



Bangladesh's Uneasy Transition: Legal Hurdles, the Awami League and the Question of Reform

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Summary

Although three months have passed since the interim government assumed office, questions persist about its purpose, capacity and potential impact. Many of the challenges the interim government faced in the wake of Sheikh Hasina's departure appear to remain unsettled. The government has emphasised the importance of implementing reforms before moving toward elections. However, whether it can effectively carry out these changes in time and whether these changes will endure once electoral politics resume remain open questions.

The initial optimism sparked by the uprising against Sheikh Hasina soon led to a complex and uncertain path for Bangladesh. Many of the challenges faces by the interim government in the wake of Hasina's departure remain unsettled. The timing of the elections is uncertain, as does the challenge of reconciling the Awami League's (AL) legacy in a post-Hasina Bangladesh.

Although the interim government has public support for its reform project, questions about its legality have been raised, particularly regarding the absence of a clear constitutional framework for its establishment. This uncertainty has fuelled debates about its legitimacy and purpose and added to the political tensions the government must navigate while addressing longstanding governance issues.

At the same time, the growing influence of Islamist parties, such as the Jamaat-e-Islami (Jel), has raised concerns about the potential for increased polarisation and unrest. This shift, along with the anti-Hasina movements led by students and activists, further fragments a divided political landscape. The interim government faces challenges in maintaining a fragile balance between competing ideologies while pursuing large-scale reforms.

Legal Hurdles

At the outset, Hasina's departure left Bangladesh in uncharted legal territory. Constitutional changes under her rule had removed formal provisions for establishing a caretaker government as an alternative to an elected government.¹ With a procedural gap left by these changes, the absence of clear guidelines raised questions about how to manage a

¹ Emran Hossain Shaikh, "Interim govt: What the law says", *Dhaka Tribune*, 7 August 2024, <https://www.dhakatribune.com/bangladesh/parliament/353947/interim-govt-what-the-law-says>.

political transition² and determine a path forward.³ This uncertainty deepened when President Mohammed Shahabuddin dissolved the country's 12th Parliament (Jatiyo Shangsad),⁴ which had been formed through the controversial January 2024 national elections.⁵ International observers questioned the fairness of these elections which saw a low 41.8 per cent turnout and was boycotted by the major parties, including the Bangladesh Nationalist Party (BNP). Shahabuddin assured the nation that fresh elections would be held at the earliest opportunity and emphasised a commitment to ensuring a swift return to democratic processes.⁶

Moreover, just days after Hasina's departure, Nobel laureate and Grameen Bank founder, Dr Muhammad Yunus, a long-time critic of her rule, was sworn in on 8 August 2024 as chief adviser to lead a 17-member interim government. Yunus assumed responsibility for several portfolios, including transport, land, defence, aviation and energy. His cabinet members were also designated as advisers rather than ministers. The interim cabinet comprised a diverse group of individuals with expertise in areas such as banking, law, human rights, diplomacy, environmental activism, education and defence, as well as prominent activists and student representatives.⁷

Yunus was considered a strong choice to lead the interim government for his international acclaim for pioneering microfinance and global reputation as a social reformer and humanitarian figure.⁸ Nevertheless, questions arose regarding both the legality of his appointment and the formation of the interim government. To address these concerns, the Supreme Court, in a virtual hearing led by Chief Justice Obaidul Hassan, ruled that the interim government headed by Yunus is legal. The seven-member bench of the Appellate Division, chaired by Chief Justice Obaidul Hassan, concluded that under Article 106 of the

² Ruth Levush, "Interim Government and the Constitution of Bangladesh", Library of Congress 29 August 2024, <https://blogs.loc.gov/law/2024/08/interim-government-and-the-constitution-of-bangladesh/>.

³ Ryosuke Hanada, "Bangladesh's Muhammad Yunus takes over as interim leader", *Nikkei Asia*, 9 August 2024, <https://asia.nikkei.com/Politics/Bangladesh-turmoil/Bangladesh-s-Muhammad-Yunus-takes-over-as-interim-leader>.

⁴ The Jatiyo Shangsad is a unicameral legislature and the term of each Parliament, as per clause (3) of Article 72 of the Constitution, is five years. It has 350 members with 300 members elected from constituencies, and 50 seats reserved for women, who are elected through proportional representation. "Name and Composition of Parliament", Bangladesh Parliament, <https://www.parliament.gov.bd/Name-and-Composition-of-Parliament>.

⁵ "Election Results – January 2024", *Journal of Democracy*, January 2024, <https://www.journalofdemocracy.org/elections/election-results-january-2024/>; and Pierre Prakash, "Bangladesh's Flawed Election Increases Polarization, Risk of Violence", *The Diplomat*, 10 January 2024, <https://thediplomat.com/2024/01/bangladeshs-flawed-election-increases-polarization-risk-of-violence/>.

⁶ Rabiul Alam, "Bangladesh President dissolves Parliament; students want Yunus to head interim government", *The Hindu*, 12 August 2024, <https://www.thehindu.com/news/international/bangladesh-president-dissolves-parliament-students-want-yunus-to-head-interim-government/article68493570.ece>.

⁷ "Bangladesh's new interim government: know who's who", *The Hindu*, 9 August 2024, <https://www.thehindu.com/news/international/bangladesh-unrest-know-whos-who-in-interim-government/article68505107.ece>.

⁸ Charlie Bell, "Banker to the poor: Who is Bangladesh's new leader, Muhammad Yunus?", *SBS News*, 8 August 2024, <https://www.sbs.com.au/news/article/muhammad-yunus-who-is-bangladesh-new-leader/yga5j28x8>.

Constitution, an interim government can be established with a chief advisor and several other advisors in the absence of parliament.⁹

Despite this ruling, fundamental questions about the legal and political ramifications of Hasina's ouster continue to linger. Shahabuddin's recent claim that he did not receive an official resignation letter from Hasina raised doubts about her leadership status and the possible need for constitutional changes.¹⁰ This suggestion that Hasina had not formally resigned sparked concerns about whether Shahabuddin's claim was an orchestrated act of political manipulation designed to undermine the legitimacy of the transition process. Despite unrest over the issue,¹¹ both the BNP and the AL have refrained from endorsing the Shahabuddin's removal, even as the JI¹² and student activists¹³ intensify their calls for his resignation.¹⁴ The BNP has argued that the President's resignation would create a constitutional void, complicate the current political crisis and potentially delay the electoral process further.¹⁵

Political Tensions and New Opportunities

The question of how to address Hasina's legacy and the role of the AL in Bangladesh's future remains deeply divisive. Amid the ongoing political shift, calls to ban the AL have intensified. Recently, three leaders of the Anti-Discrimination Student Movement filed a writ petition with the High Court, seeking to ban the political activities of the AL and 10 other parties, and

⁹ "Interim government headed by Yunus is legal, says Supreme Court", *bdnews24*, 9 August 2024, <https://bdnews24.com/bangladesh/2327f7caf7f8>.

¹⁰ Biman Mukherji, "Bangladesh faces extended political crises as doubts surface over Hasina's resignation", *South China Morning Post*, 30 October 2024, <https://www.scmp.com/week-asia/politics/article/3284450/bangladesh-faces-extended-political-crisis-doubts-surface-over-hasinas-resignation>; and "Fresh tension grips Bangladesh as student protesters demand president's resignation", *South China Morning Post*, 24 October 2024, <https://www.scmp.com/news/asia/south-asia/article/3283569/fresh-tension-grips-bangladesh-student-protesters-demand-presidents-resignation?module=inline&pgtype=article>.

¹¹ Julhas Alam, "Fresh tension grips Bangladesh as student protestors demand presidents resignation", *The Washington Times*, 23 October 2024, <https://www.washingtontimes.com/news/2024/oct/23/fresh-tension-gripping-bangladesh-student-proteste/>.

¹² Sudha Ramachandran, "Shafi Md Mostofa on the Rise of the Jamaat-e-Islami in Bangladesh", *The Diplomat*, 2 September 2024, <https://thediplomat.com/2024/09/shafi-md-mostofa-on-the-rise-of-the-jamaat-e-islami-in-bangladesh/>.

¹³ Ahsan Tasnim, "Jamaat backs calls for Bangladesh president's resignation", *Times of India*, 26 October 2024, <https://timesofindia.indiatimes.com/world/south-asia/jamaat-backs-calls-for-bangladesh-presidents-resignation/articleshow/114632286.cms>.

¹⁴ Leaders of the Anti-Discrimination Student Movement and the Jatiya Nagorik Committee, backed by Jamaat-e-Islami and Islami Andolon, have called for the President's resignation. Subir Bhaumik, "Opinion: Bangladesh key parties oppose President's ouster amid renewed violence", *India Today*, 24 October 2024, <https://www.indiatoday.in/opinion/story/bangladesh-key-parties-oppose-president-ouster-amid-renewed-violence-2622203-2024-10-24>.

¹⁵ "Bangladesh Nationalist Party raises objection over demand to remove President", *ANI*, 27 October 2024, <https://www.aninews.in/news/world/asia/bangladesh-nationalist-party-raises-objection-over-demand-to-remove-president20241027150251/>; and "Call for presidents removal: BNP yet to be on board, Jamaat is", *The Daily Star*, 27 October 2024, <https://www.thedailystar.net/news/bangladesh/politics/news/call-presidents-removal-bnp-yet-be-board-jamaat-3737326>.

prevent them from participating in future elections. However, the following day, the student leaders withdrew the petition.¹⁶

While Yunus criticised the AL as “fascist” with “no place” in Bangladesh’s politics, he maintained that any move to block the party’s participation in future elections would need a political consensus since the interim government is non-partisan. He added that there are no immediate plans to extradite Hasina.¹⁷ The BNP maintained that it opposes the banning of any political party, with Secretary General Mirza Fakhrul Islam Alamgir stating that it is the people, not political leaders, who must decide such matters.¹⁸ The Yunus government, however, has banned the Bangladesh Chhatra League, the student wing of the AL, under the Anti-Terrorism Act of 2009. The notification issued by the Ministry of Home Affairs stated that Chhatra League’s activities long threatened public safety.¹⁹

The scrutiny of Hasina’s government extends to legal proceedings as well. In late October 2024, Bangladesh’s International Crimes Tribunal summoned 20 individuals, including former ministers, advisers to Hasina and ex-army chief Ziaul Ahsan, to answer charges related to alleged crimes against humanity and genocide during the recent uprising.²⁰ However, United Nations Rights Chief Volker Turk has pressed the need for judicial reform, suggesting that fair trials, including any trial involving Hasina, would require substantial reforms in the country’s legal system.²¹

¹⁶ “Ban all political activities of AI, 10 other parties”, *The Daily Star*, 29 October 2024, <https://www.thedailystar.net/news/bangladesh/politics/news/ban-all-political-activities-al-10-other-parties-3739266>.

¹⁷ Yunus stated that, ‘No fascist party should be in existence in a democratic system.’ John Reed, “Bangladesh’s leader says ‘no place’ for Sheikh Hasina’s ‘fascist’ party”, *Financial Times*, 30 October 2024, <https://www.ft.com/content/42e223c9-ade1-46a1-ac95-2c4f807b0c5c>; Dipanjan Roy Chaudhury, “Bangladesh could ban Awami League”, *The Economic Times*, 24 October 2024, <https://economictimes.indiatimes.com/news/international/world-news/bangladesh-could-ban-awami-league/articleshow/114557516.cms?from=mdr>; and Faisal Mahmud, “Bangladesh targets ex-Pm Hasina’s Awami League ahead of polls”, *Nikkei Asia*, 29 October 2024, <https://asia.nikkei.com/Politics/Bangladesh-turmoil/Bangladesh-targets-ex-PM-Hasina-s-Awami-League-ahead-of-polls>.

¹⁸ “BNP not in favour of banning any political party: Fakhrul”, *Tbsnews*, 2 November 2024, <https://www.tbsnews.net/bangladesh/politics/bnp-not-favour-banning-any-political-party-fakhrul-982816>.

¹⁹ “Bangladesh’s interim govt bans Awami League-backed Chhatra League under Anti-Terrorism Act”, *Indian Express*, 25 October 2024, <https://indianexpress.com/article/news-today/bangladeshs-interim-govt-bans-awami-league-backed-chhatra-league-9638284/>; and “Bangladesh government bans student wing of Sheikh Hasina’s Awami League under anti-terror law”, *Times of India*, 23 October 2024, <https://timesofindia.indiatimes.com/world/rest-of-world/bangladesh-government-cracks-down-on-student-wing-of-sheikh-hasinas-awami-league-bans-it-under-anti-terror-law/articleshow/114516054.cms>.

²⁰ “Bangladesh’s tribunal summons ex-Army Chief, 10 former Ministers and Advisers to Former PM Sheikh Hasina over alleged genocide”, *The Hindu*, 27 October 2024, <https://www.thehindu.com/news/international/bangladeshs-tribunal-summons-ex-army-chief-10-former-ministers-and-advisers-to-former-pm-sheikh-hasina-over-alleged-genocide/article68803105.ece>; and “Founded by Hasina, Bangladesh crime tribunal summons ex-army chief, 19 others for ‘crimes against humanity’”, *Times of India*, 27 October 2024, <https://timesofindia.indiatimes.com/world/south-asia/founded-by-hasina-bangladesh-crime-tribunal-summons-ex-army-chief-19-others-for-crimes-against-humanity/articleshow/114656597.cms>.

²¹ “Sheikh Hasina cannot be tried before Bangladesh courts reform: UN rights chief”, *Firstpost*, 30 October 2024, <https://www.firstpost.com/world/sheikh-hasina-cannot-be-tried-before-bangladesh-courts-reform-un-rights-chief-13830702.html>.

In contrast to the AL's current predicament, the ouster of Hasina's government has provided Jel, Bangladesh's largest Islamist party, with a chance to expand its political influence. Although initially banned by the AL on 1 August 2024, the interim government lifted this restriction just weeks later, allowing Jel to quickly mobilise.²² The party has since held rallies commemorating its past sacrifices and has renewed its commitment to establishing a "model Islamic society".²³ Moreover, the party has pursued international outreach, engaging with diplomats from countries like Australia, Sweden and Norway to seek support and reinforce its legitimacy in Bangladesh's evolving political landscape.²⁴

Despite years of harsh crackdowns under Hasina's rule, including imprisonments of activists and the execution or jailing of its top leaders,²⁵ the party has endured and appears to be thriving.²⁶ However, it remains to be seen if this influence can extend beyond street activism to garner wider public support and a significant electoral mandate. "In all parliamentary elections", political Islam expert, Shafi Mostofa explains, "the party's popular support has consistently remained below 10 percent. This indicates that, while ideologically robust, Jel lacks the mass appeal necessary to significantly influence national elections through sheer voter numbers."²⁷ The Jel's reputation is complicated due to its history of siding with Pakistan during the 1971 Liberation War, a stigma that has hindered its mass appeal. Many in Bangladesh still view the party with suspicion because of this legacy as well as its ideological rigidity.²⁸

Question of Reform

While the Chief of Army Staff has indicated that elections should be held between 12 and 18 months, no such clear direction or timeline has come from the interim government.²⁹ Yunus has emphasised the importance of implementing reforms before considering election timelines. "Reforms", he stated, "mean we will not allow a repetition of what happened in

²² "Bangladesh's interim government lifts ban on Jamaat-e-Islami party", *Al Jazeera*, 28 August 2024, <https://www.aljazeera.com/news/2024/8/28/bangladeshs-interim-government-lifts-ban-on-jamaat-e-islami-party>.

²³ Sanchita Bhattacharya, "Political reinvention of Jamaat-e-Islami in Bangladesh", *Sri Lanka Guardian*, 4 November 2024, <https://slguardian.org/political-reinvention-of-jamaat-e-islami-in-bangladesh/>.

²⁴ "Jamaat Ameer and other leaders attend breakfast and courtesy meetings with the ambassadors of three Nordic countries", Bangladesh Jamaat-e-Islami, 21 October 2024, <https://jamaat-e-islami.org/en/news-details.php?category=2&news=3897>; and "Australian Acting High Commissioner to Bangladesh Ms Nardia Simpson holds courtesy meeting with Jamaat Ameer Dr. Shafiqur Rahman", Bangladesh Jamaat-e-Islami, 14 October 2024, <https://www.jamaat-e-islami.org/en/news-details.php?category=2&news=3886>.

²⁵ Ruma Paul, "Bangladesh hangs Islamist leader for rape and genocide in 1971 war", *Reuters*, 11 May 2016, <https://www.reuters.com/article/us-bangladesh-warcrimes-idUSKCN0Y12EN/>.

²⁶ Mubashar Hasan, "Bangladesh's Jamaat-e-Islami Thrives Amid Persecution", *The Diplomat*, 29 August 2023, <https://thediplomat.com/2023/08/bangladeshs-jamaat-e-islami-thrives-amid-persecution/>.

²⁷ Sudha Ramachandran, "Shafi Md Mostofa on the Rise of the Jamaat-e-Islami in Bangladesh", *The Diplomat*, 2 September 2024, <https://thediplomat.com/2024/09/shafi-md-mostofa-on-the-rise-of-the-jamaat-e-islami-in-bangladesh/>.

²⁸ Ibid.

²⁹ "Bangladesh's Yunus says no elections before reforms", *The Hindu*, 8 October 2024, <https://www.thehindu.com/news/international/bangladeshs-yunus-says-no-elections-before-reforms/article68731980.ece>.

the past”.³⁰ Yunus explained that he inherited a public administration system that was completely broken, and, consequently, “it would be wrong to hold the election first”.³¹

During his 11 September 2024 address to the nation, Yunus announced the creation of commissions to reform the judiciary, election system, public administration, police,³² anti-corruption commission and the country’s constitution.³³ These commissions, set to address key governance areas, began work in October 2024 and aim to engage with stakeholders,³⁴ and submit their reports which outline reform roadmaps within three months. Yunus is expected to then conduct further consultations with the political parties and civil society and implement reforms before holding elections.³⁵

“Though there is no public mandate for setting up these reform commissions”, scholar and analyst Mubashar Hasan explains, “the move has not triggered much opposition, indicating broad public support for ‘fixing’ the system”.³⁶ However, he notes that questions around transparency and inclusivity have emerged as a concern, particularly since the composition of these Bengali Muslim-male-dominated commissions, does not reflect the diversity of Bangladesh’s demographics.³⁷

Final Remarks

Three months into the interim government’s tenure, questions persist about its purpose, capacity and lasting impact. Much remains uncertain, including the extent of the proposed reforms and the time and resources needed to implement them. Moreover, whether these changes can sustainably improve politics and governance once Bangladesh transitions back to electoral rule is difficult to foresee. As an unelected, technocratic administration, the interim government can only issue ordinances rather than pass permanent laws, and any long-term enactment of changes will likely depend on their ratification by a future elected government.³⁸

³⁰ “Bangladesh’s interim leader Yunus says reforms will come before elections”, *France24*, 8 October 2024, <https://www.france24.com/en/live-news/20241008-bangladesh-s-yunus-says-no-elections-before-reforms>.

³¹ Ibid.

³² The Police Reform Commission aims to propose amendments to the 150-year-old Police Act of 1861 and Police Regulations of Bengal, 1943 to transform the country’s police into a modern, service-oriented force. “Police Reform Commission aims for time-befitting, pro-people force”, *Dhaka Tribune*, 11 November 2024, <https://www.dhakatribune.com/bangladesh/government-affairs/360975/police-commission-chairman-police-to-be-reformed>.

³³ “State reforms: Govt will now talk to the parties first”, *The Daily Star*, 1 October 2024, <https://www.thedailystar.net/news/bangladesh/news/state-reforms-govt-will-now-talk-the-parties-first-3716486>.

³⁴ “Six reform commissions to start work after consultation with political parties”, *Bssnews*, 30 September 2024, <https://www.bssnews.net/news-flash/213035>.

³⁵ Mubashar Hasan, “The Problem With Bangladesh’s Reform Commissions”, *The Diplomat*, 21 October 2024, <https://thediplomat.com/2024/10/the-problem-with-bangladeshs-reform-commissions/>.

³⁶ Ibid.

³⁷ Ibid.

³⁸ Tasmiah Ahmed, “Bangladesh: Is the interim government delaying elections?”, *DW*, 27 August 2024, <https://www.dw.com/en/bangladesh-is-the-interim-government-delaying-elections/a-70060968>.

Yunus' ambitious reform agenda, including commissions to address key areas such as the judiciary, election systems and public administration, demonstrates a recognition of the country's structural challenges. However, the limited diversity of these commissions, dominated by Bengali Muslim men, has drawn criticism for failing to reflect Bangladesh's broader demographics. Such gaps raise questions about inclusivity and the risks of alienating key sections of the population during a critical moment of transition.

Moreover, despite strong public support for democratisation efforts and backing from the international community, the government faces other significant limitations. "It lacks the legitimacy of a neutral government that commands broad political support, and at the same time, it does not have the revolutionary zeal or mandate to push through the kind of radical reforms that are desperately needed", writes Shafi Mostofa.³⁹ Unlike a caretaker government solely focused on elections, or a revolutionary one committed to drastic socio-political transformation, Mostofa maintains that the interim government's ambiguous mandate has contributed to instability and a sense of uncertainty.⁴⁰

Further complicating the landscape is the resurgence of Islamist groups, whose growing political assertion spotlight the challenges of managing a deeply fractured political environment. While these groups have long faced suppression under Hasina's government, their newfound prominence raises concerns about ideological polarisation and the difficulty of maintaining a balanced political space.

While there is hope it can tackle deep-rooted issues, pressure from political factions and civil society for elections is likely to grow in time. This will test the interim government's ability to achieve substantial reforms. However, as one commentator observes, "It is unrealistic to expect any new government to produce satisfactory reforms in all areas and a perfect democracy overnight, especially after decades of authoritarian rule."⁴¹

Finally, Bangladesh's political transition offers a stark reminder that legal, political and social reforms are deeply intertwined. The success of this interim government will depend on its ability to strike a delicate balance between inclusivity, stability and reform, while managing the growing demand for democratic restoration. Whether these efforts can leave a lasting impact or fade amid political pressures remains a pivotal question for Bangladesh's future.

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³⁹ Shafi Md Mostafa, "Can the Interim Government Ensure Justice and Bring Radical Changes in Bangladesh?", *The Diplomat*, 15 October 2024, <https://thediplomat.com/2024/10/can-the-interim-government-ensure-justice-and-bring-radical-changes-in-bangladesh/>.

⁴⁰ Ibid.

⁴¹ Mandeep Tiwana, "Mohammad Yunus can go down in history as the architect of a new Bangladesh", *Al Jazeera*, 31 October 2024, <https://www.aljazeera.com/opinions/2024/10/31/mohammad-yunus-can-go-down-in-history-as-the-architect-of-a-new-bangladesh>.