

then BEC but executive failure and inadequate planning turned the project into failure.

One of the reasons of past failures could be attributed to obscure methodology for bringing reforms. Past attempts failed mainly because reforms were non-participatory. Stakeholders disowned efforts of reform howsoever basic those were.

From the analysis of the reforms efforts of past years clearly showed the importance of public and civil society pressure in support of electoral reform. Political parties did not feel any pressure on them to accept the reform effort those were initiated particularly during the successive NCGs. Lack of BEC resolve is also one of the leading factors in realising the intended electoral reform. However, past failures produced enough for institutional learning and formed basis for future reforms.

Chapter 7

Electoral Reforms: 2007-2008

Tumultuous political conundrum that started at the end of 2005 and beginning of 2006 over the probable appointment of Justice KM. Hassan as NCG head became initial cause but soon it engulfed the electoral process and the BEC. Along with the political contestation for power between two rival political groups led by the then opposition party AL and the ruling group led by BNP, the NCG and allegation of probable skewing electoral process under, having dubbed as partisan, CEC Aziz Commission became the focal point of street agitation. The political impasse thus created over these two issues continued to dominate the political agitation almost year preceding Ninth Parliamentary election which was to be held on January 22, 2007. But as opposition demands were ignored by the ruling alliance along with violent street agitation demand for electoral reform including the reform of BEC became stronger and stronger. Street agitation was closely intertwined with issues of confidence in the BEC and the quality of the voter lists as this paper has already pointed out in earlier Chapters. BEC either failed to address the major issues or they acted as partisan body and ignored not only political party demand but public pressure for major electoral reform before any credible elections to be held.

Partisan behaviour or ineptness led to demands for the BEC's resignation and to plummeting public confidence in its ability to conduct a fair election. Concerns that the election administration might be politicized were heightened by bureaucratic arrangements under which the Election Commission Secretariat (ECS) fell, organizationally under the purview of the Prime Minister's Office, rather than under the BEC, and hundreds of civil servants appointed by the outgoing government would occupy key electoral positions

such as RO. Demand for independent BEC secretariat went into public domain. Opposition and the civil society were in unison for electoral reform before ninth parliamentary elections are held. The impasse led to the promulgation of emergency on January 11, 2007 and ninth parliamentary election was deferred with induction of new NCG under emergency.

Under the emergency BEC was reconstituted with induction of new commission to replace much discredited Commission under justice Aziz. Soon the new election commission set to assess the prevailing electoral environment.

The electoral environment, over the years, was undermined by the prevalence of "black money" and "muscle power," two interlinked problems that were widely considered endemic to politics and electoral process. According to numerous studies by civil society and experts, the use of "black money" was pervasive in election campaigns, corrupting candidates, parties and voters. This issue was compounded by the reportedly widespread problem of "muscle," which refers to the use of intimidation, force or violence in election campaigns. Much of the political violence emanating from street agitation was reported to be attributable to deliberate use of "muscle" rather than to spontaneous outbreaks. Money and muscle combined to corrupt significant elements of the political process, pushing them into the realm of criminality. The other issue that was closely assessed was the state of 'electoral roll' by which the entire electoral process could be undermined.

In the above backdrop the BEC under Dr. ATM Shamsul Huda initiated a massive electoral reform within given frame of two years before meaningful elections could be held. A 'road map' or time frame was issued for public consumption. The time frame was approved and electoral reform was actively supported by the NCG. Finally election was held to ninth Parliament on December 29, 2008 under reformed electoral process. Both the reform and its results were hailed nationally and internationally. Road map to election 2008 is at Annexure H.

Areas of Reform: Key electoral issues were identified such as electoral participation and representation, delimitation of constituencies, voter registration, registration of political parties, structural reform of election commission and improving electoral integrity etc were identified as areas of reform. These issues are then grouped into broad categories requiring overall reforms. These main categories had sub-divisions. However, main categories were:

- Preparation and maintenance of accurate electoral roll
- Review and reform of electoral law
- Structural reform of BEC

Preparation of digitized Electoral Roll: One of the major issues of controversy was the doubtful accuracy of the voter list or electoral roll that was discussed in detail in Chapter 2 of this book. It was then identified by national and international expert group that the electoral roll so far prepared had 1.2 million fake voters. It was one of the main allegations against ruling BNP made by the opposition which was one of the main causes of virulent political confrontation claiming 17 lives of political activists. The controversy over the existing electoral roll caught the imagination of the public and pressure from public and the civil society grew to make a fresh electoral roll in first place. Accuracy and authenticity was the key consideration of BEC while embarking upon preparation of new electoral roll. There were surmounting demand to prepare a database for the voters.

BEC analyzed the entire issue and it was decided that the old methodology had to be changed to achieve accuracy which would involve headcount. In that voter listing system had to be changed from 'passive' to 'active'.

The idea of digitized photo electoral roll was conceptualized by BEC with the technical help from experts within the country that included Bangladesh Armed Forces. It was the most modern method of preparation, preservation and multiple use of digitized data of the electoral roll. A study of the system and its success and failure in few countries, those who ventured, was made to assess the reasons

why voters were apathetical to the system to start with in those countries.

The methodology that was worked out by the BEC with the help of local technical experts called for voluntary participation of the voters to change the registration system from 'voter passive' to voter active'. In that, after initial door to door enumeration, voters had to appear before the camera and bio-matrix instrument integrated with laptop computer. It was not easy to change the system and voters habit.

One single motivational factor for changing the voter habit from 'passive participation to active participation' was issuance of National ID to each voter. The incentives behind obtaining national ID were announced and that motivated the voters more than becoming a simple voter. Decision of introducing ID card was vital to the success of the project within specified period. Bangladeshis had never before had an official identification document and the opportunity to obtain a National ID that became a powerful incentive to register.

One of the most significant and far reaching innovations of the 2007-08 electoral reform was the decision to create a digitized photo electoral roll or, in simpler terms, voter lists that included photographs of each of Bangladesh's 8,10,58,698 eligible voters as against roughly 91 million voters enumerated in 2005-06.

In terms of accuracy digitized electoral roll had proven to be the most accurate electoral roll not only of the region but could be compared with any developed country's electoral roll.

In an UNDP initiated survey carried out, IFES found that 99 percent of the eligible voters were enrolled in the process and more than 95 percent were accurate except typing errors.

Logistics for digitized Photo Voter Roll: This process of registration was a logistical nightmare for BEC. Enormity of the logistics were beyond comprehension unless a meticulous plan was put in place. The process required to purchase 10,050 laptop, 12000 fingerprint scanners, 3290 generator, 9004 web camera, 590 server desk top,

had to appoint 482,880 enumerators, 104,025 data entry operators, 62,000 supervisor, 6,000 officers and 15,000 members of armed forces. The entire operation was supported by 700 helicopter flying hours; 24 million sheets of paper used which produced 2.2 million bound books of final electoral roll for election purpose. Never before such massive mobilization of man and machine took place in the preparation of any voter list by BEC in the past.

Positive Impact was observed on the electoral process of digitized photo electoral roll. Such accurate voter list that provided definitive identification of each voter photo electoral roll, eliminated chances of fake voting. It enhanced voting integrity ever than before. It positively increased accountability of polling and presiding officers as each voter is identifiable and without connivance of polling staff fake voting or ballot stuffing is made next to impossible. Duplicate voting is easily detectable and has reduced to almost nil, which was one of the biggest drawbacks in previous method.

It was not an easy task but was executed with lots of precision work. The entire project was handled with diligent by the election commission and superbly executed by Bangladesh Armed Forces. One must take note that the entire operation was not only complicated being unique in nature but were full of challenges that Election Commission had to face.

Since the introduction of the photo electoral roll and elections held thereafter, including, national election of 2008 there were hardly any complain of fake voting.

Apart from introduction of most modern concept of electoral roll the law also made a drastic change in updating system. It introduced annual updating of voter list instead of irregular and unspecified periodical updating.

A national data base has been created through this system.

Preparation of National ID card and issuance to voters not only enhanced dignity of poorer section of citizen but its proven to be a contributing factor in good governance.

Introduction of national ID card and digitized photo electoral roll is considered a revolution in electoral reform not only in Bangladesh but in the entire region. It became a model for other developing countries to follow.

Electoral Law 2009: The Ordinance that was promulgated in 2007 under which the preparation of digitized electoral roll was legalized and given legitimacy by the ninth parliament on 24th February 2009 replacing the Electoral Roll Ordinance no LXI of 1982. The law made the provision of annual updating in each January in every calendar year. Since introduction in 2008 first updating was completed by March 2009.

Updating includes enlistment of new voters, deleting deceased voters from the list and legitimate transfer of voters on demand. The law makes it a punishable offence to enroll single voter more than once in a legitimate place.

Electoral Roll Rules 2008: In pursuance of Article 16 of the Electoral Law BEC enacted the Rules that envisaged among other rules, the step by step procedure for the preparation of the digitized photo electoral law. The rule contains all the forms needed. All the forms were revised in accordance with process reform.

Review and reform of electoral law

Review and Reform of the RPO-1972: One of the initial tasks of the electoral reform that newly constituted BEC undertook in parallel with the other was review of the main electoral law to bring reforms with the aim to conduct a transparent, free and fair election. Following objectives were set:

Expand disqualification of candidates to help assist political parties to select relatively cleaner candidates

Improvement in the nomination process

Improving conduct of election

Quick settlement of election disputes

Mandatory registration of political parties

Reduce the influence of 'money' and 'muscle' in the electoral process by reforming code of conduct and strict observance of election expenditure

Strengthening the BEC in implementing the code of conduct and the electoral law

Public pressure for Electoral Reform: With the growing political unrest after every election over the issue of transparency there has been steady growth of public pressure for electoral reforms. Civil society and the media became the chief instruments to create public pressure both on political institution, government and on the BEC. The combined pressure made political parties to lend their support to the demand especially parties outside the power block. Proceedings of workshop, seminar, and expert opinion printed in newspapers, editorials and talk shows on the subject telecasted by the electronic media had put impetus on the BEC. With the time and space available after installation of the 2007-08 NCG provided the BEC with necessary window of opportunity for such reforms. Most important factors other than those discussed were the willingness of the BEC to accept the reform agenda in earnest.

Methodology Adopted for Legal Reforms. With this background and in absence of set institution for electoral reform as practiced in most of the democratic countries, the BEC set its own course to handle the issue of reform directly with the NCG and opted to adopt a participatory mode with the main stakeholders, political parties. The methodology that the BEC espoused was:

- Review and analysis of elections held since 1991
- Institutional memory and review of existing laws and regulations
- Review of observations, documents available with the BEC
- Review and analysis of final papers produced by few civil society organizations
- Participation of stakeholders before final adoption of reform proposal

Analyzed and following the discussed methodology a total of 30 major and minor amendments were brought. Apart from these amendments entire Chapter VIA which was inserted in 2001 was replaced by new Chapter VIA 'Registration of the Political Parties with the Commission.' The Article 91E was introduced which gave BEC the power of cancellation of candidature for gross violation of the law or resorting to violence any time during entire electoral process. The major area of reform is highlighted below with brief rational for reform of major articles:

Article 8, Change of Polling Stations: Change was brought in as regards to finalization of the polling stations. Sub-clause (1) was changed and the control of maintaining the list was kept within the domain of the BEC. It was experienced that the Commission had no authority finalizing polling station other than the returning officer and unscrupulous returning officers would either had to succumb to the pressure of powerful political personality for change or changed to favour a particular candidate.

Sub-clause (2) modified in that the time period for registering public objection on the provisional list of polling center was increased from 15 to 25 days so that more time was available to consider public objections on the location of such polling station by the Election Commission.

Sub-clause (5) was inserted new in which the BEC was provided with power to change any polling station even after publication of gazette, if it is proved that a particular polling station 'belongs to, or under control of any candidate'.

Rational for reform of the Article: Changes in the Article and the sub-clauses were brought after deliberation and past experiences. Past experience revealed that there were numerous instances in that unscrupulous returning officers either succumb to the pressure of the local influential political leaders in selecting or shifting polling stations at will. There were instances where polling stations were changed on the day before actual polling day to favour candidates or local leaders. These abrupt changes made voters confused that usually resulted into low turnout which then facilitated rigging or

led to capture the polling station. It was felt that this was one the factors of using muscle for booth capturing. Prior to reform of this article the Election Commission had no control over finalizing or changing the polling booth. Reform of this Article ensured that authority.

Article 12, Disqualification: This Article of the RPO is the most important Clause of the RPO as it sets the parameter to be elected and to remain a member. Article 12(1) says in the provision, 'a person shall be disqualified from being elected as and from being member' (Substituted by ordinance No. L of 1978, for former provision). The interpretation is that the sub-clauses under which a person is disqualified during the scrutiny of the nomination papers, the same disqualification remains in vogue even if someone is elected under any other circumstances.

A case in point is the disqualification of Major (Retd) Jashimuddin who was elected from Bhola-3 constituency in 2008. His candidature was cancelled by the court on the issue that he was not qualified to be a candidate for election in the first place. Few more such cases are pending before the court.

However, new sub-sub-clauses were added while carrying out reform to expand the disqualifications. Some of the important inclusions are:

Sub-sub-clause (a) makes it mandatory 'to be a voter in any constituency'.

Rationale: It was experienced that since there was no such bar on being a candidate, charge sheeted goons and criminals in hiding or from underground could contest election without being a voter. Inclusion of this sub-clause secluded such criminals wanted by the law. This measure also minimized the use of muscle-men, underground element and reduced violence to a great extent. Apart from these causes it defies logic that a person himself not being voter of the country would represent voters of any constituency.

Sub-sub Clause (b) a new insertion which restricts candidate nomination by the registered political party only, except independent candidates.

Rationale: It was experienced in previous elections that since there was no restriction on parties participating in elections there were mushroom growth of non-serious political parties those would trade nominations and put up 'dummy candidates'.

There were instances where in the 8th Parliamentary election a single constituency had 26 candidates, most of them being 'dummy candidates', space and other facilities had to be provided in each booth for 26 polling agents most of whom were traded for candidates of major parties. Such situation creates serious administrative and law and order problem. In many occasions 'musclemen' were hired by the 'dummy candidates' as polling agents either to intimidate voters or aiding in 'booth capture'.

Mandatory political party registration, subject to fulfilling prescribed conditions, election had been made limited within those parties the problem of growth of spurious parties could be checked and discipline could be brought back inside the polling booths. However, exception is made for independent candidate whose qualification has been made conditional.

This sub-clause also reduces filing of nomination by 'dummy candidates', makes it difficult of trading polling agents and other facilities for particular candidates.

Sub-sub Clause (f) it restricts 'any government or statutory public authority ex-service holders' from contesting election unless three clear years passed since retirement or resignation. Sub-Sub Clause (h) has similar restriction for persons having had continuous contractual service and sub-sub Clause (i) similarly restricts officers holding executive post of any foreign aided NGO.

Rationale: This sub-sub Clause is the result of the public, media and civil society pressure that was created as part of electoral reform. There were instances in the past in that members of the judiciary, top civil-military bureaucrats, while in service, expressed their desire to contest election to gain favour from political parties willing to accept them as assured candidates. There were also instances where these personalities, while in service, cultivating own

constituencies with motive to seek election soon after retirement or resignation. There has been pressure and opinion formed restricting executives of foreign aided NGOs seeking election.

Sub-sub Clause (j) binds registered political parties to nominate a candidate who has not been a registered member with that party for three years. However a proviso relaxed the condition of the count of three to start from the date of first registration with the commission.

Rationale: This sub-sub Clause is to eliminate possibility of alleged trading of nomination to individual who seeks nomination without being politically involved with party for considerable time. The Clause also puts political parties in binding to maintain details of the party members. The Clause also augments with sub-Clauses (f), (h) and (i).

Sub-sub Clause (n): It debar a person to be a candidate if he has outstanding government utility bills like electricity, telephone, water and gas. Under this sub-sub Clause a candidate has to clear his government service bills at least 7 days before submitting the nomination paper.

Rationale: There was mounting public and civil society pressure for such inclusion in the electoral process reform to find candidates with cleaner image. In the past, candidates contesting elections including ex-ministers, Members of the Parliaments had huge outstanding bills behind them. Some of these bills remained unpaid throughout the electoral process and thereafter.

Sub-sub Clause (o): this was one of the most important inclusions in the disqualification Article in which 'war criminals convicted by international court or Tribunal' has been debarred from seeking nomination for contesting election.

Clause 3 (a): deals with the additional requirement to be an independent candidate in that such person has to attach with nomination paper a list of signature of one percent voters of that particular constituency in support of his or her candidature. However, this condition does not apply for a person who had been elected earlier.

Rationale: This reform was made to reduce putting up dummy candidates by other candidates.

Clause 3 (b): a party nominee has to mention in the nomination paper his status either a party nominee or independent and not allowed to switch any time before finally declared by the party through a certificate from party secretary or the chairperson or by whatever name they may be called.

Rationale: Clause 3 (b) was added with the aim to reduce chaos when political parties finally select to support a candidate if more than one had filed nomination during that process. Past experience and study had shown that during withdrawal phase normally a chaotic situation is created by renegade members turning to independent candidates. This kind of situation has in the past generated violence among the groups affecting the smooth electoral process. The other rationale was to protect the decision of the registered political parties so that parties can enhance internal discipline.

Clause (3b): one of the most desired reforms of the law was brought changes in the nomination paper. For years civil society has been demanding that the candidates must declare their personal information in the line like that of India but the demand was rejected by the political parties and BEC and the previous NCGs. Ultimately Public Interest Litigation was filed with the High Court. High Court in its verdict made information on 8 points mandatory to be revealed to the voters through an affidavit on May 24, 2005 but Appellate Division of the Supreme Court stayed the order on an appeal made by then government. Ultimately the stay was vacated and the verdict of the High Court was upheld by the Appellate Division and directed the BEC to implement the court order.

On being directed and having analyzed the Indian experience, the BEC decided to include the court verdict as part of the electoral law reform. These 8 disclosures which must be submitted with the nomination paper in the form of affidavit under the Clause are:

Certified true copy of highest educational qualification
Whether at present is accused of any criminal case or not
Past criminal record and the judgment of the cases if any
Description of his profession or business

Probable source of income

A statement of property or debt of his own or his dependents

Promises he made in previous campaign and result

Amount of bank loan as individual or of any of his dependent, if any, repayment schedule individual or on behalf of any company or business house either as partner or owner or shareholder

Rationale: These disclosures are part of right to information of the voters about candidates to help make a considerate decision to choose better representative. BEC was made responsible to disseminate these disclosure to the voters by means those are appropriate.

Article 13A (1): This Article previously allowed a single candidate to contest from five constituencies at a time. There was demand from public and the civil society to reduce the number to maximum two but due to the constitutional obligation the number has been reduced to three constituencies.

Rationale: Having studied the regional practice it was observed that it was only in Bangladesh that one candidate could contest in as many as five constituencies at a time. This gave rise to nomination in bye elections to some candidates who would otherwise been known to be a weak candidates in comparison to other. What was experienced in the past that mostly the top leaders of major parties would contest from maximum seats and then leave the most secured constituencies for bye election. It was considered by the knowledgeable public and experts depriving voters from their chosen representative that they originally voted for. The reform also reduced the enormous logistical and administrative difficulties previously faced to conduct bye elections in as many seats as four resulting from single candidate winning in all five seats.

Article 14 Sub Clause (5) deals with the appeal to the Commission by aggrieved candidates and their rivals. The new amendment included 'appeal against the acceptance of another candidate or bank aggrieved by the decision of the Returning Officers decision of acceptance of nomination of a candidate who would otherwise be disqualified under Article 12 (1).

Rationale: Prior to this reform there lied no appeal against acceptance by the Returning Officers even if there were evidence that the candidate was otherwise disqualified under the law. There were such examples where Returning Officers accepted such candidates in spite of objection raised by bank being loan defaulter or stood disqualified under other Clauses as Returning Officers decision was final. Only remedy was Election Tribunal once the process was over. Few such candidates were elected in the past as the Commission had no power to hear any appeal before the process was complete. This reform provided remedy against Returning Officer's miscarriage of judgment.

Chapter III A- Election Expenses: One of the objectives of the law reform was to bring some discipline in lawful and not so lawful 'use of money' in elections. Therefore, taking into account of previous experience it was decided to take some stringent measure to reduce the use of money by the candidates. Apart from putting ban on some extravagant and lavish expenditure new rules were made. However, with other stringent measures it was felt that the ceiling of expenditure by the candidates and the party had to be raised keeping in view voter numbers and the price hike of campaign materiel. Accordingly some Articles under this chapter were reformed.

Article 44AA (1): Reform made to this Article which was inserted in 1991 concerns with the submission of sources and probable expenditure of the amount prescribed, it was Taka 5 lac which was raised to maximum of Taka 15 lac to be calculated per voter basis of the constituency or constituencies' candidate is contesting from. The new reform made it compulsory for candidates to provide with the detailed account of sources of the allowable expenditure with an estimated expenditure, indicating such field, with the nomination

paper instead 'within seven days following the withdrawal day' of nomination paper (Article 44AA(1) of RPO-1972 last modified August 8 1991).

Article 44C (1) prescribes thirty days within which every contesting candidates must submit the detailed expenditure reports to the respective retuning officers filing which necessary case would be initiated against the defaulters. In case of an elected member, wrong declaration of expenditure could tantamount to cancellation of the membership.

Chapter VIA Registration of Political Parties with the Commission. of the main features and the achievement of the electoral reform was mandatory registration of the political parties with the Election Commission willing to participate in national Assembly Elections. This could be one of the turning points in introducing, first time ever, inner party democracy and discipline by mandatory registration of the parties under stringent conditions.

Under this Chapter there are 9 Articles which details the condition for registration, compliance to fulfill and qualification for the party registration. The act also empowers the Election Commission to cancel through established process the party registration if subsequently any party does not comply with the requirement set in. The detail of this Chapter is at Annexure I.

Rational. There has been constant public pressure to bring some kind of accountability for the political parties. There were tremendous pressure created by the public inner party democracy and financial transparency. It was under these pressures, the reform agenda of the NCG 2007-08 and strong determination of BEC that this vital reform was made possible. This was also the first time that main opposition political alliance had included political party registration in their agenda of electoral reform. All these combined pressure and willingness of the major political parties made this difficult task possible. The conditions, compliance, qualification for party registration are the unique feature of this Chapter, in comparison with in the region and beyond, makes it a sample for

other countries to study. However, there had been a previous attempt, as discussed in this paper, but it failed and the proposal was diluted under the pressure from same political parties who had supported 2007-08 the reform package.

Article 91E. This article and its 5 Sub-Clauses there after provides the Election Commission with necessary power, subject to investigation upon allegations, to cancel the candidature of any contesting candidate for gross violation of any act or rules under this act 'either directly or indirectly by himself or by his agent or on behalf of him' committing gross violation or attempt to violet' any provision or rules under this act.

This provision was vehemently opposed during 2001 limited reform of RPO thus it was abandoned. This article was also opposed in 2007-08 by major political parties and pressure was brought unto the Commission not to pursue so much so that BNP had made it one of their precondition for participating in 9th Parliamentary election under NCG but due to resolute stand BEC made this Article a non-negotiable part of reform. It survived the test of Parliament as the ruling alliance reconciled realising that unless such power is vested on BEC it would be difficult for BEC to implement the Act and Rules of the conduct of election. However, the act provides also components which prevents from misuse of this power by the Election Commission.

Rational. From the previous experience it was evident that BEC was unable to implement most of the Act, Rules and regulation without having such power which would act as deterrent and it did. There were instances during past elections that BEC could not take any instant action against any candidate even when they grossly violated the law during the election process.

Other Reforms in RPO. There were other reforms brought to create a field for better election management, creating a level playing field, minimising use of other then allowed, reducing use of muscle power. To reduce expenditure following prohibitions were added in Clause 44B (3A):

- Printing poster bigger than prescribed by the Commission
- Erection of arches, gates and any kind of barricades
- Printing poster more than one colour
- Using more than three microphones or loudspeakers
- Setting up more than one campaign office or camp in one union or ward more than one central office in one constituency
- Entertaining electors in any manner
- Hiring conveyance to transport eyance to transport
- Illumination by using electricity
- Using ink or painting in any manner for advertising or campaigning
- Operating any camp on the day of polling [(Article 44B (3A) RPO-1972 (amended in 2008)].

These were then again prohibited in the Code of Conduct Rule.

Offences and Punishment. Other then election expands few changes were brought to the offences and punishment Clauses.

Rational. These were recast in consonance with gravity of the offences.

Time to resolve the election dispute has been fixed to six months [Article 72(3) RPO-1972 (amended in 2008)] so that disputes could be settled within the tenure of the parliament.

The previous experienced showed that since the election dispute settlement period was left at the discretion of the court set up under the law few of the important dispute took entire period of Parliament tenure. A case in point, the judgment of High Court election dispute between Allama Delwar Husain Saeedy of Pirozpur-1 constituency and Mr. Shudhansu Shekhar Haldar of the same constituency over alleged electoral corruption in election held in 2001 The judgment though went in favour of Mr. Haldar, the plaintiff declaring him as winner against Allama Saeedy who had moved to appellate division but the judgment never came even after the prorogation of the Parliament and Mr. Haldar did not see to live the end of the case.

Rules. Among Rules important few, those were reformed, briefly mentioned below:

Photo Electoral Roll Rules 2008: It contains the procedure for enumeration and preparation and detail process of digitised photo electoral roll (Voter List Rules 2008)

Code of Conduct Rule for Political Parties and the Candidates 2008. This was the most important of the Rules which ensures the behaviour of the Party and the candidates during the entire election process particularly the conduct of the campaign. The Rule has been freshly drawn as part of the entire reform processes. The Code of Conduct Rule aimed at reducing expenditure, violence and to bring discipline in the campaign. The Rule has the provision for punishment for the violators that includes imprisonment to cancellation of the candidature. Apart from the negative list of Article 44B (3A), some of the important feature which had brought astounding change in the campaign process and in the campaign culture. Some of these Rules are:

- Forbidding pasting posters any where except hoardings or hanging
- Forbidding use of any electrical gadget, loudspeaker, TV, VCR, Tape
- Recorders etc in Campaign offices
- So-called showdown of any kind during campaign
- So-called showdown while submitting nomination papers; only five
- persons allowed to accompany the candidate or his agent
- Forbidding vehicular procession
- Use of two vehicles during the campaign period
- Posters to be black and white and not to display any other photograph
- Except of the candidate

- Forbidding any kind of entertainment or provision of any gift for the electors within the camp or anywhere during any period of election process
- Forbidding wall writing for the purpose of campaign
- Forbidding use of provocative language against opponent or any group
- Forbidding use of worshipping places for campaign
- Forbidding use of government, semi government staff or any equipment
- For campaign or during election period

Other Reforms on Conduct of Election: There has been some minor changes, but proved to be significant, brought in polling station based counting an instantaneous announcement of the polling center based results and handing over the result sheet to the polling agents, in the counting and recording process.

Changes were also brought to the acts related to ballot box as the traditional steel boxes were replaced by international standard translucent boxes.

These and other small but significant changes added to the transparent, free and fair and credible election.

Development of BEC Infrastructure: Apart from reforming electoral laws one of the major achievements was independence of Election Commission Secretariat from PMO in accordance with the ordinance converting into 'Election Commission Secretariat Act, 2009'. Setting up an independent secretariat was the long standing demand to ensure total independence of the Election Commission so that no administrative link exists with the government.

Under another law Election Commission Secretariat Act, 2009 BEC has been entrusted with the charge of NID preparation, maintenance, distribution and preservation. For additional task, increased volume of electoral works including continuous updating the electoral roll, maintenance of main server at the headquarters

and server stations at upa-zilla level needed added manpower. A new organogram was made and principally approved by the government. Thus there would be significant change in the BEC infrastructure with added manpower. Annexure J,K,L and M.

BEC is also setting up sever stations in 10 regions; 53districts and 409 upa-zilla sever stations at a cost of total USD 47.28 million. These server stations would be directly linked with main database with the BEC headquarters at Dhaka thus decentralising up-dating, maintenance of electoral roll, initiation of new NID and distribution of such cards. Therefore, all these services would be at doorstep of the rural population.

Consequential Effect of the Electoral Reform 2007-08

9th Parliamentary election was held on December 29, 2008, as per the road map issued July 15, 2007 after the electoral reform as discussed above. It was the best election so far in the history of Bangladesh in all standards.

The election process was observed by several major international and regional organizations including the EU, the Commonwealth, NDI, IRI and ANFREL. Several of these organizations conducted long-term observation as well as election day monitoring. In all, some 278 international observers were deployed for the elections. In addition, there were in excess of 155,000 non-party election observers accredited by domestic organizations. In the UNDP published report it quoted from the summery of the observation and stated, "these groups generally had high praise for the election process, representing a sharp, turn-around from the situation that existed two years earlier, when domestic and international organizations withdrew their observers because they judged that conditions for democratic elections did not exist" (UNDP: 2010)

The reform brought salutary effect on the conduct of the campaign, conduct of elections and the counting system.

The new electoral roll had earned voters confidence. The voter turnout to 87 percent was evidence of the confidence. The new

photo voter roll eliminated chances of false voting as it eliminated spurious voter's name. The international observers group which included UN and EU team commented on the effectiveness of the new voter list to boost public confidence said, "the high quality of the lists was a key element in establishing public confidence in the election administration and in the integrity of the election process, and was one of the major factors leading to the success of the elections" (UNDP:2010).

The comprehensive reforms of legal instruments provided the basis for an election in line with international standards and proved to be more effective than ever before. The IRI, Election Observer Mission (EOM), stated after its long term election observation, "the reformed RPO provided a 'sound and workable framework' for the electoral process in Bangladesh'. The other observer group, EU EOM, in its final report on Bangladesh election prepared for EU Parliament noted, "the constitution and the 2008 RPO met international requirements" (UNDP:2010)

Party registration did start the process of inner party discipline and democratic system but most certainly it has initiated a long term effects on party politics particularly. The long term observers deployed by NDI noted stated "the new requirements for party registration did begin to inject some positive elements of internal democracy into party decision making practices, at least in regard to the selection of candidates, even if these newly required practices were not always respected" (NDI:2009 :10).

The code of conduct had changed the campaign culture of elections in Bangladesh. It not only changed campaign culture for Parliamentary election but it had similar effect on subsequent local elections. Violence, use of muscle power and excessive money has reduced to greater extend. For example till Chittagong City Corporation elections no pre-poll or post poll violence have been reported and no loss of life so far been reported during and after elections held to upa-zilla, City corporation elections and few bye elections to national assembly seats conducted so far.

Be it as it may, in short, the electoral reform effort undertaken from 2007-2008 sought to address systematically the deficiencies observed in the elections. These deficiencies were well known. BEC benefited from many studies, recommendations and reform proposals those were put forward by civil society, political parties, academics and the media. The NGC and the BEC were successful in no small part because they took a comprehensive rather than piecemeal approach to electoral reform, to meet the major deficiencies observed in the past.

These reforms were participatory. All most all the stakeholders had their willingness for reform and contributed to make reforms successful there, it can safely be said that electoral reforms brought in 2007-08 will have long lasting positive effect on election process in Bangladesh

The consequences of the reforms not only brought significant changes in the Bangladeshi Electoral System to great extent rather many countries including ECI and ECN had had close look at the some of the provisions of the law to include in their reform proposal. India of the for example is including the provision of opening separate election account by the candidates before submission of nomination paper. Nepal is changing their electoral roll to photo electoral roll with some assistance from BEC.

Confidence Building – the Consultative Methodology

The BEC that took office in February 2007 it inherited a situation with past legacy where public confidence on the Election Commission seriously eroded to an extent that it was difficult to make believe that BEC could ever administer a free, fair and credible elections. More or less this perception was reflected by many till 9th Parliamentary election was held. However, in the interim period confidence building was a serious challenge that the BEC faced at initial stage. Thus rebuilding confidence remained as priority. The challenging task was handled with forethought and maturity even under serious provocation from a section of intelligentsia. The manner in which it did this provides crucial

lessons for the future of Bangladesh, as well as for other countries. The BEC's success in building confidence was the decision to remain open, candid and adopting a consultative process in reforms involving both political parties and civil society. Use of media and establishing a direct contact with the people became best medium to make BEC transparent. The processes of consultations, the transparency of the dialogue, which was open to media, and working out a 'road map', yielded few major benefits for the both the institution and the electoral process reform.

First, transparent and consultative the process benefited from the input of fresh ideas and constructive suggestions from various sources, chiefly civil society that had dealt with election issues and electoral reform for years. This input resulted in better and broader reforms than what earlier BECs unilaterally attempted.

Second, though all the suggestions could not materialised the way BEC contemplated due to the year long negative political culture yet the consultative process gave stakeholders a sense of ownership that made electoral reform process acceptable to them and the public. Use of media in the process of consultation to reach public had had salutary effect. It worked as the medium of contact between public and the BEC.

Third, and also crucial, the process of consultations contributed to a political party buy-in to the reformed electoral process. With the public confidence gained and backing of the majority of the political parties BEC could pursue all parties to agree in participating election having some reservations about some of the element of the reform. This approach addressed a fundamental deficiency of the previous election period, which had failed in large part because one of the major parties ultimately refused to participate.

Fourth, the process of consultations with political parties was not without pitfall. In many a places of reform, especially in some operating section of RPO in general and the political party registration in particular, most of the parties in consultation had serious reservation. Those sections and Articles had to be mellowed down. In some cases BEC prevailed for example in including

'armed forces in law enforcing agencies', introduction of no 'vote' and on Article 91 but BEC prevailed. Subsequently while converting ordinance into law 'no vote' and armed forces issues were dropped but Article 91E survived. BEC faced acute problem with the decision on BNP for inviting to the dialogue. BEC's decision to ignore main faction was a wrong step which was subsequently regretted. It became a thorny issue yet BEC was able to bring BNP to the election. The mistrust between two had a lingering effect. Yet with this issue BNP accepted the existence of Article 91E and compulsory registration. However, in final count the consultative methodology yield positive result and the reform sustained.

Implications of the Reform Initiatives

The electoral reform effort undertaken from 2007-2008 sought to address deficiencies that led to many controversial and the failed elections of 2007. There had been some attempts to identify the deficiencies and small measures to fill up these deficiencies. But most of these attempts were frustrated either in want of political will or lack of resolve of the BEC. As this paper analysed and shown that many a time reform process failed due to lack of methodology to set the agenda. Most of these efforts were one sided was not consultative. Stakeholders were not taken into confidence and that proved to be the most vital for any success of reform effort. The past initiatives, however feeble these were, did not have far reaching impact on the overall political electoral behaviour of the parties or individual politicians and growing public apathy to the electoral system.

Be it as it may, the principal implication of the study would open the gate and throw new light in this area and resonate further study and initiate debate whether all these measures had brought change in the political and social behaviour as far as the electoral process is concerned. The study contributes in form of analysis the areas which were identified as vital for the conduct of free, fare and universally acceptable transparent election. It also identifies all possible areas causes distortion to the electoral process.

The study should also help to understand why the BEC could not be successful in the past attempts. The study also opens the understanding of the PR system and why there exist parity between popular vote and share of the seats in the assembly. It could generate a new area of research and sustained study.

The study would generate further individual or collective study in many aspects of electoral system and the process in Bangladesh or within the region. Each issue of electoral process reform or electoral reform may form part of further analysis. This study may act as useful input and source for future studies in identifying avenues and further recommendations to future reforms, electoral reform is however, a continued process.

Lastly, at least the findings and conclusions thus drawn at the end of the study could be useful in devising more in depth study of inner party performance democracy, financial transparency and electoral conduct.

The reform efforts that BEC had undertook in year 2007-08 could be simply said a trend setter in Bangladesh for continuous research for analysis required to take in hand the electoral reform to mend the distortion that makes the election questionable as seen in the past.

The Chapter adequately showed the identification of the major areas that needed major reforms especially in the electoral roll preparation which had spin off effect in all subsequent areas of reform. In fact concept photo electoral roll and introduction of NID brought a revolutionary change in the entire electoral process which is now being replicated in many countries that this study indicated.

The electoral reform process of 2007-08 initiated participatory methodology as way forward for meaningful and sustainable electoral reform. The methodology set had far reaching effect in taking further initiative by BEC.

The rational for each reform attempted had shown the background and need for reform in those areas to achieve set objectives. The effect of the electoral reform made during 2007-08 had proved that political will, EMB's resolve and stakeholders' participation in the

consultation process has had productive effect on the result achieved.

The Chapter brought out plausible reasons for failure of past attempts. Past reform attempts failed mainly due to arbitrary endeavour without taking the actors and factors in consideration and the manner it was initiated. Time and space was another contributing factor for long term reform efforts that however, was not available in the past.

However, to conclude it could be said that due to all factors those were discussed in the Chapters had proven to be large contributory features in to a successful electoral reform in 2007-08.

Chapter 8

Observations and Recommendations

Democracy is nothing but establishing a government by the people through freely elected representative whom they think could govern on their behalf. For achieving this objective elections have to be free, fair and transparent so that voters' wish can be reflected. Conduct of a free and fair election rests on EMB in the modern era. Trust upon this institution is vital. BEC as EMB has to perform the task enshrined in the constitution, conduct free and fair election for continued democracy in Bangladesh. It is BEC that has to ensure that people have faith in the electoral process. Electoral process must go through continuous reform that BEC has to initiate. But for many years BEC had that trust deficit much of which was due to own inability to be a trustworthy organisation and could not take effective measures for reform. Feeble attempts in the past failed because of trust deficit. However, it is good for the democracy that present setup of the BEC (2007-12) has been able to regain that lost trust through transparent conduct, electoral reforms and through conduct number of free and fair elections that includes 9th Parliamentary election, 3rd Upa-zilla election 7(seven) city corporation elections, over 4000 (four thousand) Union Council elections and number of bye-elections to the National Assembly seats.

Be it as it may, though BEC initiated a massive electoral reform which has been acclaimed at home and abroad yet much remains to be done for strengthening BEC for future challenges by developing further infrastructure. In study it has been concluded that EMB's can be strengthened with or without much of political will if judiciary is fiercely independent and act as both custodian of constitution, elections and democracy as in India.