

## Bangladesh: Shunning Reform Implies Retaining Old Structures

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*Experts are almost unanimous in their opinion that there is no alternative to the independence of institutions like judiciary, human rights commission, and anti-corruption commission for curbing the totalitarian grip of executive branch in a democratic dispensation. These institutions have remained under executive control since the independence of Bangladesh both structurally and functionally, and is considered the main reason for repeated rise of autocratic rule in the country, the worst example being the ousted AL-regime.*

Naturally, the general masses have been aspiring for institutional reform in the power structure following the 2024 mass-upsurge. The interim government led by Professor Muhammad Yunus promulgated some ordinances toward that end. These included ordinances for establishing a separate secretariat for the judiciary under the Supreme Court and a transparent mechanism for appointing top court judges; strengthening the investigative powers of Anti-Corruption Commission (ACC); prevention of crimes like enforced disappearances; and bolstering the powers of National Human Rights Commission (NHRC).

As the first elected government following the July-upsurge and inheritor of the July-spirit, it was the responsibility of BNP-government to convert the above ordinances into law through acts of parliament. But instead of advancing on a path consistent with people's aspirations over many years, the BNP is shunning these laws apparently to hold on to old autocratic power structure. By not constituting the council for constitutional reform, a grave uncertainty has been created regarding meaningful changes in the constitution. Some of the top functionaries even appear shy of using the term 'reform', and instead prefer expressions like 'amendment', which is indicative of their anti-reform mindset.

Among the 133 ordinances promulgated by the interim government, 98 have been converted into acts of parliament without any change, 15 have been passed in amended form including one that favours past defaulting owners of banks, but 20 have been completely shelved. The latter category includes five ordinances related to the judiciary, the crime of enforced disappearance, the ACC, and the NHRC. The repeal of these ordinances clearly indicates an intention to maintain an iron-grip over these institutions, rather than heed to the aspirations of common people as reflected by the referendum result.

The interim government promulgated the Enforced Disappearance Prevention and Redress Ordinance, 2025 in accordance with the provisions contained in related international

convention, where it was identified as a crime with maximum punishment of death penalty or life imprisonment. Although the election manifesto of BNP included a pledge to take legal measures in accordance with the international convention for combating enforced disappearances, the government has now deviated from that promise by repealing the ordinance. It now seeks to omit detention on ground of national security from the definitions of enforced disappearance, and insert the provision of prior permission from government for investigating security agency members. It should be noted that the ordinance did not bar detentions on the ground of national security, but only stipulated that such detentions could not be kept secret. The planned changes in law would undoubtedly make the law inconsistent with the international convention. Besides, it would enable the government to continue the inhuman and barbaric act of enforced disappearances through the functionaries of security agencies, as was done by the fascist Hasina regime.

The interim government also incorporated some fundamental changes while promulgating the National Human Rights Commission Ordinance in order to make it more effective and independent. The commission was thereby empowered to undertake enquiries against government organizations and law enforcement agencies for violating human rights, including allegations of enforced disappearance. The grounds cited by the BNP for repealing this ordinance included lack of a supervisory authority for the commission, and the need for government approval before investigating security agency personnel. But if the commission remains under any ministry or division of the government, then independence of the commission cannot be ensured. Besides, the very purpose of the commission is to investigate transgressions committed by the executive branch of the state. Therefore, the requirement of seeking government approval would nullify the independent status of the commission. The government apparently seeks a subordinate NHRC as was the case during the fascist era.

The Anti-Corruption Commission (Amendment) Ordinance, 2025 promulgated by the interim government incorporated a provision for constitution of search committee that would appoint the ACC commissioners; and the committee was supposed to have 7 members including 3 nominated by the government. The government repealed this ordinance as it apparently could not agree with this stipulation, as that would have curtailed its authority in appointing commissioners. The move clearly contradicts the pledge made by the BNP in its election manifesto, which sought to amend the law related to Anti-Corruption Commission in order to ensure transparency and accountability of ACC through systemic reforms. The path the BNP is now treading would curb the independence of ACC instead of making it more autonomous.

BNP has similarly not opted for passing the ordinances related to separation of judiciary and appointment of Supreme Court judges, although it pledged to do so in its election manifesto. As a result, ordinances related to appointment of judges in the Supreme Court and the establishment of an independent secretariat under the apex court have been repealed. The Appointment of Supreme Court Judges Ordinance, 2025 promulgated by the interim government in line with Article 95 (2-C) of the Constitution stipulated formation of a Supreme Judicial Appointment Council headed by the chief justice for recommending appointment of judges. Similarly, the Supreme Court Secretariat Ordinance, 2025 was repealed although the election manifesto of BNP unambiguously pledged to hand over control of the lower judiciary to the Supreme Court and strengthen the independent secretariat for the purpose.

All these indicate a strong preference by the BNP-government towards retaining old

structures in various branches of the state. But it amounts to a clear betrayal with the spirit of 2024 mass upsurge and the pledge of putting Bangladesh before everything else.

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