



Constitutional and Legal Foundations of Electoral Governance in Bangladesh and the Reform Implications of the July Charter 2025

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Received

2026-6-25

Accepted

2026-8-24

Published

2026-8-28

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DOI: <https://doi.org/10.65192/9a9tnn84>

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Abstract

This study examined Bangladesh's electoral system by analyzing its constitutional structure, legal framework and recent reform initiatives by paying special attention to the Election Commission, the Representation of the People Order 1972 and the July Charter 2025. The aim of the study is to assess how legal design and institutional practice affect electoral integrity and public trust. However, a qualitative doctrinal research method has been applied in the study. It analyzed constitutional provisions, statutes and Supreme Court judgments as primary sources. It also reviewed peer-reviewed literature, policy reports and comparative studies as secondary sources. Drawing examples from India, Sri Lanka and the United Kingdom, a comparative constitutional approach was used. The analysis was guided by a three-pillar framework focusing on institutional independence, legal enforceability and electoral legitimacy. The findings of the study highlighted that constitutional guarantees of electoral independence are very weak in practical points of view. Legal loopholes and selective enforcement undermine the authority of the Election Commission. Moreover, the abolition of the caretaker government created institutional uncertainty rather than stability. However, the July Charter 2025 has identified some key reform areas, but it has few lacking in binding legal force. As a result, electoral legitimacy and public confidence may continue to decline. The study recommends strengthening the Election Commission through secure tenure and insulated appointments. It calls for comprehensive campaign finance legislation with strong enforcement mechanisms and also emphasizes timely judicial oversight during elections and constitutionally grounded reform implementation. Apart from some findings and recommendations, the study has some limitations like it relied on doctrinal analysis and secondary data and did not include any empirical fieldwork or survey evidence.

Keywords

Electoral governance; Constitution of Bangladesh; Election Commission; Caretaker government; July Charter 2025; Electoral reform

1. Introduction

Elections are the central mechanism through which democratic legitimacy is established. In Bangladesh, however, the electoral process has faced persistent constitutional, legal and in-

stitutional challenges (Baized et al., 2025). Allegations of irregularities, opposition boycotts, disputed outcomes and declining public confidence have raised concerns which are closely connected with constitutional design, institutional independence, electoral law, and enforcement practices about electoral credibility (Rashiduzzaman, 1997).

The Constitution of Bangladesh establishes a parliamentary system and provides for an independent Election Commission (EC) (“Constitution of Bangladesh,” 2026). Articles 65–72 regulate Parliament and Article 118 establishes the EC as an independent constitutional institution. However, Akter (2023) has questioned whether this formal independence is effectively maintained in practice (Akter, 2023). This institutional challenge became more significant after the abolition of the non-party caretaker government system. The 13th Amendment of 1996 introduced the system to provide neutral election-time administration and it was used in the 1996, 2001 and 2008 elections (Khan, 2025; Levush, 2024). The Supreme Court declared the system unconstitutional in 2011, and the 15th Amendment subsequently removed it from the Constitution (Alam, 2025; Levush, 2024).

The consequences became visible in subsequent elections. Voter turnout was 74.97% in 2001 and 87.13% in 2008 but declined to 39.58% in 2014 following an opposition boycott (IFES, 2024; “Elections in Bangladesh,” 2026). The 2014 election also had 153 uncontested parliamentary seats (Islam, 2026). The 2018 election faced extensive allegations of manipulation. On the other hand, 2024 election again recorded turnout of approximately 40% amid a major opposition boycott (Reuters, 2024).

The Representation of the People Order (RPO) 1972 regulates nomination, voting, counting, electoral offences and related electoral matters (Election Commission, 1972). However, weaknesses have persisted in campaign finance regulation, enforcement, candidate accountability and the prevention of electoral malpractice. Recent reforms have strengthened affidavit and asset-disclosure requirements and expanded the EC’s authority to annul constituency-level results where significant irregularities are identified (The Daily Star, 2025). Their effectiveness, however, depends on consistent and impartial enforcement. The Delimitation of Constituencies Act 2021 and the Chief Election Commissioner and Election Commissioners Appointment Act 2022 have also sought to strengthen electoral administration, although concerns remain about institutional discretion and political influence (TBS Report, 2025; UNB, 2023). Following the August 2024 political crisis, the interim government was formed through an extraordinary constitutional interpretation involving Article 106 and the doctrine of necessity because the Constitution contains no express provision for an interim government (Hossain, 2025; Levush, 2024).

However, our neighboring country India relies on a constitutionally entrenched Election Commission under Article 324 and does not use a formal caretaker government. Its experience suggests that strong institutional independence can reduce the need for exceptional election-time arrangements (Bhat, 2021). Sri Lanka provides another model in which judicial review and constitutional institutions can restrain executive power during political crises (Welikala, 2019).

Moreover, in terms of campaign finance, weak enforcement of spending limits, limited financial transparency and inadequate oversight can encourage vote-buying and misuse of state resources. Recent reforms have strengthened disclosure requirements, but a comprehensive and effectively enforced framework remains necessary (The Daily Star, 2025; Haque & Bisarya, 2025).

These challenges have increased attention to the July National Charter 2025 (proposes reforms concerning election-time governance, EC independence, political party governance, campaign finance, and constitutional safeguards) (R. Ahmed, 2025; Haque & Bisarya, 2025). However, the Charter is a political reform agreement rather than binding legislation. Its proposals therefore require appropriate constitutional and legislative processes before they can become enforceable. Its effectiveness will depend on whether reforms are implemented through legally valid and institutionally sustainable mechanisms (Hossain, 2025; Khan, 2025).

Against this background, this study examines Bangladesh's electoral governance through an integrated constitutional, legal and comparative perspective. It focuses on institutional independence, legal enforceability and electoral legitimacy. It also evaluates the legal significance of the July Charter 2025 and compares Bangladesh with selected democratic systems. The study addresses the limited integration of constitutional rules, electoral legislation, institutional practice and enforcement in existing research to identify the institutional and legal reforms required to develop a more credible, predictable, and legitimate electoral framework in Bangladesh.

2. Methodology

2.1 Study Design

This study employed a qualitative doctrinal research design combined with a structured comparative scoring approach. Constitutional provisions, electoral laws, judicial decisions and institutional practices were analyzed under three pillars: institutional independence, legal enforceability and electoral legitimacy. Each pillar was systematically scored using predefined criteria and the mean scores were used to construct the Composite Electoral Governance Score (EGS).

2.2 Data Collection

Primary data were drawn from authoritative legal sources, including the Constitution of the People's Republic of Bangladesh, the Representation of the People Order (RPO) 1972, and selected judgments of the Supreme Court of Bangladesh. Secondary data comprised peer-reviewed journal articles, policy reports, and scholarly comparative studies, selected based on relevance and academic credibility.

2.3 Data Analysis

Doctrinal and interpretative analysis was applied to identify key legal principles and judicial reasoning. In addition, a comparative constitutional approach was used, with India, Sri Lanka, and the United Kingdom serving as reference jurisdictions. This comparative analysis facilitated a contextual evaluation of Bangladesh's constitutional and electoral framework and strengthened the analytical rigor of the study.

2.4 Method of Scoring and Index Construction

To translate comparative qualitative findings into reproducible results, a comparative institutional index was constructed. Each indicator was scored on a five-point ordinal scale (1 = very weak, 5 = very strong). Scores were assigned based on constitutional design, statutory authority, enforcement practice, judicial behavior during electoral disputes, and documented outcomes in the literature.

3. Analytical Framework

This study uses a three-pillar analytical framework to assess electoral governance across Bangladesh, India, the United Kingdom, and Sri Lanka. The framework is based on the view that electoral integrity depends on institutional independence, enforceable legal rules and public acceptance of electoral outcomes (Birch & Van Ham, 2017).

The first pillar, institutional independence, assesses the autonomy of electoral bodies, particularly the Election Commission, from executive and partisan influence (Ham & Garnett, 2019). The second pillar, legal enforceability, examines the clarity of electoral rules, availability of sanctions, and effectiveness of enforcement mechanisms (Murombo, 2011). The third pillar, electoral legitimacy, assesses electoral acceptance through voter participation, opposition participation, and public confidence (Beetham et al., 2008).

Each pillar was scored from 1 to 5, where 1 represents very low performance and 5 represents very high performance. Equal weighting was applied to the three pillars. The Composite Electoral Governance Score (EGS) was calculated as:

$$\text{EGS} = (\text{Institutional Independence} + \text{Legal Enforceability} + \text{Electoral Legitimacy}) / 3$$

The three pillar scores therefore directly determine the EGS. No separate index is included in the calculation. Additional evidence presented in the appendices is used only to support the assessment of the three pillars.

Table 1. Scoring criteria for the Three-Pillar Framework

Score	Interpretation
1	Very Low
2	Low
3	Moderate
4	High
5	Very High

4. Results

4.1 Composite Electoral Governance Performance

The comparative analysis shows substantial differences in electoral governance across the four jurisdictions. Bangladesh records the lowest EGS (2.33), while India records the highest EGS (4.90). The United Kingdom and Sri Lanka occupy intermediate positions, with scores of 3.80 and 3.43, respectively.

Table 2. Composite electoral governance score

Country	Institutional Independence	Legal Enforceability	Electoral Legitimacy	EGS
Bangladesh	2.7	2.0	2.3	2.33
India	5.0	5.0	4.7	4.90
United Kingdom	3.7	4.0	3.7	3.80
Sri Lanka	3.3	3.3	3.7	3.43

Bangladesh records the lowest EGS, with weaknesses across all three pillars. Its institutional independence score of 2.7 reflects continuing concerns about electoral autonomy. Its legal enforceability score of 2.0 indicates substantial weaknesses in the implementation of electoral

rules. Its electoral legitimacy score of 2.3 reflects problems related to participation, political competition, and public confidence.

India records the highest EGS at 4.90. Its institutional independence and legal enforceability scores are both 5.0, while electoral legitimacy scores 4.7. The result indicates that strong electoral institutions and effective legal enforcement can support electoral legitimacy without relying on a formal caretaker government.

The United Kingdom records an EGS of 3.80, with scores of 3.7, 4.0, and 3.7 across the three pillars. Its performance reflects strong rule-based electoral regulation and institutional practices. Sri Lanka records an EGS of 3.43, with moderate institutional independence and legal enforceability but relatively higher electoral legitimacy.

5. Discussion

The findings show that Bangladesh faces weaknesses across all three dimensions of electoral governance: institutional independence, legal enforceability, and electoral legitimacy. Bangladesh recorded the lowest Composite Electoral Governance Score (EGS) at 2.33, compared with 4.90 for India, 3.80 for the United Kingdom, and 3.43 for Sri Lanka. The results suggest that the central problem is not the absence of formal constitutional and legal provisions. Rather, the main difficulty lies in the limited independence, enforcement capacity, and institutional credibility through which these provisions are implemented.

In comparison to other countries, India has a strong constitutional electoral commission model. Again, the United Kingdom has a parliamentary system that relies substantially on statutory regulation and constitutional conventions rather than a formal caretaker government. Besides that, Sri Lanka has a model in which courts and constitutional institutions have played an important role in checking executive power.

5.1 Institutional Independence and Electoral Governance

The institutional independence score for Bangladesh was 2.7, which is substantially lower than India (5.0), the United Kingdom (3.7), and Sri Lanka (3.3). This finding indicates that Bangladesh's constitutional guarantee of an independent Election Commission has not been fully translated into practical autonomy. The problem therefore concerns institutional operation rather than constitutional recognition alone.

The comparison with India is particularly important. India's stronger score reflects an electoral institution that has developed substantial administrative authority and institutional continuity. The Indian experience indicates that a separate caretaker government is not necessarily required when the electoral commission has sufficient independence and enforcement capacity (Khan, 2025). For Bangladesh, this suggests that the caretaker debate should not be treated as a substitute for institutional reform. A stronger Election Commission could reduce dependence on exceptional election-time arrangements.

If we focus on Sri Lanka, we can see a different lesson. Its institutional system relies more heavily on constitutional bodies and judicial oversight to constrain executive power (Welikala, 2019). Judicial intervention during the 2018 constitutional crisis confirmed the potential importance of courts in protecting constitutional limits (Attanayake & Kapur, 2018). Bangladesh can therefore draw from both models.

5.2 Legal Enforceability and the Caretaker Debate

Bangladesh received the lowest score for legal enforceability (2.0). This result is important because several electoral safeguards already exist within the Constitution, the RPO, and related rules. The weakness therefore lies mainly in the implementation of legal provisions. Rules that are not consistently enforced cannot effectively constrain electoral misconduct or protect political competition.

The caretaker government debate should be understood within this broader institutional context. The caretaker system was introduced partly because political actors lacked confidence in the neutrality of election-time administration. Its abolition therefore exposed the underlying weakness of the institutions that were expected to manage elections without a neutral interim administration. The Supreme Court's subsequent restoration of the caretaker mechanism for future elections has addressed part of this constitutional dispute, but it does not resolve the broader problem of institutional capacity (Alam, 2025; Alamgir, 2025).

The findings therefore suggest that the caretaker system should not be treated as the primary solution to Bangladesh's electoral problems. In India, we can see that strong electoral institutions can provide electoral credibility without a formal caretaker government. Bangladesh should consequently focus on strengthening institutional independence and enforcement while maintaining a clear and constitutionally predictable framework for election-time governance.

5.3 Electoral Legitimacy and Public Trust

Bangladesh also recorded the lowest level of electoral legitimacy among the four jurisdictions, with a score of 2.3. This finding is consistent with the pattern of opposition boycotts, low participation in some elections, contested electoral outcomes and continuing public concerns about electoral fairness. Electoral legitimacy is therefore closely connected with the performance of the first two pillars.

The comparative results support this relationship. India records strong scores for institutional independence and legal enforceability and also achieves a high electoral legitimacy score of 4.7. From Sri Lanka's example, we see its institutional independence and legal enforceability scores are moderate at 3.3, but its electoral legitimacy score is relatively higher at 3.7. This difference suggests that judicial and constitutional checks can partly support electoral legitimacy when administrative institutions face limitations.

The findings therefore indicate that public trust cannot be created through electoral participation alone. It depends on whether voters and political actors believe that electoral rules are applied impartially and that violations can be effectively challenged. Strengthening the first two pillars is consequently essential for improving the third.

5.4 Legal Status and Reform Potential of the July Charter

The July Charter represents an important reform agenda because it addresses several weaknesses identified through the three-pillar framework. Its proposals concerning Election Commission independence, election-time governance, campaign finance and political accountability correspond directly with the institutional, legal, and legitimacy problems identified in this study (Hossain, 2025; Haque & Bisarya, 2025).

However, the Charter should be distinguished from binding constitutional and statutory law.

Its proposals require appropriate constitutional and legislative procedures before they can create enforceable obligations. This distinction is particularly important because electoral reform must itself comply with constitutional principles. A reform process that bypasses legal procedures could weaken the legitimacy that the reforms are intended to protect.

The findings therefore suggest that the Charter should function as a reform roadmap rather than a substitute for law. Its proposals should be translated into clear constitutional amendments, statutes, regulations and institutional procedures to improve legal predictability and reduce the risk of reforms remaining declaratory (Al Jazeera English, 2025).

5.5 Campaign Finance and Electoral Integrity

Campaign finance represents an important component of legal enforceability. Recent affidavit and disclosure requirements have improved the formal regulatory framework (The Daily Star, 2025). However, disclosure requirements alone cannot ensure financial integrity. Effective regulation also requires independent verification, auditing, investigation and meaningful sanctions.

The comparison with India and the United Kingdom indicates the importance of combining disclosure rules with institutional oversight and enforcement mechanisms (Global Legal Group, n.d.). Bangladesh can therefore strengthen electoral integrity by developing an independent mechanism for auditing campaign and party finances. Such a mechanism would reduce reliance on self-reporting and would make financial regulations more credible.

5.6 Implications for Electoral Reform in Bangladesh

First, institutional independence should be prioritised. The Election Commission requires stronger safeguards against political influence. Staggered appointments, secure tenure, transparent selection procedures and greater administrative autonomy could strengthen its constitutional independence.

Second, legal enforcement should be strengthened. Electoral laws should provide clear sanctions and effective procedures for investigating and addressing violations. The expansion of the EC's authority should therefore be accompanied by adequate administrative and investigative capacity.

Third, campaign finance regulation should be consolidated. Bangladesh would benefit from a comprehensive framework covering candidate and party expenditure, donor disclosure, independent auditing, verification, and sanctions to reduce the gap between formal regulation and practical enforcement.

Fourth, judicial review during elections should be made more effective. Expedited procedures for electoral disputes and constitutional violations could strengthen legal accountability. The experience of Sri Lanka demonstrates how timely judicial intervention can protect constitutional limits during political crises (Attanayake & Kapur, 2018).

Fifth, the caretaker debate should be connected to long-term institutional reform. The comparative evidence suggests that a caretaker government can provide temporary neutrality, but it cannot substitute for strong electoral institutions. Bangladesh should therefore develop a predictable constitutional framework for election-time governance while simultaneously strengthening the Election Commission and other oversight institutions.

5.7 Limitations of the Study

- The study is based on doctrinal and documentary analysis only and didn't include any interviews, surveys, or field-level electoral data.
- Findings are dependent on publicly available legal and secondary sources.
- The comparative analysis is limited to selected countries.
- Rapid political developments may affect the relevance of some conclusions.

6. Conclusion

Bangladesh's electoral crisis is legal, institutional and political in nature. The Constitution provides formal safeguards, including an independent Election Commission and rule-based elections, but these safeguards have remained weak in practice. The removal of the caretaker system exposed deep institutional fragility rather than resolving it.

The July Charter offers a reform roadmap and reflects broad political consensus, but it does not provide a legal solution. Without constitutional amendment and statutory backing, its proposals remain aspirational. Sustainable electoral integrity requires binding reforms that are enforceable and transparent.

These reforms must strengthen institutions rather than rely on personalities or temporary political arrangements. Without credible enforcement and independent oversight, elections will continue to lack legitimacy and public acceptance. The future of Bangladesh's democracy depends on closing the persistent gap between law and practice.

Funding

There is no funding to report.

Conflicts of Interest

The author(s) declare no conflicts of interest regarding the publication of this paper.

Ethics Statement

Not applicable.

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