

behavior. The electoral roll that the Commission had prepared was flawed. It was proved while preparing new voter roll with photograph that about 12 million plus spurious voters name were included in the roll. Electoral Law was skewed. No major reforms were brought to the law or to the conduct of the election.

All combined the pressure from below grew for Electoral Reform. In fact apart from political party's demand the pressure group created by the civil society gathered public opinion for reforms through seminars, workshops and most effective of all by the use of media. Numerous recommendations were sent to the BEC to help in desired reform.

Under such circumstances, having carried out in house review of the past initiatives of the BEC undertaken the newly formed BEC set in motion much desired reforms before the rearranged 9th parliamentary stalled elections. Three important areas were identified by the commission, near perfect electoral roll that should not only allow headcount only but actively participate in voter list preparation. In fact a voter active methodology was adopted to prepare voter list, substantial reform of electoral law to support the more elaborate and innovative electoral system and logistics lastly the EMB structure and reestablishing public confidence on the EMB that was seriously lacking over the past few years. The BEC had uphill task before it could arrange for stalled 9th parliamentary elections.

The BEC had close look at the unsuccessful attempt of the past reforms and reasons for failure. A serious review of the past was made before initiating the massive reform in electoral process. The review revealed that past attempts was top down instead of pressured from below. The other factor, but most important, was that the past attempts were taken arbitrarily instead of consultative to make it participatory.

Having reviewed the requirement of the reform and lessons from the past the BEC set to consider the way forward for comprehensive reform. A plan was formulated and a road map with a time frame was set by the BEC. It is needless to say that a free fair and legitimate election is the first step for sustainable democracy.

Chapter 1

Introduction

The foundation of strong democracy, in any type of society, is the process of choosing people's representative who would speak for them in appropriate forum i.e. Parliament and elsewhere. The only process through which people can choose their representatives in a transparent manner and in keeping with the essence of democracy is through election arranged by Electoral Management Body (EMB), commonly known as Election Commission. People have to have confidence in EMB as an institution and the transparency and efficiency of the processes adopted by it. If the popular confidence is lacking both in the electoral processes and in the EMB as an institution, neither the election results would be acceptable to the people nor democracy would flourish in a society, be it developed or developing countries.

Surprisingly little is known about the factors associated with popular confidence in electoral processes. Not much has been researched or analyzed in Bangladesh on the subject apart from periodic political rhetoric or at best comments made by all kind of experts without suggesting means to achieve the goals. While support for other democratic institutions has been fairly analyzed, perceptions of the legitimacy of elections, the lack of confidence in EMB and the factors affecting these pitfalls have generally been given less importance as a topic of study.

Thus the aim of this book is to probe the correlates of confidence in the conduct of elections, in order to determine what accounts for differential perceptions of electoral integrity both within and across the country. The legitimacy of the electoral process is crucial for the establishment and maintenance of a healthy democracy as noted by Bernard Grofman, Arend Lijphart (Bernard, Lijphart: 1986: 1-7)

Case studies and regional studies as well, have shown that when citizen lack full confidence that elections in their countries are free and fair, the result can be a decline in levels of voter participation and, in extreme cases, popular protest against the process and the institution enrages as we witnessed in Bangladesh in 2006. Due to series of events related to elections and its conduct, the people of Bangladesh had lost confidence both on EMB and the process. As a result there had been uproars from the public demanding to overhaul the EMB and the reform of the electoral process before scheduled parliamentary election that was to be held in the early part of 2007.

It had been alleged that since the liberation of the country EMB in Bangladesh could not grow as a credible institution because of political manipulation, though 1972 constitution has guaranteed the power, strength and independence to the Election Commission under Article 118. Given the constitutional guarantees yet it was due to deliberate political attempt to keep the EMB under its influence, the institution could not grow or assert its independence. There were continuous public demand to setup independent Election Commission Secretariat freeing from the grip of Prim minister's office, went unattended by the political governments. In fact the independent Election Commission secretariat did not come in to effect till ordinance No.5 of 2008, later turned into law, under the act of 9th parliament No 5 of 2009, during the Caretaker Government (CTG) of 2007-08.

The ordinance in question was promulgated during the NCG on public demand and under pressure from the Election Commission to bring back people's confidence on the EMB as the manager of all the elections in Bangladesh. No doubt that the maximum number of Bangladeshi voters had utter disregard and distrust on Election Commission but the statistics of voter percentage would indicate otherwise. This dichotomy is perhaps due to the fact that though people had less confidence on the EMB but democratic aspiration took them to vote.

It was during the autocratic regime i.e. military rule that the Election Commission's credibility was damaged and could not be gained for

three decades. Unfortunately the trend continued throughout the period of revival of democracy from 1991 up to promulgation of emergency in 2007. This however was one major issue that compounded the political conundrum throughout 2006 and early part of 2007 till the reconstruction of the present Election Commission. Due to not so transparent construction of Bangladesh Election Commission (BEC), allegation of political use of Election Commission through obscure appointment and the direct control of the secretariat, had stirred complex political riddle. People in general became apathetic towards Election Commission. In fact the slide in trust deficiency started from Magura by-election that was held in a most questionable manner. That trust deficiency multiplied over the years and the cry for electoral reform became the order of the day. Yet neither the government of the day nor the then Election Commission made any major effort to arrest such downward trend.

It is not only in Bangladesh that lack of trust in EMB had been instrumental in creating political challenges. Newly democratized European countries had also witnessed mass mobilization which led to the reversal of the results of alleged fraudulent elections. Not only in fragile or new democracies that the electoral reform became the pressing issues. Not only in new democracies, even in established democracies, is confidence in the electoral processes arguably a precondition for popular support for the other institutions of representative systems. In all democratic countries it is legitimacy of the system that ensures free and fair elections. In the words of Elklit and Reynolds 'fairly conducted and regular elections create system legitimacy' (Elklit and Reynolds: 2002: 3-10).

Rational for Study

Though so much has been talked about on the issue all in esoteric manner, but not much analyzed in any academic parley. Therefore, this study could act as initiator of empirical studies on the subject. My analytical study, as one of the actor of current reform (2007-2008), thus evolves for the following reasons:

Lack of serious objective analysis: Due to lack of serious empirical

study there is hardly any research work on the subject except insignificant number of articles, editorials and sub-editorials occasionally appearing in various newspapers and magazines. In event of close study of these articles it would appear that these were written mainly with emotion rather than applying the objective mindset of the authors. Some features of those articles include: being dominated by emotion rather than logic; subjectivity overweighing objectivity; author bias to some political ideology or party. These articles, in most cases, failed to draw suggestions and absence of comparative studies.

Futuristic planning: The objective, unbiased and comparative study and analysis of the electoral process, its results and the recommendations would provide a desirable platform for future planning on the subject.

A perceptive study to provide signal for way forward: Questionable election results sends strong signal to all concerned of the gravity of the issue. Unless correctly read, acknowledged and acted upon to rectify the result could be disastrous for institutions and political parties to whom they are directed. Therefore, this study would give enough food for thought for way forward to ensure cementing the democratic process and to enhance democratic culture.

A first hand analytical Study that could provoke further in depth study: This empirical study is based on my personal involvement with the process for long five years as one of the actor who played role of one of the catalyst role for all the changes brought in last half a decade. The change that was brought in the entire system did not confined only in theoretical confine but put to practice with positive effect in all elections i.e. from national to local, with positive impact.

Electoral Reform-An Overview

Electoral reform is a continuous process and it includes entire length and breath of electoral system and is not confined to choosing a voting system to elect representatives only but beyond that. In most cases available literatures restricts the discussion of electoral system

or electoral reform to a choice between FPTP and 'PR but to the practitioner the electoral reform is wider in concept than that.

However, when asked to define electoral reform the Chief Election Commissioner of Bangladesh Dr. ATM Shamsul Huda defined it as : "Activities pursued by any entity or organization must come to terms with two elements: structure and process. Structure provides the various building blocks of a system that are there to be energized and connected with each other through various processes for the achievement of organizational goals. The two are complementary to each other: there cannot be any activity with only one element or the other".

Viewed as above, electoral process reform does not engulf the whole system; it only covers a significant part. However, it is absolutely legitimate on the part of an author or researcher to define the scope of his work and there can be very good study on electoral process reform in its own right. But the author must clarify and define the scope to remove all confusions.

Taking the cue from above statement on the final analysis as made by me is that Electoral system emanates from recognized authority; as such reform is also carried out by those authorities. Authority may be part of or emanating out of constitution either written or unwritten. There has to be electoral law and machinery for enforcement. To carry out the implementation of these law and suggestions for periodical reforms, the machinery, normally the Election Commission or EMB is setup as a fully or partially independent body. If full implementation of these laws and other reforms has to be unbiased and meaningful there has to be an independent Election Commission or EMB, as case may be, totally out of the ambit of the political government. It is essential for the conduct of free and fair meaningful election that periodical electoral reforms are resorted to. These reforms are mainly formulated out of the need, based on experience gathered and assessing the political culture of the society. Reform must aim at the implementation of laws, conduct of election, and must facilitate the selection of representative by the voters without any fear of intimidation or

threat to the personal security. However reforms are also based on factors which dictate these reforms and actors who lend their cooperation in reforms. One must bear in mind that conducive political ambience helps formulation and implementation of reforms.

In his edited book Kashyap "Elections and Electoral Reforms: Law and Institution of India and World" defines electoral system as, " the meaning of reform is to add, delete, modify, alter or replace with changes for the future requirement and for the present challenges, based on the basis of the failures in practice for improvement of the existing. Today is the era of globalisation and liberalisation. Electoral reform is the process of evolving an electoral system strengthening the democratic process of a given society that includes global, national, provincial, and local/self government of the Community Council. Independent to the electoral system there are no electoral reform even though there are external forces that may exert influence on electoral system without falling under classification of electoral reform. In the process of it there is a tremendous pressure on democratisation" (Kashyap, 2004).

Viewing the definition the major elements of the electoral reform has been identified as follows:

- Voting systems, such as Recall Elections; 'First Past the Post (FPTP) and Proportional Representation (PR)
- Electoral Law and Rules
- Vote-counting procedures
- Rules about political parties (registration)
- Eligibility to vote

This would also include how candidates and political parties are able to stand (disqualification) and how they are able to get their names onto ballots (ballot access), ballot design and Electronic Voting Machine (EVM), Scrutinizing (election monitoring by candidates, political parties and neutral Observers, etc.) measures against bribery, coercion, and conflicts of interest, campaign

financing of candidates' and parties, factors which affect the rate of voter participation (voter turnout), delimitation, voter registration, campaign conduct rules, Election Commission (EMB), conduct of fair and free election and many other aspects

Analyzing the essentials of sound electoral system will show the importance of democratic values that sustains and strengthens the electoral system. Unless some basic democratic values are in practiced by the society it is difficult to sustain the reforms brought into the electoral system. Few of these values are: rule of law, majority rule, civil liberty and right, independent judiciary, accountability of legislature, Independent EMB and free and fair elections.

The aim of the electoral reform always has been to achieve optimal result i.e. bringing transparency in the election system and the process to make it more acceptable to all concerned and instil popular confidence in the electoral system.

The electoral reform directly affects the functions of the Election Commission (EMB) along with its powers and obligations. Be it as it may, the effect of the reform takes firm root if the democratic values are well established. Kashyap further opines that effects of electoral reform take root depending on the following democratic values (Kashyap: 2004):

- The democratic values are essential elements, which promote and sustain free and fair elections.
- Political system plays an important role to decide electoral system and voting system depends upon them.
- Law and practice of election is dynamic and is a continuous process.
- Powers, functions and obligations of the Election Commission dependent upon the Constitutional provision, Legislature and other orders for conducting fair and free election.
- Electoral reforms are inherent features of a sound electoral system.

- Corrupt and unfair practices of election need to be curbed if not eliminated totally so that the Election Commission is effective and more successful in conducting fair and free election.
- Voter's participation and voting behaviour of electorates are essential ingredients of a sound electoral system and to promote them is one of the most important functions of any effective Election Commission.
- A comprehensive electoral reform is essential to conduct free and fair election, which strengthens the functions of the Election Commission.
- The effective function of Election Commission empowers the electoral process ensuring free and fair election and promotes democratic values for effective electoral system of a given political system.

Having discussed the effects of the electoral reform one can summarise that if the aim of reform is to the conduct of a free and fair election, which remains to be the corner stone of democracy, the institutions, primarily Election Commission must have power to conduct in a manner that is expected by the voters. Reforms have to be sustainable and backed by law. It is not only the Election Commission that alone can assure a free and fair election; it has to be supported by the established values of democracy and the society. One of the most important actor that provides support to the Election Commission to fulfil its' obligation is the independent judiciary. While interviewing the Indian Election Commission, Commissioner (now CEC) Dr. Y B Qureshi said that one of the institutions that support the Election Commission to implement the laws is the Indian judiciary. But in countries where judiciary is not perceived to be free from the influence of the powerful it often frustrates the effort of the EMB.

Scope and Objectives of the Study

In view of the background, in this study I chose to address the following which we in the election commission prioritized:

- The context of electoral reforms related to electoral roll, and the new code of conduct, and party registration process;
- Bringing back discipline in campaign financing; and
- Institutional and procedural reforms related to Election Commission itself.

Review of Selected Research on Electoral System and reform

Before I embark upon the subject at length an attempt is made for a pragmatic study of available works on the issue. It would be rather disappointing to note that there have been hardly any in-depth and analytical researches on the subject in Bangladesh. However there are periodical writings appearing in daily newspapers or unrecorded seminars on the subject that too mostly in suggestive form.

However, some basic areas of research had been identified from the writings of the few scholars from Europe, USA and India before we launched our reform process. Some of these have been reviewed for the purpose of research and analysis to cement the base of the reform taken in the hand. Some of the topics have been discussed here on the basis of these works; yet many aspects remained unexplored by these scholars which have been taken up by me for this study based on own experience that we gathered over the years.

Among these literatures, Andrew Reeve and Alan Ware's work 'Electoral Systems: A comprehensive and theoretical Introduction' mainly deals with varieties of Electoral System like 'Single Transferable Vote' and 'First Past the Post (FPTP)'. The book has theorised the electoral systems in relation to democratic theory. The book discussed about one aspect of the electoral reform i.e. electoral system or voting system only. This aspect of electoral reform however, has been made as a study in this book for further research but does not form the main study. The other book that has been reviewed, which also deals with similar issue of voting system, is Arend Lijphart and Bernard Grofman's 'Choosing an Electoral System: Issues and Alternatives' (Lijphart and Grofman: ed: 1984).

Out of other books, one significant literature reviewed was Bernard

Grofman and Arend Lijphart edited 'Electoral Laws and Their Political Consequences' (Lijphart and Grofman: ed: 1986). The book is a compilation of articles that deals with the theory part of electoral law and its impact on election and the political parties. Articles authored by 21 different writers deal with the subject from their perspective and the main issue that was highlighted is 'electoral laws and their effects on voting system that includes simple plurality, plurality with double ballot, and various forms of proportional representation. These are hotly debated issue in matured democracy. These articles mainly focus on the basic laws those that have the political consequences, special to USA and other western democracies. This study however, at best provides a theoretical insight of the various electoral systems i.e. voting system to offset danger of democratic system becoming hostage to two party systems and not allowing the multi-party system to provide alternative or variety of ideologies to the voters. This literature however, provides some insight to the problem of non-representation of a larger section of voters in the parliament. This is also a part that this paper had analysed in some length as many a countries, particularly countries not having matured democratic system or weak political culture, suffers from being hostage to two larger parties.

Nevertheless, study of these literatures is undertaken to comprehend the enormity of the subject. There has been some mention of effects of these reviews in appropriate chapters of this study.

Be that as it may, the major limitations of these studies are when they argue in favour of the PR system. The study did not discuss the social ambience and the low literacy rate among the voters of India. Similar social condition exists in Bangladesh though smaller political parties' supports change in the representational system. These parties argue that true reflection of voters will is not reflected under FPTP which is possible under PR system. According to the smaller parties that rejects the present system which benefits only larger parties can only be negated should the electoral system be changed. PR, as even political scientist claims, is more representational and democratic. Many countries in the world have

adopted PR as their electoral system. However, this would be one aspect of the voting system that this paper would attempt to discuss. This was however, not part of the electoral reform made by Bangladesh in neither the past nor being comprehended today. Nevertheless, electoral reform is not confined to the narrow based electoral or voting system but engulfs huge territory of electoral system.

Nevertheless, the review of some other literature from research work within the region, akin to our subject, has been made in detail. This book has been enriched with findings of these regional researches mostly of Indian scholars. It is in India, electoral process that is practiced is more akin to us, that literatures on various dimension of the issue are available. Most of the electoral reform analysis and research work compiled by Anjoo Sharan Upadhyaya in 'Electoral Reforms in India' (Anjoo: Ed: 2000) which discusses issues those are akin to the problem faced in Bangladesh. The limitations in these literatures are that these are mostly analytical. Yet this book has been reviewed. The book identifies some of the critical areas that needs closer look for meaningful reforms in the electoral system: Preparation of accurate electoral role, campaign and party financing, electoral law, electoral system i.e. FPTP vis a vis PR System, disqualifications of Candidates, and transparency in the management

Apart from literature mentioned above the other book that had been reviewed is LP Singh's work on 'Electoral Reform'. The book covers whole range of basic issues and problems ranging from structural and administrative issues faced by the EMB, corrupt practices, electoral offences preparation of electoral rolls, role of money in election and campaign financing.

The other literature that has been reviewed with in the framework is Devendra Raj Panday, Anand Aditya and Dev Raj Dahal edited 'Comparative Electoral Processes in South Asia' (Devendra, Aditya and Dev: 1999) has been examined. The book has 5 articles from the academia of five different countries which make a comparative study of important issues of reform in their own countries. These are

seminar based papers. The papers compilation provides Seminar Proceedings and summary of recommendations. Review has also been made of 'Electoral Reform' by LP Singh which deals with various important issues of reforms for the Indian Electoral System. His observation and recommendations has been part of Indian Election Commission's agenda for reform. He in his book dealt with following as main reform issues: structure and powers of the Election Commission, corrupt practices, electoral offences and model Code of Conduct, Electoral Roll, role of money, and Electoral System.

Also in the review list is Dr. Shubhash C. Kashyap 'Elections and Electoral Reforms: Law and Institution of India and world'. Though in his work Dr. Kashyap focuses on the Indian electoral reform but he puts enough emphasis on the reform philosophy and the institutionalising of the electoral reforms.

These literatures discuss issues of Indian electoral system, much like in Bangladesh, where continuous reforms are suggested and each suggestion is component based.

However, the electoral reform in India are difficult to bring as political parties decree these reforms as political issues and are not supported by political parties unless those proves to be beneficial to the party. For example having long time observation of the distortion of the representative system in Assembly many Indian researchers have been considering the change in representational system to offset domination of larger parties under FPTP system to PR system. These researchers argued that only in the PR system that the distortions in the electoral system in India could be eliminated but the political parties have been rejecting these theories. The issue is now hotly debated in Bangladesh as well.

In the above context many issues raised by Indian researchers has been studied and incorporated as part of electoral reform in Bangladesh aimed to bring more transparency in the system. Nevertheless, among other important electoral reform component in Bangladesh was to limit participation of large number of candidates either party based or as an independent candidate. This for long has

been a constant source of electoral distortion. Experience from the past showed that many of the non-serious candidates either from smaller insignificant parties and independent candidates file their nomination for many other corrupt reasons then contesting in the election. In most cases these candidates collude with powerful candidates in exchange of money to lend the facilities that a candidate gets from Election Commission like polling agents, use of funds and other support. This has been a constant source of distortion in Indian electoral system as well. One of the Indian researchers, Yadav (Anjoo: Ed: 2000: 29 -62) dealt with the issue. At the end of his research he recommends some drastic remedies but looking at the practicality it seems that his recommendations are non-functional. Therefore, the issue needed further research particularly in Bangladesh context. Fortunately this was done taking a cue from Yadav. In electoral reform 2007-08 this issue was addressed and number of prequalification was made essential to be eligible as a candidate. Tough conditions have been introduced in latest reform to be eligible to contest as independent candidates. These measures had reduced participation of non-serious candidates. The mandatory registration of political party has also contributed in improving the distortion.

Apart from various books and articles extensive study has been made to the Report of the 'Committee on Electoral reforms, May 1990: Government of India: Ministry of Law and Justice Legislative Department'. In that committee reviewed the issues which highlighted were: Role of money and muscle power in elections, problem identification of other issues, strengthening of Election Commission, reforms of the Law, delimitation, disposal of election disputes, ceiling of election expenditure, public funding, multipurpose photo electoral law. Besides the committee report 'Proposal on Electoral Reforms' made by Election Commission India, in July 2004 has also been reviewed within the context of this paper.

In the context of Bangladesh one of the important work done by Professor Abdul Mannan, in, 'Elections and Democracy in Bangladesh' (.Mannan, 2005) has elaborately discussed the political tangle based on elections held since democracy fully reintroduced in

1991. His book has been also reviewed in the context of the political culture of rejection of election results on various grounds that resulted into boycott of National Assembly. He also highlighted various weaknesses of the electoral system which created political pandemonium after every election since democracy was reintroduced in 1991. The book analysed each of the election results and the reaction of the political parties, violence and the role of various elements connected with the conduct of the elections that were held. The book lays the background for the electoral reform that was to follow. Professor Abdul Mannan, however, did not analyse the causes of various political party's apathy towards the outcome of elections and remedial measures. The study does not conclude with any suggestions.

Apart from limited work available particularly in the context of Bangladesh's electoral reform review of some published but limited news paper articles and news paper reports were taken into consideration. But basic limitations are that these articles are mostly based on partisan views and their comments are not based on any sustained research work. Suggestions are sketchy and abstract. Works available in this context suffers from robust theoretical literature on electoral reforms in particular in Bangladeshi context.

Salahuddin Aminuzzaman and his co-researchers (2001: 51-72) in a study entitled "Electoral Participation in Bangladesh: Explaining regional variations" observed that local sub-culture and political behavior has significant regional variations on the electoral and voting attitude and behavior. Such variations have significant impact on the electoral campaign, managements and processes.

From the review of available literature it is observed that there is strong argument that exists in favour of continuous electoral reform for assuring a free and fair election. The other observation is that there exists two stream of the definition of the electoral reform. This paper, however, would take into account both stream of definition and the opinion.

This book based on my research would deal with important components of entire spectrum of electoral reform, its social and

political significance; explore reasons of political party's indifference to the reform. At the end dissemination of the research based book may result into initiation of further research/study on each component of the reform by academia. The present study is an attempt to provide some basic objective and empirical evaluation of electoral reforms so far made by Bangladesh Election Commission from 1972 up to 2008.

Prelude to Electoral Reform of 2007-08

The role of electoral reforms cannot be undermined in achieving transparency in the election process and acceptability of the result. It is equally important to bring back the confidence of the people in the electoral process and the EMB through essential reforms and implementation of electoral Law, Rules and Regulations. This has been at the heart of all reforms.

Confidence of the people on the EMB is equally important in believing into the system and the administrator of elections. It is also significant that a free and fair election installs a true representative government who remains accountable to the people as re-election only can put them back to power. It is therefore, significant that with the continuous electoral reforms tensions are removed for true representation of the voters.

It is therefore, imperative that as a first step Election Commission must earn trust of the voters and other stakeholders alike to formulate, suggest and execute any reforms. One of the acute problems that B E C faced was lack of trust of the general public let alone the political parties. It was because of the credibility problem that Election Commission neither could conceptualize nor could resort to any meaningful reform which could have impacted on the conduct of elections.

In this regard, when asked to comment on the past failures of the Election Commission, especially during the period of immediate past Commission to harness the public confidence, then Chief Election Commissioner Dr. Huda opined, "the reform initiatives were triggered by what may be broadly termed as the "crisis of

confidence" in the B E C. According to Dr. Huda, 'the image of BEC was much tarnished because of the public exposure of the bickering between ECs in the past and headstrong unilateral decision of preparation of new voter roll ignoring court directive. The in-fight and the media exposure of it had turned the institution into a subject of caricature and ridicule by the public'. Under such circumstances as Dr. Huda put it 'no meaningful reform proposal could have been accepted'.

Be that as it may, in past one and a half decade, since the country came out of pseudo-controlled democracy in 1991, there were hardly any concerted effort or attempts that were being made to bring tangible electoral reforms. The attempts that were so far made in this area did not touch even the fringe of the problem. Whatever attempts were taken proved abortive and in places were abandoned or reversed under pressure from political parties, except some minor and insignificant reforms in the law. Significant steps such as 'mandatory political party registration' and the 'power to cancel candidature by the Election Commission' were abandoned during 'first caretaker government' under pressure from major political parties. The other attempt to introduce 'voter identity card' failed due to lack of proper planning, being non-participatory and unilateral decision taken by the then Election Commission even without a feasibility study. When asked about these failures the present CEC opined, "institutionally the Commission had very little legacy to pride in.

The most notable of its failures was its inability in the past to implement the various provisions of the laws. It had very little communication with its important stakeholders, particularly the political parties. It lacked the needed manpower and, whatever were available, did not have the training or the initiative to do a worthwhile job. It did not care to build up the necessary physical infrastructure to the extent that it did not have even its own headquarters building. "Institutional decay and degeneration were the hallmarks of the BEC that needed fundamental review and thorough overhauling and a total regeneration" as present CEC puts it¹.

1. Interview with CEC Dr. ATM Shamsul Huda, Dhaka, August 2010.

As stated already apart from few abortive attempts not much had been achieved in respect of electoral reforms in the period 1972-2006. Basic areas had been completely ignored. Almost two decade, especially after March 20, 1994, the Magura bye-election which was alleged to have been rigged and then Election Commission's inability to step in amidst voluminous report of corrupt practices by the supporters of ruling party with the help of electoral officials, demand for total electoral reform had been mounting. Magura-2 bye- election became the darkest spot on the electioneering under political government. In the words of late M. Saifur Rahman, most known technocrat turned politician and long time Finance Minister of BNP, 'Magura -2 is the darkest chapter in Bangladesh's political history'. (Rahman, 2009, 274-275). In the wake of Magura-2 bye-election the subject electoral and Election Commission reforms received wide attention at various seminars, forums, civil society movement and from political arena. For ensuring neutral electoral administration and function of Election Commission demand for caretaker government became rallying point for the then opposition. Demand for Election Commission reforms and setting up independent secretariat mounted over the years. These movement gained momentum and gathered political storm across the country and the mayhem leading into a disastrous consequence in the later part of 2006 which resulted into proclamation of emergency 2007.

This study therefore assumes greater significance in establishing true representative democratic government and delivery of good governance through conducting a fair and free election and to assess the reform work that produced a remarkable election held on December 29, 2008 so far acclaimed to be of international standard (for detail see [http:// ec.europa.eu / external_relations / human_rights / election_observation/docus/compendium_en.pdf](http://ec.europa.eu/external_relations/human_rights/election_observation/docus/compendium_en.pdf)).

The legitimacy of the electoral process is crucial for the establishment and maintenance of a healthy democracy. Previous studies have shown that when citizens lack full confidence that elections are free and fair, the result can be a decline in levels of voter participation and apathy grown towards elections, in extreme cases, popular protest erupts as witnessed almost after every election

barring election held in December 29, 2008. Very recently one witnessed similar situation in Afghanistan and earlier in Zimbabwe. Other example of the countries those had so-called 'coloured revolutions' in Eastern Europe where mass mobilization led to reversal of the results of fraudulent elections. Even in established democracies, confidence in electoral processes is arguably a precondition for popular support for the other institutions of representative systems. It is a well tested fact that a fairly conducted and regular election creates system legitimacy.

In Bangladeshi context other factors of electoral system have been of much less concern to the researcher and preachers such as strengthening political culture and the democratic institutions. These are equally powerful factors associated with popular confidence in electoral processes. The irony is that over the years though support for other democratic institutions had been publicly debated in Bangladesh but perceptions of the legitimacy of elections have been largely bypassed as a topic of study. No serious research or study is available in this regard though transparent elections are much desired by various kind of individual. At times these subjects are hotly debated prior to any national election; in most of the times as political rhetoric, but once the elections are over the subject is put in the backburner.

However, it is the legitimacy of the election that is aimed to be achieved through the reform process. Nevertheless, the research would show that there was hardly any substantive electoral reform made in last three and half decade. Or whatever little was attempted did not achieve the objective due to lack of wider study and the scope of such reforms. Main reason was that these reforms were neither based on any research nor was holistic. These were incomprehensive and assorted reforms limited to the amendment of RPO 1972, the mother law, just before elections held in between 1986 to 2001. These reforms had a very short term objective. There was hardly any substantial process reform except the abortive attempt to introduce voter identity card in 1995. The project had to be abandoned due to mismanagement.

In the above context while discussing on the past attempts those did not bring any desired results, Dr. Huda, CEC observed that: "What had happened in the past was that reforms of a fundamental nature were never attempted except on one occasion. It was only in the case of introduction of the voter identity card that a major reform initiative had been taken and there are many reasons as to why it miserably failed. Other than that, all other reform efforts were incremental in nature and consisted mainly of sporadic reform of different laws. In most cases, those were made to meet the needs of the party in power or at the dictates of NCGs. It cannot, therefore, be said that lack of participation was the only reason for the failure of previous attempts. Participation had very little to do with the failure of the voter ID card project. Along with other factors already mentioned, lack of long term vision and planning and proper leadership may also be considered as reasons for lack of initiative and reform in the past".

It is also a statement of fact that 2006-07 political confrontation which had threatened the basic fabric of the country's cohesiveness and destruction of the fundamentals of the democratic society was centered on the failure of the electoral system. People in general lost faith in the electoral process and on the Election Commission which is the prime-mover of the system. The problem became acute in 2006-07 as never before. It called for overhauling the system to bring back the faith of the people.

Effect of the reform on the 9th Parliamentary elections and beyond was felt during the entire pre-poll, i.e. entire campaign period, polling day, vote counting and after the poll. The reform also had post election effect in that few winning candidate lost their seat in parliament or cases are pending in the higher court on disqualification issue. Effects are also visible in the conduct of the political parties within the ambit of the conditions laid down in the mandatory registration law.

However, the review of the reforms that went in the electoral process leaves some room for further improvement to elevate and maintain the high standard that is set by the Election Commission through the 9th parliamentary election and thereafter.

The research would also address the issue of reform that went into the Election Commission itself to regain the confidence of the people. These studies would also examine the electoral system and the reforms in couple of major South Asian Countries.

Methodology of this study

In conducting the study, information was collected from both secondary and primary sources. Secondary sources of information include daily newspapers, reports of the monitoring agencies on different elections, books, academic journals, websites and relevant reports collected from different sources. Primary sources include interview with the former CECs and EC and other concerned officials of the EC, leading political parties, district and upazila election officials, and key informants including election experts, academics, executives of national and international election monitoring agencies, and media personnel.

In absence of much available research work within the country this research study was conducted mostly based on institutional memory blended with personal experience in this field as one of the Election Commissioner was connected with the entire electoral reform 2008 including initiation and coordination of photo voter roll. This research had also used primary sources such as interview of few key personnel of the current CEC and the EC, Election Commission officials in the field and some available documents related to law, government gazette, official notes, directives and regulations of Election Commission.

A field trip was made to interact with the ECI in Delhi and results of discussion with leading Indian Civil Society Organizations, like Pnya, National Social Watch and Association for Democratic Reforms have been included as field study while making comparison with the Bangladesh electoral process reform.

The records of dialogue with political parties and the Election Commission held in 2007-08 have also been included as a primary source.

As secondary source, all available research work on the subject more or less akin to local laws, books, reports, news papers, articles, internet and other publications have been examined as part of the research methodology.

All these references have been included to justify the importance, need, and the rational of the reform. Thus the analysis then led to the answers of the research questions to achieve set objectives.

Limitation of the Study

This study for this book was conducted between October 2009 and September 2010. Major limitations of this study include lack of proper documentation with the Election Commission; opinions given by key informants who were involved in conduct of elections in the field could not be verified with the records due to improper documentation made in the past. The background study is based on institutional memory. Unpublished documents have also been part of the study. The analysis is limited up to 9th Parliamentary election held under the Electoral Reform and the scope of the study is limited to National Elections only.

Except India and Nepal experiences of other South Asian countries are taken from secondary sources.

As part of field study 12 respondents were sent questionnaire, which included few political personalities, but only 3 responded. Except that of present CEC rest of the response on the subject were not found to be directly relevant to the study thus have not been referred to.