

foremost is its own independent existence. Except one, rest of the regional EMBs enjoys independent stature as all of them being constitutional institution designed to help promote democracy. Degree of independence also varies between countries.

EMBs are strengthened by electoral and other laws, rules and regulations in conduct of such election. Under these statutes electoral system is developed suitable to the particular society. Since the proximity and almost common history the electoral system is almost akin to each other.

Each of the EMB periodically reviews its system and initiates reform through established channel. Most common experience is that most of the countries have established channel for such reforms. As in this Chapter we discussed the adopted methodology and in most cases it is observed that the reform process is complicated and in some cases difficult to come by. In case of India and Pakistan's electoral reform what it seems to be absent is that there is no or minimum part of stakeholders in the process of developing the concept paper.

The reform experience is also not same in all the countries.

What seems to be the other concern is the construction EMBs except two newly established democracies in the region. Yet with all pitfalls in most cases EMBs have been delivering the best.

However, having studied the process of reform and experiences that each EMB has gathered provides enough for institutional learning. On this particular field of late exchanges between EMBs have proven to be great learning feat. Studying the experiences gathered by each EMB and the methodology adopted, BEC had been benefited and could formulate more comprehensive and useful policies for electoral reform carried out in 2007-08.

The previous Chapters lay the foundation of the discussion for the following Chapters of this book. Election Commission Structure of selected South Asian Countries is attached as Annexure G.

Chapter 5

Key - Factors and Actors of Electoral Reform in Bangladesh

Electoral Reform is regarded to be one of the prerequisite for conducting free and fair elections. It has to deal with public both from below and above as all endeavours made by EMB either in the conduct of elections or setting system has to result in bringing voters to vote and count every vote for result. The process has also to be supported by the political parties or candidates to whom entire process has to be acceptable as legitimate efforts.

Electoral Reform therefore is not out of vacuum but has to have catalyst to demand such reform. In young or fragile democracies the role of these catalysts cannot be underestimated. However, what has been seen in Bangladesh that these catalysts became major actors in demanding Electoral Reform. Not only that these actors played a significant part in creating a pressure from down below but enhanced the public aspirations for a legitimate democratic system through a fair and free election at all level.

It is very important to note that decade prior to Electoral Reform 2007-08 these actors and enablers played a cataclysmic role in bringing into public demand for much desired Electoral Reform.

Therefore, it is important that we understand and discusses both actors and enabling factors those who played significant role to bring changes to provide enhanced legitimacy in Electoral Process. Point also to note that one of the main Factors, as listed most crucial, was the time and space provided by NCG in 2007-08 that being the unusual exception. Time and space would remain a critical factor as it is long drawn process to bring in Electoral Reform in young or in fragile democracy unless Electoral Reforms become a continuous process.

We have already seen that in a matured democracy, like in India, Electoral Reform has been a slow process. One of the reasons could be absence of strong factors or absence of strong actors to help bring winds of change.

Factors

Public Perception: There had been number of research made on the issue of public perception on the democratic practice and the regime legitimacy. The findings are doubtful or do not exist. The citizen gets dissolute with the system and the institutions and they demand institutional reform, more so electoral reform. There has been number of studies on the issue. In one such study *Public Dissatisfaction and Electoral reform: Pressure from Below*, Pippa Norris of John F. Kennedy School of Government, USA, remarks, "Where the public sees the regime as legitimate, this provides little pressure for change to the status quo. Where citizens are dissatisfied, especially when performance is evaluated against democratic aspirations, this heightens demands for institutional reform on the policy agenda". The researcher also concludes at the end of the study that it is public pressure from below, especially in new democracy that forces the institutional changes, electoral change inclusive.

Though these researches had case studies of countries with or without long and lasting democratic tradition but by and large they identified the similar level public involvement in the political institutions. The regime legitimacy in Bangladesh had always been questioned by large sections of people who were and are politically motivated in one way or the other. Unfortunately due to confrontational politics between two most dominating political parties of the country and low level of political culture, it is difficult to gauge the actual public perception on regime's legitimacy. For example since the elections in 1991 every losing parties and their supporters had raised questions on legitimacy of the election results. Therefore, the pressure for reform did not build up nor it developed as a serious agenda. Therefore, neither the ruling party nor the opposition was serious enough to build up a public pressure except

lambasting Election Commission for perceptive partisan views. It was after 2001 Election and the result which was outrightly rejected by the AL and complained of 'crude rigging'. The party leader Sk. Hasina castigated and said "there is no question of accepting the results when people have rejected the same" (Bangladesh Observer, October 3, 2001). Later events proved that her allegation had some roots. AL, since 2001, started making people believe that the ruling regime's legitimacy was seriously in doubt. On the other hand the handling of the various crises by the ruling party BNP aided with the unprecedented rise of militancy, simultaneous bombing in 63 districts, and gruesome grenade attack on AL rally all aided to shore up the public support for institutional reform before 'next election' i.e. 9th Parliamentary Election.

The political confrontation over the appointment of next Chief of NCG, as per the Article 58C (3) of the Constitution, grew after amendment to the Article 95(1) in which the retiring age of the Chief Justice was raised to 'sixty seven' from 'sixty five'. AL and its supporters rejected the amendment as they perceived that the amendment was motivated to install a favourable person as head of the NCG to skew the forthcoming election process as was due at the beginning of 2007. The crisis was further accentuated by appointment of CEC, ECs and the crises over electoral roll. The opposition was able to motivate the public in favour of their demand for overhauling the system of NCG and the electoral process including reconstitution of the Election Commission. The demand became a public domain. With the turn of event all through 2005-07 the public pressure for Electoral System change grew and the pressure from below peaked. Those periods of turmoil public pressure turned to be the prime catalyst or actor of change i.e. political and electoral reform in Bangladesh. Never before such pressure for change was built in political history of the country as was seen in 2006-07.

Democratic Aspiration of the People: One of the cultural factors that help in bringing the electoral reform is the democratic aspiration of the people. People of Bangladesh has long history of struggle for democracy though due to certain circumstances there

have been some disruption in the process but that did not deter people of this country from the struggle to establish democracy with firm roots. People have turned out for voting since 1991. Whatever, was the lacuna identified in the electoral process, there has been huge turnout in every election. Unprecedented turnout, acceptance of the 2 years delay in 9th Parliamentary Election and unprecedented turnout of 86.34 percent, proved that voters in particular and voters in general had aspired and supported the electoral reform that was brought. Public support to the electoral reform was evident from the massive active support in preparation of photo electoral roll. The desire for sustainable democracy had driven public to demand for most essential reforms.

NCG and Wind of Electoral Change: Undoubtedly the major factor was the gestation period of two years that was available to put forward the idea of major electoral reform. The positive role of the NCG under Dr. Fakhruddin Ahmed was yet another factor that the BEC could undertake the reforms and bring change, in particular, from 'passive Electoral roll' to 'active electoral roll' preparation.

Political Parties: The very desire of the political parties for a change, spontaneous and unconditional participation in the process of electoral reform played the most crucial role in the electoral reform. Political parties, more than ever before, reposed faith in the BEC that made them partners in the process. The best example could be passing the RPO amendment Ordinance to Law in the parliament without deleting any changes.

BEC's Stand on Reforms: It was the BEC which took huge risk of failure as it had pressed for time to complete essential reform and holding election within the time frame that it had set out. High risk was taken to introduce photo electoral roll and digitized the massive data with very little knowhow to start with. The failure of this venture could have jeopardized the entire election process and plunging the country into political uncertainty.

Actors

It is established beyond doubt that there have to be catalysts for any

kind of change in any part of society, more so in political or electoral system. These catalysts can be from any part of the society or society as a whole. These catalysts or actors were active throughout who harbingered the electoral reform that was initiated in 2007-08. The electoral reform did not remain limited with the electoral process only but initiated some changes in political spectrum and electoral behaviour. Be it as it may, some of the actors who played prominent part for bringing the need for reform home are discussed below;

Political Parties: Political parties are essential institutions of a democratic society. Their growth is through the participation of the people directly or indirectly. These institutions are based on ideals which is propagated through agenda and implemented when in power. Election is the only legitimate means to secure power through peoples legitimate votes. Unless fair, free and transparent elections are held it is difficult for parties aspiring to replace the party in power. Therefore, it is essential that the EMB creates an even field for all participating parties. Therefore, it is fair to assume that it is political parties who should be the main vehicle for change in the electoral system to make the system more responsive to the changing electoral atmosphere. But it is not always so. Not only in politically low cultured country but long practicing democratic countries like India, political parties have hardly supported electoral reforms as because Indian politicians irrespective of parties felt no pressure either from public nor from civil society or they experienced political crises because of skewed electoral system.

In Bangladesh, where democracy had not taken a firm root and except couple of big parties who alternate in power, no political party ever ventured into the reforms as long as it suited them. Partisan view persisted as long as parties felt they could reap the benefit in one way or the other maintaining 'status quo'. Party in power never initiated any electoral reform as the status quo. suited them. On the other hand parties in opposition accepted the distortion as long as it could outplay the other in the game of skewing rules in their favour. But for last half a decade the opposition led by AL realised that the system has been so much distorted, along with

totally politicized BEC, it would be difficult to expect minimum fair game especially with the manipulated electoral roll.

Having realized the need for reform and mounting public and pressure from civil society, AL, as opposition party, for the first time tabled a bill for electoral reform in the National Assembly and was turned down by ruling BNP. Subsequently AL chartered its 23 point reform of Election Commission and electoral system and took it to the public for support. The AL manifesto for reform then was supported by the 14 party alliances. Major issues for reform included, appointment of EC, independence BEC secretariat, reform of electoral law, transparency in voter list preparation, transparent ballot box and voting right for Non-Resident Bangladeshis (NRB).

For the first time AL and other parties demanded a photo voter roll for accuracy and transparency, (The daily Star May 22, 2006) registration of political parties, inner party democracy, introduction of Electronic Voting Machine (EVM) (AL Newsletter Vol. 5, No. 4, July 2006). The opposition demand for such wide ranging electoral reform caught the imagination of the larger section of the public of all walks of life that included larger section of ruling coalition supporters. The field was thus set for the electoral reform.

Civil Society: There are flurry of definitions of the civil society. However to define the term, 'it is composed of the totality of voluntary civic and social organizations and institutions that form the basis of a functioning society as opposed to the force-backed structures of a *state* (regardless of that state's political system) and commercial institutions of the *market*. Civil society may include groups and individuals from every walk of life not directly part of the government.

Many researchers and political writers have linked activities of civil society with the democratisation, making society aware of the democratic practice, forms public opinion on the democratic institutions, changes and reforms required and acts as watchdog on behalf of the common citizenry.

They argued that the political element of many civil societies

facilitates better awareness and a more informed Public, who make better voting choices, participate in politics, and hold government more accountable as a result (Almond and Verba). The statutes of these organizations have often been considered micro-constitutions because they accustom participants to the formalities of democratic decision making. It is the vibrant civil society that can work as actor for change and help forming informed opinion in public who can strengthen the weight of the civil society.

Over the last two decades there has been astounding growth of vibrant civil society in the country. They have played and continue to play important public awareness role in sectors connected with democracy, political and electoral reforms, governance, gender issue many such matters. SHUJN, CPD, BILIA Transparency International (TI) and few others who continuously made public aware of the need for electoral reforms to lay a solid foundation for sustainable democracy through seminars, workshops, using media and with direct public contact throughout the period over last decade. These organizations set well researched agenda for such reform and communicated with the people through direct and indirect contact before setting final sets of recommendation for the reform.

These organizations not only set their recommendations but set them into circulation for public consumption through media. Many of the members of these organizations and members of the public went public with suggestions. These included issues like selection of clean imaged candidates by political parties, accurate voter registration, reforms of the electoral law, check on the use of black money in election, structural reform of the Election Commission and political party registration for making political parties answerable to the people through the law. This pressure group of the civil society not only increased public awareness but succeeded in pressurising political parties to accept the notion of electoral reform. These were unprecedented development in the country that forced all stakeholders to accept the electoral reform brought about in 2007-08.

Media: Over the years Bangladeshi media, both electronic and print, enjoyed a vibrant growth along with its dynamism in creating public awareness on issue of governance. Media not only reflected the democratic aspiration of the nation but played significant role in shaping the political arena to a great extent. It became a great agent for creating pressure on politicians for accepting change. In that ambit media landed a great support for electoral reform through its editorial and subeditorial in print media in particular. Some of the leading dailies had arranged number of seminars and workshop exclusively on electoral reform. Proceedings were recorded with follow up recommendations. These were great help in prioritizing the agendas for reform. On the other hand, steady growth of electronic media could draw attention of the citizen on issues like good governance, need for electoral reform and support to the strong democratic institutions through 'talk show' and news analysis. This relentless support from the media facilitated the electoral reforms initiated by the BEC in 2007-08.

NCG of 2007: First NCG of 2006-07 under then President Iajuddin Ahmed missed the opportunity of electoral reform that was being asked for through the public and political party demand before the scheduled election on January 22, 2007. NCG under the then President was perceived to be partisan and rightly so had endeavour to protect the partisan interest of the outgoing government led by BNP. Then BEC, under Justice MA Aziz, acted as adjunct to the BNP and acted in consonance with the NCG. Cases in point were rejection of court directive on the electoral roll. All these resulted in resignation of three prominent advisers and growing rage against then CEC who had to be forced out. These actions were calamitous. In this backdrop emergency was declared on January 11, 2007 and new NCG under Dr. Fakhruddin Ahmed was installed.

One of the first task that second NCG under-took was to reconstitute the BEC with new faces having much cleaner image and public acceptance. Soon the BEC was tasked to suggest the much desired electoral reforms. A gestation period of almost two years period was available to complete the electoral reforms to bring back the public confidence on to the institution and the electoral system

BEC: As first step NCG reconstituted the BEC. BEC of 2007 with Dr. ATM Shamsul Huda, an ex-civil servant as CEC; Mr. Sohul Hussain an ex-judiciary service holder and M. Sakhawat Hussain an ex-defense officer with military and civil society background as ECs was put in place. This was for the first time in the history of the country that BEC constituted persons with varied experience and from different background. By February 14th 2007 appointment of new BEC was completed.

As soon as reconstitution completed the BEC set priority of tasks. It had its hand full with agenda as the BEC decided to undertake overhaul the EMB and the electoral system. But first and foremost was to restore the public confidence on the institution through positive measures taken as way forward to re-establish the democracy and reduce the political confrontation that developed over the electoral system. The BEC right from the beginning started looking at the suggestions it received from political parties, civil society and the public expressed through various media. It set the priority and had to calculate time required for completing the basic reforms before scheduling 9th Parliamentary Elections. As part of the reform the BEC decided to prepare a fresh electoral roll and decided to digitize the process. Thus the concept of photo electoral roll developed and much demanded National Identity Card (NID) was integrated with photo voter roll as the project concept was being developed by NCG.

The other essential tasks were identified and time line was worked out to complete in phases. It was then decided that minimum could be achieved by the end of 2008. These were challenging tasks especially the photo electoral roll the concept being new and by then only 12 countries around the world had tried and partially succeeded. None of these countries had number of voters of the magnitude that Bangladesh had to enroll. India was still labouring with the idea though their project started 5 years earlier. After several rounds of consultation with civil society and senior media personnel the BEC announced a road map to election and launched the preparation of photo electoral roll with the help of Bangladesh Army.

By then slowly but steadily, public confidence was being built up. To establish direct contact with people to regain the lost confidence on the institution Election Commissioners under took massive contact with the people throughout the country. Media played a significant role throughout the period of reform. As time passed the BEC became the focal point of the nation and prim-mover of the reforms undertaken. Within the period several independent surveys were carried to gauge the public perception on the BEC by International Republican Institute (IRI), Election Working Group (EWG) with the support of Asia foundation and BRAC University from May 2008 to December 2008. The result showed that in May 2008 the approval rating of public confidence on the BEC was 76.3 percent 'lot of confidence/trust' and it rose to 87.3 percent in December 2008 (Survey IRI :2009).

International Pressure Group/donours: Other than domestic pressure group for electoral reform international organizations like UNDP, IRI, NDI and EU had huge interest to see that electoral reform is completed before 9th Parliamentary Election as donour countries and organizations supported the effort of the BEC as they placed unprecedented support and assistance in the process. For example the donour assisted the registration of photo electoral roll with USD 53 million out of total project cost of USD 82 million and coordinated by UNDP. This amount was outright donation to the BEC in its effort for electoral reform.

NGO: A group of 16 NGOs who were part of EWG funded by Asia Foundation played a cooperative role in support of the reform by arousing public perception and voter education in support throughout the reform process. They produced important input into the process of electoral reform throughout period of 2007-08.

There has to be few catalysts those who would ring the bell for electoral change to establish a sustainable democracy even if a country is struggling to smooth path of democracy. Elections are proven first steps towards laying solid foundation of democracy. There has never been an occasion in the past where so many actors played such important role to pressurize the politicians to accept the

electoral reform to ensure true translation of the votes so sacred to the voters. There was no evidence in the past when politicians have been willing to accept the change or play lead role in suggesting them. There were no effort in the past to make the BEC a prime-institution to deliver what was expected o them. In short it was willingness of all the major actors, as some of them mentioned in the Chapter, that eased the difficult path that had be negotiated by the BEC.

Among all factors that were discussed in this Chapter, democratic aspirations were the strongest and most significant predictors of the subsequent adoption of electoral reforms. The discussion of the factors proved that democratic aspirations proved stronger predictors of reform than levels of economic or human development, in case of Bangladesh. Even when Bangladeshi people had to toil in life they maintained democratic aspiration alive. In countries, where democratic aspirations among the public were high, even a country like Bangladesh had a poor record of democratic performance, this combination proved strongly to predict subsequent electoral reforms than all other factors. Yet the fact remain that had the gestation period not been offered and strong presence of other factors, as briefly discussed, the achievement could not have been there in such a little time.

However, the foregoing Chapter would further facilitate in understanding the ambience that was created to take the tough and difficult journey by the BEC within the dateline fixed.