadline to the Government to introduce a Bill providing for holding the future Parliamentary elections under NCG.

Against this backdrop, the all-Party committee proposed a six-point agenda for NCG, which empowered the President to appoint a neutral person as Prime Minister, after consulting with the opposition leaders in Parliament. The Prime Minister would not be permitted to participate the elections and the only Independent persons, having no Party affiliation, would be eligible to join the Cabinet.

However, the proposal of the mainstream opposition for NCG did not get the same support from all Parties like *National Awami Party* [Muzaffar], *Jatiya Samajtantrik Dal* [Rab], *Jatiya Samajtantrik Dal* [Inu], *Janata Dal*, and Left Democratic Front. The *National Awami Party* gave their opinion that communal and fundamentalist activities must be restricted before implementing NCG. The Parliament should be more representative by ensuring the representation of varieties of opinion of all levels of society, as suggested by *Jatiya Samajtantrik Dal* (JSD-Rab). *Jatiya Samajtantrik Dal* (JSD-Inu) was concerned with the muscle power and black money of the Government and proposed these behaviours should have been eliminated before considering the concept of NCG. *Janata Dal* asked the Government to consider the concept of NCG. The Left Democratic Front strongly criticized the proposal of NCG proposed by the main three opposition Parties, arguing that the concept of NCG was a necessary but not an inevitable step to holding elections in a free and impartial manner (Nizam Ahmed 2004). The Government, however, showed a negative attitude to the proposal for NCG, as conceptualized by the three Parliamentary Parties. The BNP Government completely rejected the plea of the opposition and argued that the NCG concept was unconstitutional and undemocratic. They introduced a Bill in Parliament to enhance the power of the Bangladesh Election Commission (BEC) instead (Hossain 1995; 172). The new Bill was passed as the Representation Of The People Act, 1994. It vested power in the BEC to issue identity cards to every voter. It also empowered the BEC to stop polling at any polling stations where it found illegal means and malpractice. The opposition Parties, particularly AL and JP, considered that the new law would not be sufficient to check electoral intimidation and rigging (Nizam Ahmed 2004). Thus, they insisted on their original demand for NCG. They exerted extreme pressure upon the Government by calling countrywide strikes and organizing mass rallies and street protests.

At this point, *Emeka Anyaoku*, Commonwealth Secretary General and *Sir Ninian Stephen*, former Governor-General of Australia, arrived to arrange a series of meetings between Prime Minister Khaleda Zia and AL leader Sheikh Hasina to solve the ongoing crisis. With absolute failure of the dialogue, a blockade of the Prime Minister's office was called by the opposition on 9 November 1994. Moreover, the opposition called another two-day general strike on 12 and 13 November. During the strikes, at least fifty people were injured in clashes between the supporters of BNP and AL. In the meantime, Sir Ninian Stephen carried out discussions with Prime Minister Khaleda Zia, Sheikh Hasina and other leaders. To mitigate the situation, BNP proposed an interim Government to be headed by Prime Minister Khaleda Zia and a Cabinet of ten MPs from both sides: five from BNP, four from the opposition and a technocrat to be proposed by the opposition. This proposal was presented to Sheikh Hasina by Sir Ninian Stephen. On the other hand, the opposition proposed their own plan for a caretaker Government to be headed by a Supreme Court Justice as Prime Minister and five members each from BNP and the opposition. The BNP Government refused the proposal of the opposition (Hossain 1995; 172-173).

To secure the demand of NCG, a three-prong strategy had been applied by the three opposition Parties. Firstly, they determined to continue the boycott of the Parliament. Some of the MPs of the other political parties, like Democratic Party (GP) of *Suranjit Sen Gupta*, National Democratic Party of *Salauddin Quader Chowdhury* and *Islami Oikkya Jote* (IOJ) also joined the three parties to boycott the Parliament. Secondly, they adopted general strikes, blockades of building, and interdiction of railways and roads as tactics for exerting extra-Parliamentary pressure upon the BNP Government. Thirdly, the MPs of the opposition Parties decided to resign from the Parliament. On 28 December 1994, a total of 153 opposition MPs resigned from the Parliament, leaving only opposition MP. The Speaker, however, did not accept their resignation letters. Earlier, the Speaker had requested the opposition MPs not to resign (Nizam Ahmed 2004).

After the resignation of the MPs, the opposition Parties mobilized their street politics to achieve their demand for holding elections under a neutral caretaker Government. They demanded the resignation of the BNP administration and dissolution of the Parliament. Furthermore, they declared that they would not take part in any election under a Partisan Government. The country witnessed a series of programs of “siege, blockade of official buildings and interruption of transport” and called for numbers of dawn to dusk general strikes. To react to the chaos, then-Prime Minister Khaleda Zia advised President Shahabuddin to dissolve Parliament: this was done on 24 November 1995 (Hossain 1995; 196-197). Earlier, the opposition MPs had lost their membership in Parliament because of their absence in the Parliament for 90 consecutive days, as the Speaker ruled in August 1995. Thus, the Government had been obliged to dissolve the fifth Parliament four months before its five-year term was due to expire.

However, the opposition did not stop their street movement. The necessity of holding elections to the sixth Parliament to comply with the Constitution made it impossible to enact an NCG Bill, according to the Government. The opposition rejected the decision of the Government and organized to beat back the election at any cost. The sixth Parliamentary elections were held on 15 February 1996. The opposition parties boycotted the elections. The elections were held in an environment of unlimited violence. One candidate for MP was killed and the elections were postponed. Furthermore, due to rampant violence, elections could not be held in ten constituencies (Nizam Ahmed, 2004). BNP engaged in excessive vote intimidation and the rate of voter turnout appeared to be extremely low: less than 10% of the eligible electorate. BNP was the winning Party, getting 289 of the 300 seats in nearly vote-less elections, which called to mind the 1988 polls held by General Ershad. Although BNP received a massive victory, the legitimacy of the Government faced a serious crisis. The extensive vote-rigging by BNP added spark to the opposition demand for the creation of a non-partisan Government to hold future elections (Kochanek , 1997:137)

The opposition Parties therefore considered the sixth Parliament to be completely illegitimate and demanded its rapid dissolution. The opposition Parties launched a three-day strike (*hartal*) on February 24. When nothing was done about their demands, they decided to continue an indefinite programme of non-cooperation with the Government, beginning on March 9. Due to continuous strikes in various sectors, banks, ports, factories, and shops were closed, and all transportation and communication was made unreliable. Thus, a chaotic situation was created in

the economy. Against this backdrop, various social groups and civil society directly meddled in the political process and exacerbated the crisis. On March 11, the Federation of Chambers and Commerce and Industry (FBCCI) gave a total 96 hour ultimatum to the president to invalidate the February election and announce a new date for free and fair elections under NCG. FBCCI received massive support from teachers, journalists, doctors, trade unions and NGOs in exerting extreme pressure for the resignation of Prime Minister Khaleda Zia and the dissolution of Parliament. Moreover, the government officials and employees, including most senior secretaries, issued a deadline to Khaleda's Government to resign and hold new elections under NCG.

The Government decided to amend the Constitution to introduce NCG. Barrister *Zamiruddin Sarkar*, Law Minister, moved the NCG Bill on 21 March 1996. It was passed by the Parliament on 26 March. The President gave consent to the Bill on 28 March (Nizam Ahmed, 2004). The country could now have a caretaker Government at any time. The Prime Minister resigned, on 30 March 1996. At that time, *Habibur Rahman*, the last retired Chief Justice, became the head of NCG (Ibid; 137-138).

Constitutional Orientation

Structure and Power

According to the Thirteenth Amendment of the Constitution, the President has been vested the power to appoint a ten-member NCG, as well as the Chief Adviser as its head, within fifteen days of the dissolution of Parliament. The status, privileges and remuneration of CA are stringently restricted by the Constitution, as the CA enjoys the same capacity as a PM. Article 58C provides that:

(1) Non-Party Care-taker Government shall consist of the Chief Adviser at its head and not more than ten other Advisers, all of whom shall be appointed by the President.

(2) The Chief Adviser and other Advisers shall be appointed within fifteen days after Parliament is dissolved, or stands dissolved, and, during the period between the date on which Parliament is dissolved or stands dissolved and the date on which the Chief Adviser is appointed, the Prime Minister and his Cabinet, who were in office immediately before Parliament was dissolved or stood dissolved, shall continue to hold office as such.

(3) The President shall appoint as Chief Adviser the person who, among the retired Chief Justices of Bangladesh, retired last and who is qualified to be appointed as an Adviser under this article:

Provided that, if such retired Chief Justice is not available, or is not willing to hold the office of Chief Adviser, the President shall appoint as Chief Adviser the person who among the retired Chief Justices of Bangladesh retired next before the last retired Chief Justice.

(4) If no retired Chief Justice is available or willing to hold the office of Chief Adviser, the President shall appoint as Chief Adviser the person who, among the retired Judges of the Appellate Division, retired last and who is qualified to be appointed as an Adviser under this article:

Provided that, if such retired Judge is not available or is not willing to hold the office of Chief Adviser, the President shall appoint as Chief Adviser the person who, among the retired Judges of the Appellate Division, retired next before the last such retired Judge.

(5) If no retired judge of the Appellate Division is available or willing to hold the office of Chief Adviser, the President shall, after consultation, as far as practicable, with the major political parties, appoint the Chief Adviser from among citizens of Bangladesh who are qualified to be appointed as Advisers under this article.

(6) Notwithstanding anything contained in this Chapter, if the provisions of clauses (3), (4) and (5) cannot be given effect to, the President shall assume the functions of the Chief Adviser of the Non-Party Care-taker Government in addition to his own functions under this Constitution.

(7) The President shall appoint Advisers from among the persons who are-

(a) qualified for election as members of Parliament;

(b) not members of any political party or of any organisation associated with or affiliated to any political party;

(c) not, and have agreed in writing not to be, candidates for the ensuing election of members of parliament;

(d) not over seventy-two years of age.

(8) The Advisers shall be appointed by the President on the advice of the Chief Adviser.

(9) The Chief Adviser or an Adviser may resign his office by writing under his hand addressed to the President.

(10) The Chief Adviser or an Adviser shall cease to be Chief Adviser or Adviser if he is disqualified to be appointed as such under this article.

(11) The Chief Adviser shall have the status, and shall be entitled to the remuneration and privileges, of a Prime Minister and an Adviser shall have the status, and shall be entitled to the remuneration and privileges, of a Minister.

(12) The Non-Party Care-taker Government shall stand dissolved on the date on which the prime Minister enters upon his office after the constitution of new parliament.

Army Backed NCG , De-politicization and Transition to Democratic Power

In 2001, the Caretaker Government system was used automatically and without question. There were no violent or disruptive incidents in that year.

The eighth parliament was dissolved on 27 October 2006 and the politicians did not come under same platform to participate in election as earlier. Election the Commission announced the date of election. Although Election Commission changed the date of election several times, the election was not held. Subsequently, the declaration of state of emergency was announced by the president on 11 January 2007 and the NCG was reconstituted (Rahman, 2008). According to the constitution, president has the responsibility to govern this country by appointing and supporting a NCG with a view to holding a free and fair election within three months. The main oppositions shown their intense protest and announced no confidence to *K. M. Hasan* who was supposed to be the Chief Adviser of NCG. Oppositions alleged that BNP politicized the post of the last retiring Chief Justice to gain power. Especially, AL objected that *K. M. Hasan* was supporter of BNP and election would not be free and fair under his supervision. On the issue of *K. M. Hasan*, at least 30 people were killed and injured 100 more due to rampant political clashes between the supporters of four-party alliances and oppositions. Under extreme pressures of oppositions *K. M. Hasan* removed himself for consideration. As a result, the President appointed himself as the Chief advisor as well as ten advisors of NCG without considering all others options, noted in the constitution. AL criticized and reacted to *Iajuddin Ahmed's* self-appointment. AL gave a deadline to *Ahmed's* government until November 12 to prove his neutrality by removing the

CEC, M. A. Aziz, and his three deputies who were alleged by the AL of being BNP AL. Mr. Aziz rejected the plea of AL, then, AL directed its supporters paralyze the country by blocking transport. AL's supporters paralyzed the country by attacking trains and buses, blocking main roads and railroad tracks, shutting down ferries, and closing ports, markets, and schools. Faced by vehement pressure Ahmed declared that Mr. Aziz would go on three month's leave, and the post was replaced by Mahfuzur Rahman, a retired Supreme Court Judge. During the short tenure of NCG, four round *hartals* and blockades were called by main oppositions demanding to reform for creating the conditions for holding a free and fair election. Their demands were the appointment of non-partisan election commissioners, correcting faulty voter list, cleansing the civilian and police administration officials, and more significantly, to appoint of a Chief Adviser. Within the deadlock situation of the country, the date for election was announced by election commission on 22 January 2007. AL rejected instantly the declaration of EC and announced that they would boycott the election and prohibit it at any cost. (Hagerty 2007; 106-107 and Rahman 2008). In this backdrop, the election was postponed and partisan CG was replaced by non partisan CG, most of the members were taken from the non-government sector. The country has been ruled jointly by the CG led by Dr. Fakhruddin Ahmed, chief of the NCG and the Army led by General Moeen U. Ahmed, Chief of the army staff. Primarily, army backed NCG had been successful to gain the support of Bangladesh's people. Most of the Bangladeshis supported NCG expecting that the country would be safe from political turmoil and civil war. However, the hope for retaining to democracy has been fade when the people understood the political intensions of the army (Hagerty, 20008) .

During the period of military-backed caretaker government, politics of Bangladesh was under absolute control and democratic political institutions viewed to be broken (Bhattacharjee 2008). Army backed NCG prohibited all political functions, annulled the scheduled of parliamentary elections. The NCG launched an extensive anti-corruption drive and arrested 200,000 people under charges of political or financial corruption (Momen 2009; 67). NCG not only tried to reform defective electoral system but also made an effort to direct the country on right track. Predominantly, NCG took various steps to clean up corruption from the country. The government arrested thousands of people on corruption charges which included hundreds of politicians, businessmen, and government officials. According to the report of Washington post, by October, NCG government gave a sentence to imprisonment around 170 members of political elite as well as 15,000 people, included political under bosses, local government officials and businessmen on corruption and tax-evasion charges. NCG mentioned in late October, 44 cases were in under jurisdiction in court while other 573 cases were pending (Hagerty, 2008). Thus, NCG and political parties were in frontal situation and a clear dissension was seen on manifold issues. The NCG shown prejudicial attitude to the political parties. Political parties expressed their doubt and alleged that the vindictive attitude would be detrimental for the restoration of democracy of the country. Due to have some significant reasons, political parties perceived that way. Political activities were stringently banned and political leaders and activists were thrown to the sidelines. The government had taken different initiatives to neutralize the power of two major parties. The government tried to keep away *Sheikh Hasina* and *Khaleda Zia* from their own country, as the policy was known as "Minus Two Formula". Nevertheless, the policy did not become successful as *Khalda Zia* directly refused to leave the country. Although *Sheikh Hasina* was in alien land, she managed to force her way comeback. The government, however,

did not shy to implement her determination to neutralize the two major parties. *Sheikh Hasina* and *Khaleda Zia* were arrested on charges of corruption by an order of government. The government also insisted and forced the political parties to reform their constitutions. The government also encouraged many other rebel groups to split the parties. As a result, BNP divided into some groups, whereas AL leaders took a strong stand and united its activists against any such move of government. Finally, NCG government has been failed to implement its vision of ‘minus two’ formula. The NCG also released the key political leaders including Skeikh Hasina and Khaleda Zia (Bhattacharjee, 2008). However, the army backed NCG set the date for ninth parliament elections on 29 December 2008 due to the demand of political parties, prominent citizens and civil society. Primarily, the election date was declared by EC on 18 December. Consulting with the political parties, EC changed the date of election. Almost all registered political parties contested in the elections. Among the parties, AL-led grand alliance received the mandate of masses to form the government for the next five years. In 2008 general elections, AL-led grand alliances received a landslide victory and won the two-third seats of the national parliament. After a sweet-bitter experience of army back NCG, the power has been transferred to democratic government peacefully and successfully. Democratic governance has been restored in Bangladesh through a free and fair parliamentary elections in 2008.

Elections Under Caretaker Government

NCG is considered as the ‘home-grown plant’ of Bangladesh (Nizam Ahmed, 2004). To fulfill the expectations of the masses and the politicians, the provision of NCG was introduced by the Bangladesh Constitution. Instead of holding elections under Party Governments, the new system has become an alternative way to ensure a free and fair elections.

Parliamentary Elections in Bangladesh under Caretaker Government

Date of Elections	Voters (Million)	Turnout	AL	BNP	JP	<i>Jammat</i>
27 February 1991	62.18	55.4	88	140	35	18
12 June 1996	56.72	75.6	146	116	32	3
1 October 2001	75	74.9	62	193	14	17
27 December 2008	81	85.26	230	30	27	2

Prepared by author based on Waresul Karim 2004, & Election Commission Report 2008

‘The elections under NCG have been held in a free manner, as has been widely recognized’ (Nizam Ahmed, 2004;107). A number of foreign groups, including groups from the South Asian Association for Regional Cooperation (SAARC), the Commonwealth, France, and the United States observed and stated that the fifth Parliamentary elections, held on 27 February 1991, was free and fair (Baxter and Rahman 1991; 683). The administration and the Election Commission

have been successful in arranging the elections within the electoral laws and procedures of Bangladesh. Many local groups and associations organised themselves to assure the integrity of the elections. The significant number of women voters and minority groups who participated in elections reflected the success of the democratic process of Bangladesh (Fakharuddin Ahmed, 1998).

The 1996 elections were much more free and fair than the election of 1991, as observed by the EEC team, headed by an Italian Senator. The National Democratic Institute (NDI) mentioned that the 1996 elections had enjoyed the solid support of the people as well as restored the confidence of the vast majority. The process was also peaceful, open and well-administered (Nizam Ahmed 2004). Subsequently, the United Nations Electoral Assistance Secretariat reported that the 2001 elections had reached the satisfactory level of reliability. The Elections Commission and the NCG had been admitted at home and abroad for performing a successful poll and transferring power to the newly-elected leaders peacefully (Nizam Ahmed 2004 and Rashiduzzaman 2002; 183.). Similarly, the ninth Parliamentary elections, held on 29 December 2008, were a success. The international observers noticed that the elections had been up to international standards. European Union Election Observation Mission's (EUEOM) Chief Observer *Graf Lambsdorff* stated that, in spite of a few technical difficulties, the ninth Parliamentary elections were held with professionalism, transparency and credibility. Commonwealth Observer Groups reported that they did not find any evidence to support allegations of manipulation of the election. The ninth Parliamentary elections were held in a peaceful environment and well-administered, maintaining international standards, according to National Democratic Institute (NDI). Asian Network for Free Elections (ANFREL) Foundation, an election observer in Asia, also suggested that the elections were free and fair. Like previous elections under Caretaker Governments, the ninth Parliamentary elections were accomplished with absolute calm and in a peaceful environment. The candidates and the political parties campaigned without any interference when the state of emergency was withdrawn. The voter turnout was 86.3 percent, a new record in the history of the country, which showed that the confidence of the people in the electoral process had been restored after two years of Caretaker Government. The election process was managed effectively and transparently by the election administration. Thousands of domestic election observers performed their duties without any disturbance and lent further credibility to the elections (*Daily Star, January 1, 2009*; Eicher, Alam, Eckstein, 2010).

Abolition of Caretaker Government

The NCG was abolished through the 15th amendment of constitution, passed by National Parliament on 30 June 2011. Instead of NCG, the following national general elections will be held under partisan government (*Daily Star, July 1, 2011*). According to new amendment, the next Parliamentary election will be held within 90 days prior to the dissolution of current Parliament. As a result, upcoming parliamentary elections will be held at the end of 2013 or at the beginning of 2014 before expiring the tenure of the current Parliament on 24 January 2014. Although the current Parliament will remain during these 90 days, it will not have any activity as the latest amendment limited its power and functions for that period. The amendment, however, did not limit the power of the outgoing cabinet during the election (*Daily Star, July 1, 2011*). As earlier, *M Salimullah*, a lawyer of Supreme Court, challenged the 13th amendment of the

constitution in January 2000 in a writ petition saying the change distorts the principle that the republic will be governed by an elected government (*Daily Star, May 11, 2011*). However, on 4 August 2004, High Court ruled that the 13th amendment of the constitution which provides a 10 member NCG legal. *Abdul Mannan Khan*, a lawyer of Supreme Court, filled an appeal in June 2005 against the High Court ruling in the Supreme Court after the death of *Salimullah* as earlier the court gave the permission to appeal directly against the verdict of the court (*Daily Star, May 11, 2011; Amin Al Rashid, 2011*). In this backdrop, the highest court declared on 10 May 2011, “The Constitution (Thirteenth Amendment) Act, 1996 (Act 1 of 1996) is prospectively declared void and *ultra vires* the Constitution”. Thus, the NCG was declared illegal by Supreme Court. In the same verdict the highest court said, the next two parliamentary elections might be held under NCG for the sake of “safety of the state and its people” The court also suggested, the parliament to amend constitution to ensure that the former chief justices or any other judges of Supreme Court are not chosen as heads of NCG if the next two elections will be held under this system (*Daily Star, May 11, 2011*).

Controversy and Reality

BNP-led four-party alliance, some smaller components of the grand alliance, some other political parties, and many prominent citizens intensely criticized the removal of NCG system. They remarked that it would throw the country into a political confrontation. However, AL and its key partners think that the upcoming election will be held under a political government in a free and fair manner. They also argued, as the Highest Court declared it illegal there is no scope to retain the NCG system. Civil society’s representatives expected that the next election should be held under impartial government considering the present political culture in country. A roundtable meeting was organized by *Sushasaner Jonno Nagorik (Sujan)* on May 26 after the verdict [declared illegal] of Supreme court. Most of the speakers suspected that anarchy would be created if the next general elections are held under the partisan government as the oppositions have very little trust in a political government. *Professor Muzaffer Ahmad, Badiul Alam Mazumder, Professor Moniruzzaman Mia* and *Barrister Rafiqul Haque* strongly supported the NCG system for holding a free and fair elections. *Professor Moniruzzaman Mia* suggests that the NCG can be formed comprising nominees of political parties’ alliances, justices, newspaper editors and vice-chancellors of public universities. *Barrister Rafiqul Haque* said to form the NCG with some lawmakers from the two main political alliances. The speakers appealed that the next elections would be held under NCG as we observe political distrust, biased administration and toothless election commission (*Daily Star, May 27, 2011*). Former adviser of NCG *M. Hafizuddin Khan* considered this abolition as an ill-motive on the part of the government. It [removal of NCG] could bring public sufferings and make negative impact on country’s economy. If the interim government takes impartial stands, it will not be possible to arrange a free a fair election for any of the political parties as they occupying power. He argued, the court did not give any directions to remove the system right now. On the other hand, it pointed next two elections might be held under NCG system for the safety of the country. Another former NCG adviser *Akbar Ali Khan* said this decision would have a worse impact on politics. He added, next polls will not be credible without a consensus with the opposition. *Professor Imtiaz Ahmed* assured that national elections can never be acceptable without introducing a new formula to all (*Daily Star, July 1, 2011*). *Gonoforum* President *Dr Kamal Hossain* suggested

restoring the caretaker government system and holding the next two parliamentary elections under this mechanism as per the verdict of Highest Court (*Daily Star, January 2, 2012*).

After the dismissal of NCG, BNP chairperson *Khaleda Zia* addressed the nation immediately, AL closed all ways to hold free, fair and acceptable general election to hand over power peacefully by removing NCG system. She alleged, *Hasina* pushed the country towards confrontations and conflicts (*Daily Sun, July 1, 2011*). Prior to annul of NCG system by National Parliament, AL decided to abolish NCG system by amending the constitution after they won the ninth parliament election in 2008. The government formed a ‘Special Committee’ consisted of 15 members to bring amendment of constitution on 21 July 2010. The committee met 27 times and finally recommended to abolish NCG on 5 June in 2011. BNP and its allies BJI carried out nationwide *hartal* opposing the proposal of the committee on 5 June 2011 (*Rashid 11, Prothom Alo, June 5 & 6, 2011*). Four-Party alliance called another 36 hours countrywide *hartal* on 12 and 13 June demanding to hold election under NCG. 170 activists and two former ministers of BNP were arrested at first day’s *hartal*. In addition, mobile courts gave sentence another 58 activists of BNP-led alliance. (*Prothom Alo & Daily Star, June 13, 2011*). After abolishing NCG system, BNP and its key ally *Jammat-i-Islami* called 48 hours *hartal* on 6 and 7 July to retain NCG. Around 456 people, including eight extremist activists of *Jammat* were arrested across the country. The countrymen witnessed sporadic clashes between the police and *hartal* supporters. Opposition Chief Whip *Jainul Abdin Farroque* were physically assaulted by police (*Daily Star, 2011*). BNP organized a hunger strike at capital on 13 July 2011 to protest of scrapping of NCG system. Party chairperson *Khaleda* declared that BNP will not contest the next election under partisan government. On 23 July, BNP carried out a countrywide street demonstration protesting against abolishing of NCG system (*Daily Sun, July 14, 2011; Daily Star, July 24, 2011*). On 27 September, a grand rally was organized in Dhaka by BNP-led alliance demanding the restoration of NCG system. A large number of people participated in the rally. *Khaleda* declared that next election must be held under non-partisan government. Apart from four-party alliance, *Bikalpa Dhara* Bangladesh, Liberal Democratic Party and *Kalyan* Party took part in the gathering (*Daily Star, September 28, 2011*). The oppositions set up strict agitation plans to secure their demands. BNP led two road marches towards Sylhet and *Rajshai* from Dhaka on 10 and 18 October with the support of its thousand of leaders and activists to create mass support holding elections under impartial government (*Daily Star, October 11; Daily Prothom Alo, October 19, 2011*). However, senior Awami League leader *Matia Chowdhury* rejected the plea of oppositions and declared that the next general elections will be free and fair under a political administration. She argued, as the system was declared illegal by the Supreme Court it would not be possible to restore the unique form of government (*Daily Star, October 11, 2011*). Moreover, another road march was brought to concern towards Khulna on November 26 on the same issue. Party chairperson addressed that election would not be held under political government. At least 20 people were injured in a clash between *Awami League* and BNP activists over joining BNP’s road march towards *Khulna* in *Chitalmari upazila* of *Bagerhat* at morning (*Daily Sun, November 27 & 28, 2011*).

President *Zillur Rahman* invited different political parties to talk on the formation of new election commission. Twelve political parties including *Bangladesh Nationalist Party, Liberal Democratic Party, Gonoforum, Communist Party of Bangladesh, Islamic Front Bangladesh,*

Bangladesh Jatiya Party (BJP), Islami Andolon Bangladesh (IAB), Bangladesh Khelafat Andolon and Bangladesh Khelafat Majlish urged president to create a neutral political atmosphere for holding free and fair elections by restoring NCG system instead of enhancing power of election commission. However, *Awami League, Jatiya Party, Jatiya Samajtantrik Dal, Workers Party and Bangladesher Samyabadi Dal* talked against the NCG system (*Daily Star, July 3 & 11, 2011*). On 29 January in 2012, at least four people were killed, and more than 450 people, including 100 police, were injured when the law enforcers attempted to foil prescheduled marches of opposition activists in different districts led by BNP, demanding for the reinstatement of non-partisan government. Moreover, a activist of *Jammat-i-Islami* was killed and almost 80 others, including polices, were injured in clashes between cops and *Jammat-Shibir* men in Rajshahi (*Daily Star, January 30 & 31, 2012*). The countrymen witnessed a grand rally (*Dhaka Cholo*) organized by BNP on 12 March in capital. Party leader *Khaleda* gave the *Hasina* administration a 90-day ultimatum to make a formal announcement restoring the NCG system (*Daily Prothom Alo, March 13, 2012*). Nevertheless, *Suranjit Sen Gupta*, prominent leader of AL, addressed that we have no any options to retain the NCG. He also added, an interim government will be formed under the leadership of the present Prime Minister which will only perform daily routine work (*Daily Star, June 27, 2012*). A pernicious violence was seen in country on December 9 when BNP-led eighteen-party alliance called a nationwide blockade demanding the reinstatement of the non-party government system. At least two people were killed during the sporadic violence. Another two people were died down due to violence. About 600 people, including 40 policemen, were injured in clashes between *BNP-Jammat* activists and AL men. Police arrested almost 400 activists of eighteen-party alliance. The blockaders vandalized about 500 vehicles. Moreover, they burnt minimum 50 vehicles (*Daily Prothom Alo & Daily Star, December 10, 2012*). Although oppositions carried out their agitations for retaining NCG, *Sheikh Hasina*, head of the present government and leader of AL, strongly opposed the concept of NCG. Moreover, she suggested to form a 'small cabinet' taking leaders from all the parties [including BNP] that would act as an interim government during the next parliamentary polls (*Daily Star, August 5, 2012*).

Two major political alliances are engaged in an ominous confrontational course on the issue of NCG system. It is clear that they have taken opposition views for holding the next general election under political government or caretaker government. The ruling party several times declared that elections under partisan government will be acceptable to all, whereas oppositions are determined to restore the NCG system. Oppositions have already carried out some successive package agitations to secure their demands. They called some *hartals* and organized road marches and mass processions to create public's support across the country. They have already announced that the agitations will be continued until the system restored. In practical, without a neutral system the next election will not be free and acceptable nationally and internationally. The opposition cleared their stand that they would not take part in elections under interim government. Even, they will make obstacle at any cost if the elections will be held under political government. In this circumstance, we are going to gather experience another confrontational situation like one-eleven. From 1991 to 1996, BNP government did not consider the national consensus on the need of NCG and rigged some by-elections. The then opposition AL declared an all-out movements for making the constitutional provision of NCG. However, the then BNP government strongly rejected the plea of the oppositions for making the provision

of NCG, argued that the concept of NCG was not democratic and constitutional. At last, due to intense agitations of the oppositions short lived parliament passed the provision in early 1996. AL won elections in 1996 under the provision of NCG. Should AL forget this truth and annul the NCG system that was the AL's brain child? Although AL-led alliance government arranged some (Municipality, Union *Parishad*, City Corporation and some by-elections) elections successfully in a free and fair environment, the people do not trust in the sincerity that the elections under partisan government will be acceptable to all. The majority of the people are suspected that a political government can be beneficiary by rigging in the general elections. Considering the reality, some eminent citizens and civil organizations gave their opinion to form an interim government, instead of NCG, by taking leaders from both the ruling and opposition party.

People also believe that if ruling party wants to arrange elections without taking the concern of oppositions the scenario of early elections in 1996 (12 February) may happen. The grand alliance government should realize the reality of NCG system and must return to NCG considering the present political situation of country. If AL-led government delays to take steps for returning to NCG, the people will suffer from *hartal*, blockade and demonstrations etc. Thus, oppositions will be able to attract more people to their camp to secure their demand in a turmoil way. Now, it's the time for AL's leaders to realize the reality for holding elections under a NCG. NCG is not only a possible alternative way but also necessary for the practicing democracy in Bangladesh. So, AL should reinstate the NCG system for minimum two terms in accordance with the verdict of the Highest Court considering the present political situation in Bangladesh.

CONCLUSION

The NCG had a vital role for holding elections in a free and fair manner as earlier political governments had been alleged to rigging in the elections. The masses had lost their trust in elections under a partisan government. Thus, NCG had been emerged as a unique form with a view to ensuring the creditability of elections. Three elections had been accomplished successfully since its inception. Many local and international observers found NCG as a neutral form of mechanism for transferring the power peacefully. However, the honeymoon of NCGs has been over when the fifteen amendment of the constitution abolished the system taking the consideration of the verdict of the Supreme Court. As a result of annulling of the NCG, the course of political intransigence has been emerged among the political parties. The main two political alliances are arguing on the issue of NCG. The ruling alliance argued that the system could not be restored and the election would be held under political environment, whereas opposition alliances strongly demanded for the reinstatement of NCG. Although ruling party rejected the plea of oppositions, the demand for restoring of NCG has been increasing day by day. A research conducted by Centre for Strategic Research (CSR) under the auspices of Daily Star, found, around 67% people did not support the cancellation of NCG and believed that election under partisan government would not be free and acceptable to all (*Daily Star, January 04, 2013*). Besides main oppositions, eminent citizens and civil organizations expected that NCG should be restored considering the future democracy in country. Most of the people think that we are going to experience another situation likewise one-eleven, if the system does not reinstate. The unchangeable attitude of the political parties on the issue of NCG gave us serious

threat to the smooth journey of democracy. Thus, the ruling government must reinstate the NCG considering the present political situation in country.

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