



Bangladesh

Elections in Bangladesh

2006-2009

Transforming Failure into Success



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Foreword

During the 2008 election period, major improvements were made to the electoral process. Electoral laws and rules were enhanced. The Bangladesh Election Commission was strengthened and given support to enforce rules and to assure fairness, with the cooperation of political parties and citizens. With the help of the Army, the Election Commission professionalized election management through the creation of a world class photographic voter list. This was a remarkable achievement and a model of civil-military cooperation. Representatives of electoral authorities from several countries have since visited Bangladesh to learn about this highly successful endeavour.

This study documents this intense period of electoral reform. It comes at a particularly opportune moment, as Bangladesh rises to the challenge of institutionalizing and sustaining the achievements of the 2008 election and ensuring the credibility and independence of its Election Commission. The publication also comes at a time when the debate on election management has intensified, and the Government has declared its intention to support the further strengthening of the Bangladesh Election Commission as an independent, professional and credible institution. As the basic principle of democracy is for citizens to elect effective and responsive policy bearers, an electoral system that facilitates this process is the basic foundation for democratic consolidation. For an electoral authority to perform its functions well, it must be independent, competent, inclusive and sustainable.

The authors of this study analyze and document the events that enabled the Bangladesh Election Commission to administer the 2008 elections and the immediate post-election period in an exemplary manner. I agree with them that sustaining the electoral reforms undertaken prior to the 2008 elections are critical to ensuring an environment conducive to holding credible, transparent and inclusive elections in the future.

The authors identify achievements as well as areas for improvement, making useful suggestions for further reform. The study is part of a series of UNDP-facilitated discussion papers on deepening democracy. We hope it may be useful to scholars, government officials, political party members and civil society groups interested in electoral reform, both in Bangladesh and in other countries around the world.

We warmly appreciate the work of the authors and editors who dedicated remarkable amounts of time and effort to the study. We are also grateful to the Bangladesh Election Commission and the Election Commission Secretariat for giving their valuable time and making information and documents available to the study team.



Renata Lok-Dessallien
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The lead author of this study was Peter Eicher, who served as a consultant to the UNDP office in Bangladesh on electoral matters during the period under review, and who headed the United Nations Expert Election Team for Bangladesh, which was fielded jointly by UNDP and the United Nations Electoral Assistance Division in 2006-2007. The other members of the author team were Zahurul Alam, who from 2006 to 2009 served as Director of the Election Working Group, a consortium of more than 30 Bangladeshi civil society organizations working on elections, and Jeremy Eckstein, who worked on election issues in Bangladesh under the auspices of the International Republican Institute and, as a consultant, for the United Kingdom's Department for International Development.

Acronyms

ACC	Anti-Corruption Commission
AL	Awami League
ANFREL	Asian Network for Free Elections
ARO	Assistant Returning Officer
BBC	British Broadcasting Corporation
BDR	Bangladesh Rifles
BDT	Bangladesh Taka
BEC	Bangladesh Election Commission
BJP	Bangladesh Jatiya Party
BNP	Bangladesh Nationalist Party
BRAC	Bangladesh Rural Advancement Committee
BTV	Bangladesh Television
CCC	Central Coordinating Cell (Army structure for voter registration)
CEC	Chief Election Commissioner
CHT	Chittagong Hill Tracts
CTG	Caretaker Government
ECS	Election Commission Secretariat
EEC	Electoral Enquiry Committee
EOM	Election Observation Mission
EPR	Emergency Power Regulations
ETI	Electoral Training Institute
EU	European Union
EWG	Election Working Group

GIS	Geographic Information System
HC	High Court
ICT	Information and Communication Technology
IRI	International Republican Institute
JP	Jatiya Party
JI	Jamaat-e-Islami
MOU	Memorandum of Understanding
MP	Member of Parliament
NDI	National Democratic Institute
NEP	National Elections Program
NGO	Non-governmental Organization
NIRA	National Identity Registration Authority
NID	National Identity Card
PERP	Preparation of Electoral Rolls with Photographs (UNDP project)
RAB	Rapid Action Battalion
RO	Returning Officer
RPO	Representation of the People Order (Election Law)
SEPB	Support to the Electoral Process in Bangladesh Project (UNDP project)
TIB	Transparency International Bangladesh
USD	United States Dollar
UNDP	United Nations Development Programme
VID	Voter Identification Number

Executive Summary

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Overview

This study chronicles Bangladesh's ninth parliamentary elections, from the first election campaign period in 2006, through the installation of a new government in 2009. The period began with dissension and violence that spiraled downward into a cancelled election and the imposition of a State of Emergency. This was followed by two years of reforms leading to what many consider the best election in the country's history.

In organizing the December 2008 elections, the Bangladesh Election Commission (BEC) managed, with the support of a broad range of stakeholders, including the government, the Bangladesh Armed Forces, political parties, civil society, the citizens of Bangladesh, and the international community, to address many of the major failings of the election system. In this process, the BEC transformed itself into one of the most trusted institutions in public life in Bangladesh. The elections themselves saw the culmination of a number of highly significant reforms, including the creation of electoral rolls with photographs, the mandatory registration of political parties, the separation of the BEC's secretariat from the executive branch, and changes to the candidate nomination processes and campaign finance requirements.

The electoral system

Bangladesh elects 300 Members of Parliament (MPs) from single member constituencies for a term of five years, using a first-past-the-post or plurality voting system, under which each voter may cast a ballot for only one candidate. The candidate receiving most votes in a constituency is elected. Under the Constitution, the elected government turns over power to a non-party Caretaker Government (CTG) at the end of its tenure. The CTG is required to give the BEC all possible aid and assistance to hold free and fair elections, which the BEC is required to conduct within 90 days of the dissolution of Parliament. The system is designed to ensure the neutrality of the executive and to guarantee a level playing field for all candidates and parties during the election period.

The collapse of attempted elections

The ninth parliamentary elections were initial-

ly scheduled for 22 January 2007. The first attempt to hold a vote, however, fell victim to a growing political crisis, spawned by an array of systemic problems with roots extending back many years.

The election process was clouded by deep distrust and enmity between the two major political parties, the Awami League (AL) and the Bangladesh Nationalist Party (BNP), which had alternated in power since the restoration of civilian government in 1991. Over the years the parties had often used inflammatory rhetoric, questioned the legitimacy of the other's hold on power, and opted for confrontation rather than accommodation. On the streets, this frequently led to violent strikes and demonstrations. In the Parliament, there were, and continue to be, frequent and extended boycotts by whichever party was in opposition.

As the January 2007 elections approached, there were a number of warning signals that problems could lie ahead. A particularly significant event was the adoption of the 14th Amendment to the Constitution in 2004, which raised the retirement age of Supreme Court judges by two years. This is important because the most recently retired Chief Justice of Bangladesh assumes the position of Chief Advisor of the CTG. The amendment sparked charges that the ruling party was deliberately manipulating the CTG system to ensure that its preferred candidate would become Chief Advisor. This became one of the major continuing controversies that undermined the election period until January, 2007.

Other major controversies included the closely intertwined issues of lack of confidence in the BEC and the quality of the electoral rolls. In 2005, the BEC began to update the electoral rolls, but the process was caught up in court cases and tarnished by allegations of inaccuracies and political manipulation. In particular, it was widely reported and believed that the rolls included more than ten million "ghost voters," which could lead to widespread fraud on election day. The BEC's initial reluctance to address this problem and its inability to correct the rolls despite three nation-wide house-to-house surveys sparked allegations that the

BEC was either inept or partisan. This led to demands for the resignation of the entire Commission and to plummeting public confidence in its ability to conduct a fair election. Concerns that the election administration might be politicized were heightened since the Election Commission Secretariat (ECS) fell bureaucratically under the Prime Minister's Office rather than the BEC. Another concern was that many of the Returning Officers (RO) and Assistant Returning Officers (ARO) responsible for the conduct of elections in each electoral constituency were appointed by the outgoing government, raising fears that they could play a partisan role and compromise the fairness and neutrality of the elections.

Rising levels of political violence also contributed to a tense electoral process. From 2004 to 2006 there were terrorist bombings and assassinations, among them a grenade attack in which the leader of the opposition was injured and a number of people killed. By mid-2006, the country was in a state of almost constant turmoil as the opposition launched a program of street agitation to press a long list of demands, including the resignation of the BEC and the selection of a Chief Adviser acceptable to it. The protests included massive strikes, demonstrations and blockades, which frequently turned violent. The authorities often responded with excessive use of force and mass arrests. With the elections six months away, the levels of violence were alarming, and the frequent strikes and blockades were seriously undermining public order and disrupting the economy.

The electoral environment was further undermined by the prevalence of "Black money" and "muscle power," two interlinked problems that were widely considered endemic to Bangladeshi politics. The term "Black money" refers to funds obtained or used illegally or whose origins are not transparent. According to numerous studies, 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.

Against this background, the political crisis escalated as the date approached for the CTG to take over the reins of the government. Amid rising violence and the absence of agreement among the major political parties on who should head the CTG, President Iajuddin Ahmed appointed himself as Chief Adviser and took office on 29 October 2006. The opposition parties at first grudgingly accepted this appointment, but soon began to sour as Iajuddin did not act vigorously enough on their demands to reconstitute the BEC or to reshuffle civil servants in election-related positions. The CTG was mired in controversy and the opposition soon began to demand the resignation of the Chief Adviser, who they perceived as partisan in favor of the BNP. As a result, the CTG was not able to control tensions or to establish broad public confidence that the elections would be fair.

Efforts to broker talks among the political parties to end the crisis were not successful. Street violence continued, with dozens killed and thousands injured. The eventual departure of the Chief Election Commissioner (CEC) in November did not end the unrest, since his replacement was not agreed by broad consensus among the political parties. The electoral rolls also engendered further criticism when the National Democratic Institute (NDI) released a study confirming that the rolls were inflated by as many as 12 million names. Opposition dissatisfaction continued to mount.

The opposition reached a breaking point when the candidacy of one of its most prominent leaders, former President H. M. Ershad, head of the Jatiya Party (JP), was cancelled in late December and he was ordered to prison on years-old charges. The AL and its allies announced that they would boycott the election. This decision led to a rapid deterioration in the already bleak political landscape, with growing fears of heightened violence and the likelihood that without participation of the opposition, the election would not be credible or accepted. On 8 January 2007, the largest domestic election observer group, the Election Working Group (EWG), announced that it would not deploy observers. In the days following, the United Nations decided to suspend its technical assistance to the electoral

process, and the major international observer groups announced the withdrawal of their observer delegations.

The political crisis over the election came to a head late on 11 January 2007, when, at the insistence of the Bangladesh Army, the President stepped down as Chief Adviser, announced that the election would be postponed indefinitely and declared a State of Emergency.

Preparing for the 2008 elections

Dr. Fakhruddin Ahmed, an economist and former Governor of Bangladesh Bank, was installed as a new Chief Adviser on 12 January 2007. The entire BEC resigned before the end of January and was replaced by a new Commission, with Dr. A. T. M. Shamsul Huda appointed as CEC. The new Emergency Power Regulations (EPR), enacted by the CTG on 25 January 2007, prohibited all public gatherings, political activities, legal action against the government in its enforcement of the EPR, and media criticism of the government. Despite the suspension of civil liberties, most of the public appeared relieved that a dysfunctional election process had been brought to an end and that calm had returned to the streets. There was a widespread feeling that more serious bloodshed had been avoided. This sentiment was reflected in public opinion surveys, which found a very high level of public confidence in the CTG immediately after the establishment of the new government.

The question of a new date for the elections was not resolved until July 2007. Following a series of consultations with civil society groups and taking into consideration their recommendations for improving the electoral process, the BEC issued an electoral roadmap projecting elections for December 2008. International partners also offered recommendations for improving the electoral process. The roadmap outlined an ambitious reform agenda which included a new voter registration process, legal reforms, political party registration, dialogue with stakeholders, administrative reforms, constituency delimitation, and local elections. The High Court (HC) endorsed the roadmap on 22 July 2008, giving legal backing to the extended electoral timeframe. The BEC subsequently held three rounds of consultations with political parties, which were concerned about a number of the planned reforms. These talks were essential

in bringing the parties to accept the reforms. However, the talks faced an initial setback when the BEC invited a BNP faction that did not represent the party leader, resulting in the continuing alienation of one of the two principal parties.

Voter registration

The largest, most complex and time-consuming element of the roadmap was a plan to create new electoral rolls with photographs, a reform long advocated by civil society groups and political parties. The BEC estimated this would take about a year, plus several months of planning and preparation. The electoral rolls reform was the primary stated reason why elections were delayed until the end of 2008. Even before the BEC was appointed, the CTG had established a committee to explore the issue and the military had launched its own initiative to research a possible methodology for creating electoral rolls with photographs, reflecting the priority given to this issue by many stakeholders. The BEC enlisted the Armed Forces as an implementing partner, since it was the only organization in Bangladesh with the technical skills, logistical reach and manpower, as well as public trust, to undertake the project in a reasonable timeframe. Assistance from international donors was coordinated by UNDP, which also provided technical assistance to the BEC. Civil society groups made a contribution through extensive voter and civic education.

The methodology involved a door-to-door enumeration undertaken by the BEC, after which voters visited registration centers, organized and managed by the Armed Forces, to be photographed and complete the registration process. Registered voters were issued a National Identity Card (NID) with a photograph. This NID proved to be a key incentive for citizens to visit the registration centers. The registration methodology was tested in a pilot project in Sreepur municipality in June 2007 and found to be successful. Registration was then carried out on a rolling basis in different parts of the country between July 2007 and October 2008. At its peak, some 450,000 voters were registered per day. By July 2008, over 81 million Bangladeshis were registered as voters, a figure more in line with census data than previous electoral rolls had been. The accuracy of the rolls was affirmed by an independent statistical audit, which calculated

that 99 per cent of eligible voters were on the rolls. The careful and transparent manner in which registration was implemented generated high levels of public trust in the upcoming elections and in the BEC. The new electoral rolls were one of the major achievements of the electoral process.

Other electoral reforms

Beyond voter registration, the BEC's reform agenda, set out in the roadmap, included steps aimed at addressing many of the problems that had led to the collapse of the election process in January 2007. Among the most important of these was an effort to reform the operations of the political parties, which had been a major factor in the collapse of the January 2007 elections. To address this issue, the election law – the Representation of the People Order (RPO) – was amended to require all political parties to register with the BEC; previously party registration had been optional.

In order to register, parties were required to amend their constitutions in ways that would promote internal democracy. Parties were required to make provisions in their constitutions for electing all committee members, choosing parliamentary candidates based on the recommendations of committees at grass-roots level, and agreeing to fill at least a third of all party committee seats with women by 2020. Party constitutions were also required to ban affiliated party bodies such as student and labor groups. These groups had been involved in partisan violence in the past. Several parties resisted these reforms but at the end of the process, in November 2008, 39 political parties were registered, including all the major parties.

Amendments to the RPO also introduced new requirements for candidate nominations, which promoted transparency by ensuring that information on candidates' backgrounds was publicly available, and to encourage the emergence of "clean" candidates. Hundreds of candidates were denied nomination by the ROs for not meeting the new requirements. However, upon appeal, many were reinstated by BEC or by the HC. Under the revised RPO, the BEC also had the power to cancel a candidate's nomination at any point if it found that he or she had violated electoral law.

Additional reforms were set out in a Code of Conduct, which required political parties and

candidates to abide by a number of restrictions, many of which were aimed at reducing conflict among parties and diminishing the influence of "Black money" and "muscle power" in politics. Limits on campaign spending were increased, and the financial reporting requirements for parties and candidates were revised.

The BEC re-delimited the boundaries of constituencies in order to eliminate very large disparities in constituency size. This was accomplished through a transparent process that included public consultations.

A new ordinance placed the ECS under the direct control of the BEC, rather than the Prime Minister's office. This was a much needed reform that increased the independence and neutrality of the election administration. In addition to this change, the BEC reorganized and strengthened its internal staffing systems and rules.

Initiatives of the Caretaker Government

Although the roadmap established the timetable and electoral reforms that needed to be taken before elections, a number of other factors also shaped the dynamics of the political process leading up to the December 2008 elections. The most significant of these was the anti-corruption campaign that began almost immediately after the appointment of the new CTG. As part of this process, aimed at stemming political corruption, the authorities arrested and charged hundreds of people. These included many top politicians, among them the leaders of the AL and the BNP, both of whom were former Prime Ministers. The anti-corruption campaign, however, eventually suffered from a perception that prosecutions were aimed most heavily at politicians who did not support the CTG's reform agenda.

More generally, the implementation of the State of Emergency led to tens of thousands of detentions, often without charges. Many of those arrested were politicians or political activists. The State of Emergency shut down political activity; thus, lifting the emergency became a major demand of the political parties. Although the emergency was officially relaxed at various points, it was not entirely lifted until days before the elections.

The prolonged CTG period, together with the anti-corruption drive and the arrests of politi-

cal party leaders, severely strained the political parties, whose normal activities were largely proscribed by the State of Emergency. Internal splits developed within the parties. New political parties were launched, none of which proved successful. The public perception emerged that the CTG was engaged in a strategy to transform the political environment by excluding the two major party leaders, both of whom were charged with corruption. In addition, the CTG was perceived to be encouraging the emergence of reform wings of the major parties by targeting specific politicians for arrest on corruption charges, and fostering new parties by enforcing the restrictions on political activities selectively. By the spring of 2008, however, it was clear that this approach had not succeeded, and that the traditional political leadership retained much of its popular support. The AL and the BNP continued to demand the release of their leaders as a condition for participating in elections, and in mid-2008 the two leaders were released.

The conduct of the 2008 elections

International and domestic observers reported that the parliamentary elections, held on 29 December 2008, were conducted generally in accordance with international standards. The electoral rolls with photographs were considered to be particularly successful and a noteworthy achievement. The candidate nomination process was positively assessed. Political parties were able to conduct short but active political campaigns once civil liberties were fully restored a few days before election day. Both the campaign period and election day were calm and peaceful. The public demonstrated its confidence in the electoral process by turning out in record numbers; voter turnout was an impressive 86 per cent. While observers reported some shortcomings, including confusion over the use of NIDs at the polls, the overall impression of the elections was extremely positive. The elections produced a landslide victory for the AL, which won 230 of the 300 contested parliamentary seats with 48 per cent of the overall votes cast.

Durability of the reforms

The new government was sworn in on 6 January 2009. It promptly enacted into law most of the electoral reforms of the CTG period. These included changes to election laws governing voter registration, political party operations,

candidate nomination, and reforms in election administration. The new government was supportive of the BEC, providing resources and endorsing its efforts to strengthen internal management and administration. The BEC, for its part, assumed control of the aspects of the voter registration process that had been handled by the Armed Forces, and began to update the electoral rolls to ensure they remained accurate and reliable.

There were, however, some concerning developments in the first months of 2009. Not all of the CTG's reforms on issues other than elections were endorsed or adopted by the new government. Among those not enacted were steps to devolve greater political power to the local level. Local elections were held in early 2009, which although assessed as "acceptable" by domestic observers, saw higher levels of violence and larger numbers of serious irregularities than the parliamentary elections, raising concerns that political parties, free from the constraints of the CTG period, were resorting to past practices. In February, a mutiny by the Bangladesh Rifles (BDR), that claimed the lives of several dozen military officers, shook the country. In April, the Chairman of the Anti-Corruption Commission (ACC) came under attack from the new Parliament, leading to his resignation. In another development, the government took initial steps to begin prosecuting war criminals from the 1971 War of Independence, which the opposition saw as politically motivated. The opposition, meanwhile, absented itself from most sessions of Parliament, returning to the old politics of boycott.

Lessons learned

The ninth parliamentary elections showed how a deeply problematic election process can, through careful action, be transformed into a successful one. While the circumstances in Bangladesh were unique, they nonetheless have considerable resonance for elections elsewhere and provide lessons for the future, both for Bangladesh and other countries. The study examines electoral processes over an entire electoral cycle,¹ and therefore offers many interesting models and examples for election administrators, lawmakers, development professionals and others seeking to design reforms or electoral assistance programs in Bangladesh or elsewhere.



Lessons from the 2007 electoral process

A key lesson of the collapse of the electoral process in early 2007 is that no system is fool-proof, and that even the best legal and procedural guarantees of a free and fair process can be circumvented. Protecting and ensuring the success of an electoral process therefore requires first and foremost that the authorities demonstrate the political will to hold free and fair elections, even if it may mean losing power. Closely linked to this is the need for the authorities to establish public confidence in the election process and the election administration. While opposition parties and other segments of society also have responsibilities to contribute to fair and honest election processes, it is governments that have the obligation to deliver free and fair elections.

The events of 2006-2007 also demonstrate how important it is that the political parties buy-in to the election system. The crisis could have been avoided if there had been a successful effort to bridge the gap of distrust between the two major political parties. A key to a successful electoral system is its acceptability to all the major players in the electoral process. Electoral laws and procedures – more than other kinds of laws – should be subject to consensus because they set the rules of the game. Adopting electoral laws or procedures over

the objections of major political parties, rather than seeking accommodation with them, can lead to serious negative consequences.

The 2006-2007 period also shows how violence can destroy an election process. The cycle of street violence and the disproportionate response by the security services created an environment in which there was little possibility of a peaceful and responsible election campaign. The 2006-2007 process demonstrated vividly that fair elections require a calm environment in which candidates, political parties and citizens can campaign freely, without fear of violence or retribution.

The politics of confrontation, in which the major parties tended to view and treat each other as enemies rather than as opponents, demonstrated how important it is for parties to show restraint in their actions and to accept the basic rules associated with peaceful campaigns. The problem of the politics of confrontation was reinforced by a system in which the election results could be seen as “winner take all,” leaving little incentive for the parties to show moderation in their quest for victory.

Another lesson of 2006-2007 is the importance of letting candidates run for office without undue interference. In Bangladesh, it was the disqualification of former President Ershad

as a candidate that finally caused the opposition to withdraw from the election process and drove the crisis to the precipice. Whatever the merits of the legal case against Ershad, disqualifying major candidates, especially on the eve of an election and on years-old charges, is a recipe for dissention and loss of confidence in the electoral process.

The corrupting influence of money on politics is yet another lesson of 2006-2007. The prevalence of "Black money" had a corrosive effect on electoral politics in Bangladesh. Candidates virtually always exceeded the legal expenditure limits for campaigning. The cost of campaigns became so high that only the rich could seriously contemplate running for office. Vote buying and influence peddling were said to be rampant, and politics began to merge with corruption and criminality.

Lessons of the reform effort

The BEC and the CTG were successful in their electoral reforms in no small part because they took a comprehensive rather than piecemeal approach to electoral reform, with measures aimed at each of the major deficiencies of the past. Some of the most important of these included political party reform, efforts to reduce violence, efforts to reduce the influence of money, steps to provide more information about candidates to the public, and measures to ensure the impartiality of election administration.

The BEC's success in building confidence was in large part due to its decision to hold an open, consultative process on the question of electoral reform, involving both political parties and civil society. The process of consultations and the transparency of the dialogue yielded three major benefits for the BEC and the electoral process. First, the process benefited from the input of independent ideas and creative suggestions from a variety of sources. Second, the process of seeking and seriously considering the views of stakeholders had an enormous impact in rebuilding the shattered public confidence in the electoral process, as well as confidence in the Commission. Third, the process of consultations contributed to a political party buy-in to the reformed electoral process despite their reservations about some of the reforms.

The timely completion of the electoral

rolls with photographs provides the lesson that successful reform of voter registries is possible, even under extremely adverse conditions, if the process is properly planned and implemented. This is a lesson with wide applicability, since the poor quality of electoral rolls is a problem in so many countries. The process undertaken in Bangladesh provides a number of "best practices." These include: extensive advance planning in selecting systems and procedures; winning the support of political parties and civil society; testing the methodology locally before rolling it out nationally; providing an incentive for registration; undertaking an extensive public information and voter education effort; addressing potential social barriers and acting in partnership with government agencies, civil society, and international actors, such as UNDP and international donors.

The international role

Although the 2007-2008 process of reform was intrinsically Bangladeshi and it is Bangladeshi institutions that deserve credit for its success, the elections showed that international partners can also make significant contributions to an election process. In addition to major financial contributions that were crucial to the implementation of reforms, international donors provided technical advice and recommendations to the BEC and the CTG on ways to enhance the electoral process, many of which were implemented.

The international community also played a limited political role in trying to avert the crisis leading to the failure of the planned 2007 elections. During the difficult period at the end of 2006, actors in the international community worked behind the scenes and publicly to try to avert the looming crisis. International actors provided public encouragement and private advice again as the 2008 elections approached. These actions and assistance testify to the important role that the international community can have in supporting electoral reform. They also testify, however, to the limits of this influence. Although donors had supported election commissions and their work in Bangladesh for many years, this did not result in conditions conducive to democratic elections in early 2007. The key lesson here is that while donors can help bring about positive change when the political leadership is committed to it, their influence is likely to be

marginal when sufficient political will does not exist.

A few other lessons for donors also emerge from the Bangladesh experience. First, a strong donor partnership with civil society can have wide-ranging benefits for democratic elections. Many impressive civil society organizations working on elections in Bangladesh were able to do so only because of international donor support.

Another lesson is that the presence of international observers can also have an important positive impact in building public confidence in the electoral process, encouraging sound electoral practices, deterring fraud, highlighting shortcomings that should be addressed, and making recommendations for further improvements to the electoral process.

Challenges ahead

Some possible warning signals have emerged that deserve attention. The new government enacted most, but not all, of the CTG's electoral reforms. It remains to be seen how forcefully and even-handedly the

government will act on other election-related issues, such as corruption. The elections held since the parliamentary elections – including local elections and parliamentary by-elections – were judged “acceptable” by domestic observers, an assessment well below the plaudits they accorded to the 29 December parliamentary elections. Within the Parliament, the opposition parties have reverted to traditional politics of boycott. Outside the Parliament, there are some signs of the reemergence of politics of confrontation and retribution.

It is still too soon to assess with confidence the extent to which Bangladesh's electoral reform program will be sustainable. Many challenges remain. Some of these are technical, but still formidable, such as updating and maintaining the integrity of the electoral rolls. The more difficult hurdles ahead, however, are political. Maintaining the success of the electoral reform process will require sustained political will by the government, the Parliament and the political parties, to ensure that conditions remain in place for free, fair and credible elections.



1

Introduction

Introduction

Introduction

1.1 About the study

The Bangladeshi electoral process, beginning in 2006 and ending with the elections in 2008, contains the elements of an enthralling story that deserves to be recounted as accurately and objectively as possible for the historical record. This study chronicles analytically the election process from 2006 to 2009, highlighting the elements that made the 2008 elections so successful and sharing lessons learned that could be of value both for Bangladesh and other countries in their own electoral processes. This study forms part of a series of papers sponsored by the United Nations, covering a range of governance and development issues.

1.2 Purpose of the study

Elections were at the center of national concerns in Bangladesh for much of 2006-2008. In early 2006, a violent and dysfunctional election process plunged Bangladesh into a political crisis that led to the temporary collapse of parliamentary democracy, with profound ramifications for every segment of society. The next three years saw a concerted effort by citizens, civil society, political parties and governmental authorities to come to grips with the problems that sparked the crisis and to begin to develop policies and reforms to resolve them. While the elections were the catalyst for the crisis, the causes went far beyond elections, so other wide-ranging reform efforts necessarily came into play.

This study attempts to chronicle the story of those turbulent years, and to analyze and document how a collapsed electoral process, fraught with peril, was transformed within a relatively short period into elections that won high praise from previously skeptical international and domestic observers. This transformation came about through a concerted effort by many stakeholders to identify and fix legal, political and procedural shortcomings. The study therefore seeks to identify the issues and structural problems that led to the collapse of the election process in early 2007, with a view to assessing which of these problems were resolved, and how. Attention is also devoted to problems that were not adequately resolved and issues that remain to be addressed. In addition, the study also provides an evaluation of

the technical aspects of the 2008 elections. To the extent possible, the study highlights what lessons can be drawn from Bangladesh's election experience during the period in question.

A careful review of the causes leading to the crisis and the reforms it spawned may help stakeholders in Bangladesh avoid some of the pitfalls of the past and build on the successful initiatives undertaken in 2007 and 2008. The electoral reform process was tortuous one that was not without some mistakes and setbacks. In the end, however, it produced changes that could lead to long-term improvements in governance if they are sustained and institutionalized. No election is flawless, and the lessons of 2006-2009 could be the building blocks of a more perfect democratic process that can better serve the needs and aspirations of the people of Bangladesh in the years ahead.

The study is intended for multiple audiences. In the first instance, it is hoped that the analysis will be of value to policy makers in Bangladesh as they continue to grapple with the question of electoral reform and related issues. The information and analysis in this study may also contribute to the continuing efforts of the Election Commission to solidify its reforms and build the capacity of its secretariat to conduct professional, transparent and credible elections in the future. Another key audience is the many vibrant, thoughtful and impressive civil society organizations dealing with elections in Bangladesh, whose creative ideas and sustained involvement contributed so much to the reform process. These organizations will recognize many of their ideas in these pages and perhaps they may draw inspiration or encouragement from the text. While portions of this study may be too detailed or technical for the average reader, it is nevertheless hoped that it may provide an interesting account and reference for anyone seeking information on the tumultuous events that shaped the electoral process in Bangladesh from 2006-2009.

Although the circumstances and events in Bangladesh were unique, they have implications for other situations, other countries and other elections. The conclusions of this study

may therefore also help those in other countries by sharing successes and lessons that might have wider applicability. In particular, good practices developed in the Bangladeshi elections might help other countries solve or avoid some of the problems faced in Bangladesh. This study may thus be useful to international development agencies, diplomats, election commissions or others working in the field of elections around the world, for the lessons it provides and the examples of how appropriate reforms, properly implemented, can transform a flawed election process into a successful one. International donors, also, could benefit from understanding the positive impact their assistance can have if appropriately targeted, as well as some of the limits of international assistance.

1.3 Plan of presentation

Following the background information, the text of the study is divided into four principal parts. The first, composed of chapters three and four, recounts the election-related events of 2006 through 11 January 2007, when the electoral process was suspended, a State of Emergency was imposed, and a new Caretaker

Government took office. Chapter three provides a narrative of the events that took place during this time period, while chapter four provides a more in-depth analysis of the structural issues that led to the collapse of the electoral process in that time period. The second part, composed of chapters five, six and seven, covers 2007 and 2008, describing the term of the new Caretaker Government, the Election Commission's electoral reform program, and the steps that were taken to prepare for and hold more credible elections on 29 December 2008. Chapter five provides a narrative summary of events, while chapter six presents an analysis of the key reforms that took place during this time period. Chapter seven describes international assistance to the process. The third part, chapter eight, provides a technical evaluation of the elections. The final part, chapters nine and ten, describes developments after the newly elected government assumed office, including its actions in regard to the reforms, as well as the conduct of several by-elections and local elections. Chapter nine provides a narrative history, while chapter ten offers an analysis of key structural issues affecting the sustainability of the achieved electoral reforms.



2

Background on the Government and Electoral System of Bangladesh

Background on the Government and Electoral System of Bangladesh

The People's Republic of Bangladesh became a sovereign state on 16 December 1971 at the end of a bloody war of independence with Pakistan. The years since independence have seen periods of democracy, military rule and political turmoil, with two presidential assassinations, more than a dozen heads of government, three military coups and many failed coup attempts.

2.1 The system of government

Bangladesh's Constitution, adopted in December 1972, establishes a Westminster-style parliamentary democracy, with a Prime Minister as Head of Government. The post of President is largely ceremonial, although he or she does have some important powers of appointment and has increased authority during election periods, including over the Armed Forces. The President is elected by Parliament to a five-year term. Party unity in Parliament is ensured through Article 70 of the Constitution, which states that a MP must vacate his/her seat if she or he "votes against his party."

Executive power is highly concentrated in the hands of the Prime Minister and her or his cabinet. Legislation is initiated almost exclusively in the ministries rather than in the Parliament. While Parliament forms a number of standing committees (including a standing committee for each ministry) as required by the Constitution and parliamentary rules of procedure, it has only limited oversight over the executive. The devolution of authority to locally elected bodies has been blunted by the executive's control over local administrators, who perform parallel functions to elected local government bodies.

There are a number of nominally independent institutions of accountability, such as the Anti-Corruption Commission, the Office of the Comptroller and Auditor General, and the Public Services Commission, but in practice these have provided limited checks on executive power.

The Constitution of Bangladesh establishes a Supreme Court, which is divided into an Appellate and High Court Divisions. The Chief Justice of the Supreme Court sits on the Ap-

pellate Division, along with the other senior-most Supreme Court judges in Bangladesh. The President appoints the Chief Justice and other Supreme Court Judges.²

2.2 The electoral system

MPs are elected to five-year terms from 300 single-member constituencies using a first-past-the-post, or plurality, system. Elections are held every five years for the 300-member Parliament, the *Jatiya Sangsad*. An additional 45 seats are reserved for women, who are elected by the members in proportion to the number of seats each party receives.³

Under the Constitution, the elected government must step down 90 days before parliamentary elections and turn over power to a non-party CTG.⁴ This system was designed to ensure that there is a politically neutral government during the election period. If properly implemented, the CTG system should provide an extraordinary level of impartiality in the administration of elections. According to the Constitution, "the Non-Party Care-taker Government shall give to the Election Commission all possible aid and assistance that may be required for holding the general election of Members of Parliament peacefully, fairly and impartially."⁵

The CTG is headed by a Chief Adviser, who holds a status roughly equivalent to Prime Minister and appoints ten additional advisers to serve as a Council of Advisers and assist him to run government ministries. The Constitution provides that the most recently retired Chief Justice is appointed as Chief Adviser by the President. If she or he is not available or willing to serve, then the position falls to the Chief Justices who retired prior to the most recently retired justice. If no retired Chief Jus-

tice is available or willing to become the Chief Adviser, the President will appoint one of the retired judges of the Appellate Division, in the order of the most recently retired. If no judge is available, a consensus candidate can be chosen after consultation with the political parties. If no qualified candidate can be chosen, the President assumes the function of Chief Adviser of the CTG.⁶

Article 118 of the Constitution provides for the establishment of an Election Commission comprised of a Chief Election Commissioner and such number of other Election Commissioners as the President may direct. In the period prior to the failed 2007 elections, there were up to six Election Commissioners; for the 2008 elections, there were three. The President appoints Election Commissioners for a term of five years. They may be removed only through voluntary resignation or by a special judicial panel. The BEC is constitutionally independent in the exercise of its functions.

The BEC is assisted by its own staff and by a Secretariat comprised of both secretariat and field level election officials. Until 2008, the ECS was attached to the Prime Minister's Office, making it susceptible to undue political influence. Since then, through the passage of the Election Commission Secretariat Act, 2009, the ECS has been fully detached from the Prime Minister's Office and now has independent status under the auspices of the CEC. In addition, there are Election Offices in ten regions, each headed by a Deputy Election Commissioner and district offices in each of Bangladesh's sixty-four districts, led by District Election Officers. At the lowest tier of the field organization are election officers in all *upazilas*, roughly translated in English as sub-districts. There are 481 *upazilas* in Bangladesh. For national elections, the BEC appoints ROs and AROs from the ranks of serving government officials.

Since independence, elections in Bangladesh have steadily become larger and larger events, requiring resources on a massive scale. The number of registered voters has increased by over 130 per cent, to more than 81 million people, since the first parliamentary elections were held in March 1973. The number of staff required to hold elections has increased by 195 per cent to 567,196 people, and the number of polling centers has increased by 133 per cent, to 35,263. Voter turnout has also showed an upward trend.

Polling centers, each generally with five polling stations or "booths," are organized so that about four hundred voters can cast their votes at a booth between 8:00 a.m. and 4:00 p.m. on polling day. A Presiding Officer heads each polling center, and an Assistant Presiding Officer heads each booth. The majority of these officials are drawn from among civil servants. Separate polling booths are established in the polling centers for women voters in most cases.

Bangladesh has a significant track record of holding parliamentary and local elections since independence, many of which were assessed as acceptable by international observers. There have been nine parliamentary elections since independence, although democratic rule has been interrupted on a number of occasions. Parliamentary elections have become times of intense and often bitter competition and confrontation, since the victorious party wins effective control of the executive, the Parliament, and the local-level administration.

Under the Constitution, new elections were to be held by 25 January 2007, which would have been the ninth parliamentary elections. These elections were postponed for almost two years, until 29 December 2008.

The table below provides statistics on Bangladesh's nine parliamentary elections.

Past parliamentary elections in Bangladesh⁷

Election date	Number of registered voters	Per cent turnout	Per cent invalid votes	Number of polling centers	Number of polling officials	Party with most seats won	Party with second most seats won
7 Mar 1973	35 million	55.6 %	1.36 %	15,084	192,423	Awami League, 293 seats	Independents, 7 seats
28 Feb 1979	38 million	51.3 %	1.05 %	21,905	223,355	N/A	N/A
7 May 1986	48 million	66.3 %	0.79 %	23,279	292,727	Jatiya Party, 153 seats	Awami League, 73 seats
3 Mar 1988	50 million	51.8 %	N/A	N/A	283,237	N/A	N/A
27 Feb 1991	62 million	55.5 %	0.60 %	24,154	360,985	Bangladesh Nationalist Party, 169 seats	Awami League, 92 seats
15 Feb 1996	56 million	26.5 %	0.22 %	21,106	314,480	N/A	N/A
12 Jun 1996	57 million	75.0 %	0.82 %	25,957	370,204	Awami League, 146 seats	Bangladesh Nationalist Party, 116 seats
1 Oct 2001	75 million	75.6 %	0.80 %	29,978	477,842	Bangladesh Nationalist Party, 193 seats	Awami League, 62 seats
29 Dec 2008	81 million	86.3 %	0.90 %	35,263	567,196	Awami League, 230 seats	Bangladesh Nationalist Party, 30 seats

2.3 Local government institutions

The Constitution of Bangladesh calls for elected local government at all administrative levels, with the power to prepare budgets, maintain funds, impose taxes, and implement plans for public services and economic development.⁸ While Bangladesh's system of local government has an electoral history dating back to 1973, its development is still in the beginning stages. The four forms of locally

elected government include union *parishads* (councils) and *upazila parishads* (sub-district councils) in rural areas; and *pourashavas* (municipalities) and city corporations in urban areas. However, successive governments have consistently tampered with local government laws over the years. According to one analysis, this has made "local government in Bangladesh...more an area of policy experimentation than of stable institutional development."⁹

Elections for local government bodies are not contested under party banners. However, political parties are involved in selecting candidates and the party affiliation of the candidates is generally well known.

Union *parishads* date back to the 19th century and are the longest established form of local government in Bangladesh. The first elections for union *parishads* were held in 1973. There are 4,504 union *parishads*, each representing a conglomerate of ten to twelve villages and approximately 20,000 to 25,000 people.

While the union *parishads* have a number of functions, including the ability to raise taxes and implement programs, they are subject to influence by administrators appointed by the central government.¹⁰ *Upazila parishads* are a more recent innovation in local government, introduced in 1985. City corporations and *pourashavas* are elected local government institutions in the urban areas. There are 6 city corporations and 309 *pourashavas*, each headed by a mayor.

The chart below sets out the years when various types of elections have been held.

Elections and referenda in Bangladesh since independence¹¹

Elections	1973	1977	1978	1979	1981	1983	1984	1985	1986	1988	1989	1990	1991	1992	1993	1994	1996 ¹²	1997	1999	2000	2001	2002	2003	2004	2005	2008	2009
Parliamentary	✓			✓					✓	✓			✓				✓				✓					✓	
Presidential	✓		✓		✓				✓				✓				✓				✓	✓					✓
Local sub-district council (upazila parishad)								✓				✓															✓
Local union council (parishad)	✓	✓				✓				✓				✓				✓					✓				
Local City Corporations										✓						✓				✓		✓	✓		✓	✓	
Local Municipalities (pourashava)	✓	✓					✓				✓				✓				✓					✓		✓	
Referenda		✓						✓					✓														

2.4 Political parties and alliances

Two major political parties, the AL, led by Sheikh Hasina, and the BNP, led by Begum Khaleda Zia, dominate politics in Bangladesh. The political environment has been sharply polarized between the two parties, which have alternated in power since the restoration of civilian rule in 1991. Both the AL and the BNP have deep roots in Bangladeshi politics, though their political legacies vary considerably. The AL was formed in 1949 by a group of political leaders including Sheikh Mujibur Rahman who provided the leadership for the independence of Bangladesh from Pakistan. After independence, the AL dominated politics, having won all but seven seats in the country's first elections. A prolonged period of military rule began after the assassination of Sheikh Mujibur Rahman in 1975. In 1977 Major General Ziaur Rahman, a well-known military commander in the war of liberation, assumed the Presidency, and founded the BNP in 1978. He was assassinated in 1981. The current leaders of the AL and BNP are related to the respective parties' founders. Sheikh Hasina is the daughter of the late Sheikh Mujibur Rahman and Khaleda Zia is the wife of the late Ziaur Rahman.

The two main parties differ only marginally in terms of political platform, with the AL perceived as leaning slightly to the left of center, while the BNP promotes a center-right policy. The AL supports secularism,¹³ while the BNP "believes that Islam is an integral part of the socio-cultural life of Bangladesh and favors Is-

lamic principles," although the party has room for "every person of all communities."¹⁴ In practice, the support bases of the two parties have converged over the years. One study assessed that "for all their enmity, there is little ideological difference between the two parties. Both parties support capitalism, uphold the free market economy and pursue a near-identical foreign policy."¹⁵

There are also many smaller parties in Bangladesh, 37 of which were registered with the BEC in 2008.¹⁶ Of these, the two most prominent are the JP, headed by former President Ershad, and Jamaat-e-Islami (JI), an Islamist party. Disaffected members of the BNP founded the Liberal Democratic Party just before the cancelled 2007 elections. Other, more long-standing parties include the Bangladesh Workers Party, the Bangladesh Communist Party, the Bangladesh Jatiya Party (BJP),¹⁷ and Jatiya Samajtantrik Dal. In addition to party-sponsored candidates, Bangladesh has a history of independent candidates winning some seats in Parliament.

The BNP and the AL have each formed alliances with a number of smaller parties to contest parliamentary elections. The BNP first effectively used this strategy in 2001, introducing the Four-Party Alliance, which included JI. The Awami League followed suit in 2006 when it assembled the Grand Alliance (formerly the 14-Party Alliance), which eventually included the JP.



2.5 Chronology of key events leading up to the cancellation of the 2007 elections

26 March 1971	Declaration of Independence of Bangladesh
16 December 1971	End of War of Independence with Pakistan
4 November 1972	Constitution of Bangladesh adopted
15 August 1975	Assassination of Sheikh Mujibur Rahman
30 May 1981	Assassination of Ziaur Rahman
27 February 1991	5 th Parliamentary elections, return to civilian government under Bangladesh Nationalist Party
26 March 1996	13 th Amendment to the Constitution establishes the caretaker government system
June 1996	7 th Parliamentary elections bring Awami League to power
January 2001	8 th Parliamentary elections return Bangladesh Nationalist Party to power
16 May 2004	14 th Amendment to the Constitution raises the retirement age for Supreme Court Judges
17 August 2005	Hundreds of bombs explode across Bangladesh
August 2005	Election Commission begins preparation of new electoral rolls
21 August 2005	Sheikh Hasina injured by grenade in assassination attempt
12 February 2006	Awami League presents electoral reform proposals
May 2006	Supreme Court orders Election Commission to create new electoral rolls
June 2006	Awami League-led strikes (hartals) demanding electoral reforms
July-August 2006	Election Commission conducts second nationwide effort to correct electoral rolls
31 August 2006	Additional Commissioner appointed to the Election Commission
27 October 2006	Street violence reaches a peak
28 October 2006	President Iajuddin Ahmed sworn in as Chief Adviser
13 November 2006	Caretaker Government initiates talks with political parties in attempt to resolve crisis
22 November 2006	Chief Election Commissioner goes on leave
27 November 2006	Election Commission offices in five districts set on fire
2 December 2006	National Democratic Institute survey claims electoral rolls are inflated by 12 million entries
December 2006	Election Commission conducts third nationwide effort to correct the electoral rolls
24 December 2006	Candidate nomination period ends with 4,146 nominations filed, including by opposition
26 December 2006	Supreme Court asks former President Ershad to surrender to begin a prison sentence
3 January 2007	"Grand Alliance" announces election boycott and withdraws 2,370 candidates
7 January 2007	Awami League announces intensified agitation, including "blockades" of Dhaka
8-11 January 2007	The Election Working Group announces it will not deploy observers, followed by a suspension of international observers and of United Nations assistance for the elections
11 January 2007	Chief Adviser announces postponement of elections, declares a State of Emergency, resigns and accepts the resignation of nine Advisers

3

Collapse of Attempted Elections

Collapse of Attempted Elections

Well before the formal preparations for the parliamentary elections planned for early 2007 had begun, danger signals were emerging that the electoral process would not be a smooth and easy one. Although election observers had made positive comments on some previous elections in Bangladesh, significant levels of controversy, discord and violence marked most past elections, which raised the fears that such trends might continue. Several developments in the years following the previous elections in 2001 increased the levels of tension and contributed to setting the stage for a major political crisis in late 2006 and early 2007.

3.1 The 14th amendment to the Constitution

A particularly significant precursor to the crisis occurred on 16 May 2004, when the Parliament adopted the 14th amendment to the Constitution.¹⁸ The Parliament approved the amendment without discussion, by a vote of 226-1, during a boycott by the opposition. One of the provisions of the 14th amendment extended the retirement age for Supreme Court judges by two years to 67. This amendment altered which recently retired Chief Justice was to become the Chief Advisor of the CTG.

The ruling party, the BNP, asserted this provision of the 14th amendment was a straightforward effort to help remedy a shortage of senior judges, noting the Supreme Court's heavy caseload and pointing out that some two dozen Supreme Court judges were slated to retire within the next several years. The opposition, however, contended that the amendment was designed to ensure that a Chief Adviser sympathetic to the ruling party would be in office during the next election period. Specifically, with the change in retirement age, Chief Justice K. M. Hassan, who was appointed by a BNP government, would be in line to become Chief Adviser. The opposition parties thus charged that the amendment was a deliberate manipulation and politicization of the CTG system, which had been designed to ensure a neutral administration during pre-election periods.¹⁹ The 14th amendment and its implementation would become an issue of increasing political controversy as the election period approached.

3.2 Terrorism

The political atmosphere in Bangladesh was

also inflamed by an escalation in terrorist violence in 2004 and 2005. There were several major incidents that increased tensions in the country and formed an important backdrop to the elections planned for January 2007. These incidents raised concerns about the security situation and political environment in which the elections would take place.

On the morning of 17 August 2005, hundreds of small bombs exploded almost simultaneously in more than 50 cities and towns around the country, targeting primarily government institutions. At least two people were reported killed and over 50 injured. One of two Islamic groups outlawed earlier in the year, Jamatul Mujahideen Bangladesh, claimed responsibility for the blasts.²⁰

A few days later, on 21 August, assassins attacked a rally of the opposition AL in front of the party headquarters on Bangabandhu Avenue in Dhaka, hurling grenades and firing weapons. The attack came as the opposition leader, Sheikh Hasina, and other senior party members were concluding speeches to some 25,000 supporters. About a dozen grenades exploded, killing 24 people and wounding 100. Sheikh Hasina was among the injured.²¹ There had also been previous attempts on Hasina's life in earlier years.

Other serious incidents included a May 2004 attack on the British High Commissioner while he was visiting Sylhet and the 27 January 2005 assassination of former Finance Minister and United Nations Under-Secretary-General Shah A. M. S. Kibria, in his constituency of Habiganj in northeastern Bangladesh. In the latter attack, five people were killed and over 80 in-

jured. In October 2005, a member of the ruling BNP, Mizanur Rahman, was killed in a bomb attack in Khulna, in southeastern Bangladesh. Bombs placed in court buildings killed people in November, while in a separate incident the same month two judges were killed in a bomb attack. The first recorded suicide bombings in Bangladesh took place in November 2005 in Gazipur and Chittagong, killing at least seven people. Attacks continued into 2006, including a February 2006 bombing in which an AL leader, Sheikh Yunus Ali, lost a hand.²²

While these attacks were not necessarily election-related, they were politically motivated, raising fears that the upcoming election season might become even more violent than those in the past.

3.3 Politics of confrontation

Terrorism aside, Bangladesh has a history of violent politics, manifested not only in coups and assassinations, but also in massive political strikes known as *hartals*, as well as demonstrations and other types of street action, often accompanied by violence. Such actions reflect a political culture of confrontation, in which the country's major political parties frequently used inflammatory rhetoric, questioned the legitimacy of the other's hold on power, and opted for street agitation or violence in lieu of discourse and accommodation.²³ The major political parties often appeared to be locked in a cycle of internal and external conflicts to the neglect of the urgent needs of the population.²⁴

Election periods have tended to be particularly violent. During the 2001 elections, for example, over 400 people were reportedly killed and over 17,000 were injured, primarily during street clashes among supporters of rival political parties.²⁵ The February 1996 elections were also accompanied by violent clashes. Those elections were ultimately cancelled and later rerun after the AL boycotted the vote.

The politics of rejection extend beyond street action to the behavior of parties in representative institutions. The AL, for example, boycotted many sessions of Parliament while it was in opposition between 1991 and 1996 and again between 2001 and 2006. The BNP also staged walkouts and boycotts of Parliament during its years in opposition from 1996-2001. Both parties had threatened or undertaken boycotts in connection with previous parliamentary elections.

This established pattern of rejection and political confrontation began to repeat itself as the elections planned for January 2007 approached. By early 2006, political parties – and in particular the opposition AL – were already engaged in a familiar pattern of extensive street agitation in anticipation of the elections. AL supporters staged frequent sit-ins in front of the Prime Minister's Office and other government targets, which were sometimes met by competing demonstrators supporting the BNP, often leading to violent clashes.

By February 2006, almost a year before the planned elections, AL-backed demonstrations and *hartals* had become routine events. Some 200 people were injured during an AL-backed *hartal* on 14 February, as police and BNP supporters confronted opposition demonstrators in Dhaka and other cities.²⁶ In April, a protest at the house of a BNP parliamentarian turned violent as protesters clashed with police.²⁷ There were further AL-sponsored *hartals* in April, including a nation-wide dusk-to-dawn event on 20 April, during which police reportedly assaulted and beat participants in Dhaka.²⁸

The BNP responded to the AL's street action with its own counter-demonstrations, sometimes at the same locations, heightening the prospect of violent clashes between rival demonstrators. In some instances, BNP members reportedly attacked AL demonstrations. While the BNP sharply criticized the AL's continual resort to *hartals* and other street action, the AL charged that the BNP had staged no fewer than 382 *hartals* of its own while it was in opposition.²⁹

Overall, the political parties did not make any concerted efforts to curb election-related violence as the planned 2007 elections approached, other than sometimes avoiding planning large demonstrations near each other. Instead, they used the violence to generate political propaganda against each other in the form of posters, leaflets, compact discs, and other media. Leaders even urged violent behavior at times. AL leader Sheikh Hasina once called on her activists to come with oars and sticks to join protest activities.³⁰

In addition to *hartals* and demonstrations instigated by the major political parties, Bangladesh faced a number of other street actions

and *hartals* sponsored by religious or other interest groups in 2006, which added to general tensions and disruptions. In June, a religious group called a *hartal* and attempted to blockade the main road to Dhaka's airport, leading to clashes with police that resulted in 20 injuries.³¹ Student groups also joined the fray, staging strikes at some of Bangladesh's universities.

The *hartals* often brought transportation and commerce in Dhaka and other major urban centers to a virtual standstill. Roads in and out of Dhaka were blocked. The port of Chittagong was closed on several occasions. The disruptions began to take a serious toll on the national economy. Many schools and businesses were closed during the days announced as *hartal* days. The Chamber of Commerce and Industry judged that the *hartals* and other street action were having a tremendous negative effect on the economy, causing prices to rise, factories to close, the value of the taka to drop and some businesses to lose up to 40 per cent of their income.³²

The *hartals* were ostensibly called as protests against a wide variety of developments and governance failures, including the killings of some opposition party leaders, rising prices for essential commodities, and power shortages.³³ By June, however, AL-sponsored *hartals* were held specifically to demand electoral reforms and to call for the resignation of election commissioners.³⁴ A 36-hour *hartal* in mid-June left over 100 people injured as demonstrators clashed with police.³⁵ Another *hartal* on 2 July included a blockade of roads, railways and waterways, during which a police officer was killed by stone-throwing demonstrators in Narayanganj and an AL activist died in Dhaka. At least 100 people were injured in clashes around the country, including riots in which a train and dozens of automobiles were destroyed or damaged by protestors.³⁶

By mid-summer, 2006, there were fears of widespread violence in the pre-election period,³⁷ which was scheduled to begin in mid-October with the installation of the CTG. Levels of political violence were already alarming, raising very serious concerns that violence would negatively affect or disrupt the elections.³⁸ In addition to the well-publicized campaign of street agitation, there were continuing reports of other acts of political violence, coercion

and intimidation, including killings, assaults and arson. The use of "muscle men" or "muscle power" in electoral activities was said to be pervasive.³⁹ On 13 June the home of Election Commissioner Rahman was attacked with gunfire and the next day several crude bombs were thrown at the home of the Chief Election Commissioner.⁴⁰ It was especially troubling that the major political actors had come to see this situation as "business as usual" and did not appear concerned by the levels of violence.⁴¹

As summer crept into early fall and the formal pre-election period approached, the street action continued, with attendant injuries and damage. Additional *hartals* took place around the country in August.⁴² In mid-September, another *hartal* turned violent. According to one account, at least 50 people were injured "amid police baton charges, smashing of vehicles by pickets and...battering normal life and businesses in the capital."⁴³ Increasingly, the *hartals* and other demonstrations were called specifically to protest issues related to the elections and the impending installation of a new CTG.

3.4 Opposition demands

A year before the elections, the AL put forward an electoral reform agenda aimed at leveling the playing field for elections and instituting measures to safeguard the integrity of the election process. The AL's partners in the 14-party opposition alliance joined the AL in its demand for electoral reforms. The opposition program included reforms to the CTG system, reform of the BEC and reform of the electoral laws. If these demands were not adequately accommodated, the opposition threatened to boycott the January 2007 elections – as it had done in 1996 – and to intensify its program of street agitation.⁴⁴

The AL took the position that its proposed reforms were necessary to improve the existing system for administering elections. More importantly, the AL contended that the government's actions had subverted the framework for democratic elections. In particular, the AL asserted that:⁴⁵

- The incumbent President, Iajuddin Ahmed, was partisan and would wield too much power during the election period. The AL was particularly troubled that the President held the portfolio of Defense

Minister during the CTG and might thus be able to use the Armed Forces for partisan political purposes.

- The 14th amendment to the Constitution would result in the appointment of former Chief Justice K. M. Hasan, a former member of the BNP, as Chief Adviser.
- The BEC had become subservient to the Prime Minister's Office and would not be impartial in the elections.
- The CEC and other members of the BEC were "controversial, incompetent and partisan."
- The electoral rolls were "a mess."
- The civil service and police had been politicized and would be used to manipulate the election process.
- Widespread cheating, intimidation and manipulation would taint the election.

In order to deal with these concerns, the AL proposed a set of reforms that included three principal demands. The AL demanded that:

- The Chief Adviser of the CTG should be selected by consensus among the political parties.⁴⁶ In order to enable this proposal to be implemented, former Chief Justice K. M. Hasan should voluntarily decline to become Chief Adviser. Other Advisers should also be chosen by consensus and the Ministry of Defense should be under the control of the Chief Adviser rather than the President during the period of the CTG.
- The BEC should be reconstituted through the resignation of the existing commissioners; the new commissioners should be chosen by consensus; and the ECS should become independent of the Prime Minister's Office.
- The electoral rolls should be updated in the usual way, but all voters should be photographed and their photos should appear with their names and other data on the electoral rolls.⁴⁷ This was an idea also advocated by many NGOs. A voter register with photographs would become

a major theme of later efforts to enhance confidence in the integrity of the electoral process. (The BNP, in contrast to the opposition, took the position that the electoral rolls were acceptable without further revision.)⁴⁸

Although these three demands⁴⁹ received the most emphasis and publicity, the AL reform agenda included a large and frequently changing number of other items. High on the list was the depoliticization of the many civil service positions involved in administering elections, including Deputy Commissioners, *Upazila Nirbahi* Officers, and senior positions in the police force. Other provisions of the reform agenda called for greater efforts to control "Black money" and "muscle power." The AL also advocated – as did many NGOs – disclosure of information about the candidates, in particular their educational qualifications, their financial situation, whether they had defaulted on loans, and any criminal records. The agenda called for greater control over candidate's expenditures, regulation of media coverage of campaigns, limits on activities by the Armed Forces during the election period, recovery of illegal firearms, and use of transparent ballot boxes, as well as detailed stipulations as to what sort of campaign activities would and would not be permitted. The AL also supported limiting the number of political party polling agents in polling centers and prohibiting domestic election observers from entering polling centers.

Much of the political confrontation that developed over the next several months centered around these proposed reforms and the extent to which the ruling party and CTG agreed to implement them. This focus on electoral reforms would also become a significant theme of the future CTG over the next two years.

The BNP, for its part, dismissed most of the AL's complaints as evidence that the opposition was unreasonable and that it might not be serious about wanting to participate in the elections.⁵⁰ Party leaders contended that they had tried to meet the opposition's demands by accepting that K. M. Hasan would not become Chief Adviser and agreeing to additional appointees to the BEC. The BNP was adamant that the elections had to go forward within the constitutional timeframe of 90 days. The party contended that the opposition demand for a

voter register with photographs was evidence that the opposition did not want the election to be held on time.⁵¹

3.5 Domestic efforts to resolve the crisis

Party leader Sheikh Hasina presented the AL's reform agenda to Parliament on 12 February 2006. The initiative led to an extended series of exchanges of formal letters between the AL and the BNP in regard to electoral reforms. At least half a dozen letters were exchanged between the two parties on the subject of electoral reform, but there was little tangible progress.

Eventually, the BNP offered to begin a face-to-face dialogue on electoral reform. However, when the government announced its delegation to lead the discussions, the AL and the 14-party opposition alliance rejected it, since it included members from the BNP's partners, JI and Islami Oikya Jote, with whom the AL said it could not negotiate.⁵² The AL accused the BNP of deliberately stalling the dialogue and turning it into a charade.⁵³ The BNP countered that the AL was not sincere about discussing reforms with the government and that it set unreasonable conditions to avoid dialogue.⁵⁴

As a result, there was no serious substantive dialogue between the two major political parties on electoral reform until September. At that point, the Secretaries General of the BNP and the AL undertook five rounds of talks that were said to have narrowed the differences between the parties and to have led to agreement on many technical election issues.⁵⁵ By this point, however, time was running out. With the transition to a CTG scheduled to take place on 27 October, the parties were unable to reach agreement on the key point of who should serve as Chief Adviser of the CTG. Participants in the talks asserted that the negotiators had reached agreement on a compromise solution, but that neither side was able to win the approval of its own party leader.⁵⁶ Meanwhile, political tensions and street violence were increasing. The AL continued to insist that unless former Chief Justice K. M. Hasan withdrew his name as Chief Adviser-to-be, the opposition would resort to increased pressure on the streets and might disrupt or boycott the elections. There appeared to be an increasing possibility that the entire election process could be derailed.⁵⁷

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3.6 Election preparations

Amid the swirling controversies surrounding the election process, technical preparations were underway to hold elections in early 2007, under the direction of the BEC that consisted of M. A. Aziz, a sitting Justice of the Supreme Court as CEC, and S. M. Zakaria and Mahfuzur Rahman as two other Commissioners. Although the constitutionally-mandated independence of the BEC should be one of the strengths of Bangladesh's election system, the Commission and its actions became the subject of political controversy throughout 2006.

The two major issues of contention surrounding the election preparations were the composition of the BEC and the quality of the electoral rolls. These issues were closely inter-related since preparation of the electoral rolls is one of the constitutional responsibilities of the Commission.

3.6.1 The electoral rolls

More than a year before the elections, in August 2005, the CEC ordered a house-to-house survey to generate new electoral rolls. This was in accordance with previous practice. The opposition, however, charged that the enu-

merators hired to draw up the rolls were largely partisan and asserted that the process was manipulated to pad the rolls with millions of “ghost voters.”⁵⁸ Opposition leaders cited census data to suggest that the new electoral rolls included as many as 14 million extra names. The new rolls had 91 million names, a number that did not seem credible in a country of about 150 million people, with a high percentage of people below voting age.

Surveys by non-governmental organizations tended to substantiate some opposition claims about the rolls. One such survey concluded that some of the enumerators were selected with political bias, that local political elites often interfered in the enumeration process, and that some enumerators did not visit areas with concentrations of religious or ethnic minorities.⁵⁹ Other NGO surveys, conducted by NDI and the NGO Brotee, confirmed that there were millions of extra names on the rolls.⁶⁰

Leaders of the AL filed a court case asking that the new electoral rolls be ruled invalid, since electoral law required the BEC to update the existing (2000) electoral rolls rather than create entirely new rolls. On 4 January 2006, the HC ruled in favour of the AL.

The BEC nevertheless continued the process of preparing entirely new rolls, while appealing the HC’s ruling to the Supreme Court. The decision not to honour the HC ruling led to growing public perception that the BEC was partisan. In May, the Supreme Court upheld the HC’s judgment and issued a contempt ruling against the CEC and the Acting Secretary of the Commission for failure to comply with the HC’s January ruling.⁶¹

The controversy escalated further when the CEC decided in the wake of the Supreme Court’s ruling not to conduct a new enumeration using the 2000 roll as the basis. Instead, he announced, it would be up to each voter to check and correct his or her own entry on the 2001 rolls.⁶² By mid-June, it was clear that the BEC, through its actions, had begun to lose the confidence of much of the public.⁶³ Some senior members of the BNP joined the opposition and the press in openly criticizing the BEC, although officially the BNP continued to support the BEC.⁶⁴

A few weeks later, on 7 July, bowing to mounting domestic pressure, the BEC agreed to conduct a new enumeration. The Commission claimed that it amended its position in a nod to the opinions expressed by different political parties, and professional, social and cultural organizations that house-to-house visits would be more likely to lead to a successful revision of the electoral rolls.⁶⁵ A second house-to-house survey of voters was conducted in July and August. The process, however, was widely criticized as being poorly administered and producing worse results than the previous enumeration.⁶⁶ The number of voters registered was similar to the earlier enumeration, fuelling opposition charges of a “fix” that would be used to rig the elections.⁶⁷

The quality of the electoral rolls increasingly developed into one of the major issues of controversy surrounding the elections. The rolls were widely regarded as highly inaccurate.⁶⁸ The BEC’s handling of the registration process beginning in 2005 and throughout 2006, together with its failure to seek an acceptable solution to the electoral rolls problem undercut its reputation and marked it as irredeemably partisan in the eyes of the opposition and much of the media.⁶⁹ Its two house-to-house enumerations neither built confidence in the rolls nor remedied their deficiencies. At each stage of the registration process the opposition renewed its demand for electoral rolls with photographs of all voters as a way to combat fraud at the polling centers. The opposition, however, acknowledged that photographic rolls could not be compiled in the time available before the elections.

The poor quality of the electoral rolls and the ineffective attempts to remedy the problem became an increasingly disruptive political issue, which contributed to the opposition’s demands that the BEC be replaced.

3.6.2 Composition of the BEC

Under the Constitution, the BEC is an independent body consisting of one or more Commissioners, all appointed by the President.⁷⁰ The opposition ultimately came to regard the entire Commission as biased against it, and reserved its special ire for the CEC.

The “reconstitution” of the BEC became one of the opposition’s chief demands and rallying cries.⁷¹ On 31 August 2006, the President

appointed Mahmud Hasan Mansur as an additional, fourth, member of the BEC, at the recommendation of the Prime Minister. Appointing an additional Election Commissioner could have been an opportunity to calm the growing crisis and move toward restoring public confidence by injecting some additional balance into the Commission. Instead, the opposition viewed Mansur as another supporter of the governing party, without any special credentials in election administration.⁷² The appointment was thus a missed opportunity to reduce tensions and bring the political parties closer to an agreement. By this time, there was a widespread lack of public confidence in the BEC.⁷³ Opposition agitation against the Commission continued.

Amid mounting street action that increasingly threatened the elections, in November 2006 the Chief Adviser of the CTG asked the CEC and another controversial Commissioner to take a “leave of absence” until after the elections. CEC M. A. Aziz went on leave on 22 November and Commissioner S. M. Zakaria followed on 21 December. The President appointed two new Commissioners, but both disappointed the opposition and the media, as they were perceived – rightly or wrongly – to be linked to the BNP. With these appointments, the President missed a crucial, belated opportunity to restore confidence in the BEC and to quell the mounting political crisis.⁷⁴

3.6.3 Other election preparations

Beyond the controversies over the electoral rolls and the composition of the BEC, the pre-election period was clouded by a number of other concerns about election preparations. The growing politicization of the civil service was a particular concern,⁷⁵ since senior civil servants have an important role in administering elections. Some government offices were also perceived as acting in a biased fashion. For example, the NGO Affairs Bureau – a branch of the government – had not given approval to a number of NGOs to undertake election related projects, such as voter education, public service announcements, election observation and other activities. There was a growing perception that the NGO Affairs Bureau was granting or denying approval for NGO programs on the basis of political considerations. This alienated segments of civil society and further damaged popular confidence in the impartiality of the election process.⁷⁶ In addition, activists from

many political parties expressed fears of election day malpractice and fraud, recalling that past election days saw abuses such as ballot box stuffing, bussing of voters, vote-buying, intimidation, impersonation, changing polling center results at the tally center and other manipulations.⁷⁷

Despite the concerns, however, preparations for the elections were proceeding: printers were chosen for printing ballots and election forms; locations for over 33,000 polling centers were finalized; new ballot boxes were ordered and manufactured; indelible ink was procured; and the Finance Ministry authorized the expenditure of 1 billion taka (USD 14.5 million) to support election preparations.⁷⁸ However, the repeated delays and changes in procedure for compiling the electoral rolls put some election preparations – such as printing the electoral rolls – far behind their original schedule.⁷⁹

By the time the CTG took office in October, there was substantial doubt as to whether a level electoral playing field was in place for all candidates and parties.⁸⁰ This put the likelihood of the election going forward in even further peril, since the existence of equal conditions during the pre-electoral period is a necessary element for sound, democratic elections, and is in many ways more important for the electoral outcome than what happens on election day. Even at this late stage, however, vigorous action by the CTG and the BEC might still have remedied some of the most problematic issues surrounding the electoral process.

3.7 The first Caretaker Government

The scheduled date for dissolution of the elected government and assumption of power by a CTG was 27 October 2006. The two major political parties continued to negotiate into late October with a view to reaching an accord on a mutually acceptable candidate to serve as Chief Adviser. In the end, however, they failed to reach agreement. The AL and its partners continued to refuse adamantly to accept the appointment of retired Chief Justice K. M. Hassan, who was slated to become Chief Adviser, threatening to increase their street agitation, with the strong likelihood of further violence, if the appointment went forward. Under the circumstances, K. M. Hassan refused the post, stating publicly that he was ill.⁸¹

The Constitution of Bangladesh provides a se-

ries of alternatives if the most recently retired Chief Justice of the Supreme Court for any reason declines or cannot take office as Chief Adviser. Under the constitutional alternatives, the second option was to appoint the second most recently retired Chief Justice, but this person had died. The third constitutional option was to appoint the most recently retired Judge of the Appellate Division, but the AL objected to his appointment. The next option was to appoint the second most recently retired judge of the Appellate Division, but the BNP had reservations about this individual. The fifth constitutional option was to appoint a Chief Adviser through consultations among the political parties, but inter-party talks seeking agreement on this issue had recently collapsed.⁸² The final constitutional option was for the President to assume the functions of Chief Adviser himself, in addition to his duties as President. This was the option taken by President Iajuddin Ahmed on 28 October as he assumed office as Chief Adviser. Questions remained as to whether the other options had, in fact, really been exhausted.

The President's self-appointment as Chief Adviser was highly controversial and raised the perception that he was acting at the behest of the BNP, as he had been elected President during the previous BNP government.⁸³ In protest, the AL did not attend President Ahmed's swearing in ceremony and continued its nationwide program of street agitation. Nevertheless, the AL did not immediately reject the appointment. The Awami League's leader, Sheikh Hasina, met with the President in his new capacity of Chief Adviser to spell out the AL's key demands, which had been reformulated as an 11-point electoral reform proposal. The opposition wanted their proposals to be implemented within one week.

In the days leading up to the installation of the CTG, street agitation and violence increased. Violence peaked on 27 October, with competing demonstrations by the major parties. The houses of two prominent leaders of the Liberal Democratic Party who had recently broken from the BNP and joined the opposition coalition were set afire. Former members of Parliament were attacked. Two leaders of the BNP political alliance were brutally murdered in a street riot. Large scale violence continued for several days, with some 28 people killed and at least 2,000 reported injured. Within a span

of several days, there were 90 or more incidents of political violence around the country, most of them concentrated in Dhaka and Chittagong. The majority of the incidents were violent clashes between supporters of the two major political party alliances, who in many instances wielded sticks, knives, and guns or small bombs.⁸⁴ Supporters of other parties were also attacked; a bombing on 31 October 2006 in Rajshahi targeted independent parties including the Gono Forum.⁸⁵ According to non-governmental monitors, the AL was responsible for most of the violence, although supporters of the BNP were also participants.⁸⁶

3.8 The many lost opportunities

Further controversies rapidly followed President Iajuddin Ahmed into his new office as Chief Adviser. His choices of the ten individuals to make up the Council of Advisers caused some disagreement, as the overall balance of the Council was perceived as favouring the BNP.⁸⁷ In practice, however, the Advisory Council was to a large extent sidelined by the Chief Adviser,⁸⁸ in contrast to the practice in previous CTGs. The Chief Adviser was often perceived to be acting at the behest of the BNP, rather than fulfilling his constitutional responsibility of impartiality.⁸⁹ The Advisers grew increasingly frustrated as they were neither consulted about nor informed of key decisions.⁹⁰ As a measure of their discontent, in late November the Advisers called in sick on the same day as a sign of protest. The dysfunctional relationship between the Chief Adviser and the Advisory Council greatly damaged the credibility of the CTG. Many Advisers were concerned that the government was not fulfilling its responsibility to establish a level playing field for the elections.⁹¹ A number of Advisers were reported to be continuously on the verge of resigning.

Preparations for the elections under the CTG were also clouded with controversy. Divisive actions combined with inaction on the part of the CTG, the BEC and the courts exacerbated an already dangerous situation.

On 2 November, less than a week after taking office, the Chief Adviser informed the political parties that he did not plan to reconstitute the BEC. This pleased the BNP, but drew the ire of the opposition, since the replacement of the Commission – and in particular Chief Election Commissioner Aziz – had become the key

opposition demand. Defending his decision, the Chief Adviser pointed out that under the Constitution, the BEC was an independent body and that he had no power to remove or change its members.⁹² With this, the opposition began to demand the resignation of the Chief Adviser, as well as the resignation of the BEC.

Previous CTGs had made it a priority to reshuffle those incumbents in civil service positions who had election responsibilities in order to ensure that relatively neutral officials were involved in election activities. This was regarded as a key step in building confidence that the election process would not be manipulated, since Deputy Commissioners (who are civil servants) serve as Returning Officers, and a great many lower level civil servants take on other election duties. The reshuffling undertaken by the CTG, however, fell far short of what was needed to restore confidence. Although large number of civil servants were transferred to new positions, in many cases civil servants who were perceived as BNP supporters were inter-changed with other supporters from the same party. For example, the heads of the government-owned Bangladesh TV and Bangladesh Radio just switched positions. In all, the CTG re-shuffled more than 1,600 people in the civil service and security apparatus. Eventually, these included some important positive reassignments, including the Secretaries for Home and Establishment, and the Cabinet Secretary. However, it was clear that the playing field still remained tilted to favor the BNP.⁹³

Meanwhile, violence continued at alarming levels in November, with intermittent *gherao* (sit-ins), *hartals* and countrywide *abrodh* (blockades) which left 36 dead and 2,116 injured in the course of the month. On 15 November, 8 people were reportedly wounded when a series of small bombs exploded near the offices of the AL.⁹⁴ On 21 November, the AL renewed its blockade program with increased vigor, leading to clashes in which 150 people were injured.

The following day, finally bowing to public pressure, Chief Election Commissioner Aziz announced that he was going on leave for three months, until after the elections. Another member of the Commission, Justice Mahfuzur Rahman, became acting CEC, though there is no legal provision for an acting CEC. A few

days later, the President appointed two new Election Commissioners: Modabbir Hossain Chowdhury, a former Inspector General of Police, and Saiful Alam, a retired District Judge and a former Director General of the ACC. This attempt to restructure the BEC was undermined when the press reported that Chowdhury had aspired to be a BNP candidate in the parliamentary elections but had not been selected by the party, leaving the impression that the Commission's newly appointed members were political rather than impartial.⁹⁵ One of the first actions by the new Commission was to announce that elections would be held on 21 January 2007; a week later they were postponed until 23 January to avoid being scheduled on the same day as Sarashwati Puja, a Hindu religious holiday.

The departure of the CEC – which might have done a great deal to quell tensions if it had occurred months earlier – did little to quell the growing national political crisis. By the time the CEC announced his departure, the opposition parties were demanding not only that the entire BEC be replaced, but also that the Chief Adviser resign and that the elections be postponed for 45 days. Two days after Chief Election Commissioner Aziz announced his departure, opposition lawyers filed a writ challenging the legality of the President's assumption of the position of Chief Adviser. As the court was about to render a decision on the case on 30 November, the Chief Justice took the unprecedented action of staying the order before it was even issued. This created yet another major political controversy, including allegations that the BNP had manipulated the judiciary for political ends.⁹⁶ A number of lawyers involved in the case and their sympathizers reacted violently, vandalizing court vehicles.⁹⁷ On 27 November, BEC offices in five districts were set on fire.

With events spiralling downward, violence rapidly escalating, and the prospects of holding a credible election fast diminishing, efforts were underway to try to calm tensions and resolve the political crisis. On 13 November, the CTG initiated talks with the political parties. The talks, however, made little headway. In late November, Bangladeshi Nobel Prize Laureate Muhammed Yunus called on the warring political parties to sign a peace accord and put forward a proposal for compromise to enable the elections to go forward.⁹⁸ Yunus's proposal was much discussed and commented on, but was not taken up by the parties.

Bangladesh's international partners were also becoming increasingly concerned over these developments. As early as January 2006, high level visitors from the United States, the United Kingdom and the European Union Troika had expressed concern about the direction in which electoral issues seemed to be heading.⁹⁹ As the domestic crisis intensified, on 17 November the European Parliament called on the CTG to reconstitute the BEC and to correct the electoral rolls.¹⁰⁰ A few days later, the American Ambassador commented to the media that the public had lost trust in the BEC, while the United Kingdom High Commissioner expressed concern about lack of confidence in the Commission.¹⁰¹

United Nations officials also expressed concern about these developments. In June, a visiting United Nations mission issued a statement calling for constructive dialogue among the key political parties to lessen tensions and build public confidence in all aspects of the election. The mission was deeply troubled by the high level of political violence already prevalent.¹⁰² On 30 October, United Nations Secretary-General Kofi Annan publicly expressed concern about electoral violence and appealed to the major political forces in Bangladesh to work together to find common ground for the elections.¹⁰³ On 27 November, Secretary-General Annan again expressed concern publicly over developments in Bangladesh, underscoring the importance of a peaceful and transparent environment so that the elections would enjoy the full confidence of the people.¹⁰⁴

In late November and early December, a United Nations Envoy, Craig Jenness, visited Dhaka to encourage accommodation among the parties. Jenness found that "there is a deep sense of worry that current political disagreements are harming the economy, increasing tensions, and threatening the chances for a credible election."¹⁰⁵ Among the points he emphasized were the importance of a level playing field, a peaceful environment and an election commission which is trusted by the electorate and all parties.¹⁰⁶

Additionally, NDI fielded a delegation, which included United States Senator Tom Daschle, former Prime Minister of New Zealand Mike Moore, and a former Minister in Cambodia, Mu Sochua. The delegation recommended that

the BEC engage in a dialogue with political parties and address the lack of public confidence in the voter register, and that the CTG be appointed through a process of dialogue and consent among the parties.¹⁰⁷

There were also intermittent talks between senior leaders of the major parties aimed at trying to resolve the worsening political quandary. On 9 December, the Secretaries General of the two major parties agreed on a set of election reforms put forward by civil society groups. In practice, however, the situation remained largely unchanged.¹⁰⁸

The poor quality of the electoral rolls – which had long been a major issue of contention – moved to the forefront of the electoral controversy once again on 2 December, when NDI released a survey concluding that there were some 12.2 million extra or duplicate names on the electoral rolls.¹⁰⁹ The survey, which had been meticulously compiled through interviews with 34,000 voters in 150 voting centers, thus tended to confirm opposition claims that there were millions of extra names on the electoral rolls. The NDI survey, however, did not accept the charge that these were fraudulent "ghost voters," asserting instead that most were migrants who had been registered twice at their old and new places of residence or deceased people who had not been removed from the rolls.¹¹⁰ Nonetheless, by confirming that the electoral rolls were riddled with millions of duplicates and inaccuracies, the survey generated increased demand for correction of the rolls as key element of acceptable elections.

The BEC, under relentless pressure from the opposition, the media and civil society to correct the problem, conducted yet a third update of the electoral rolls for 11 days in December. This proved to be far too short a time for an effective process to correct rolls with some 93 million names. In addition, the effort was plagued by organizational problems. As a result, the December update process largely failed to improve the quality of the rolls or voter confidence in them. At the end of December, the non-governmental organization Brotee released a new electoral rolls survey for a sample of six constituencies, concluding that there were over 2 million extra voters on the rolls for those constituencies, or 14.7 per cent too many.¹¹¹ This further solidified demands for a whole-scale revision of the rolls.

Amid the unrest and controversies, political parties began to prepare and organize seriously for the election. The BEC had set 21 December as the deadline for candidates to file nomination papers, but because of a violent, country-wide *hartal* sponsored by the opposition, the deadline was postponed until 24 December.¹¹² Violence continued, and even on the closing day for nominations, some 300 people were injured in clashes around the country between supporters of the two major political parties. Nevertheless, a total of 4,146 candidate nomination papers were filed, including full slates of candidates representing the opposition parties.¹¹³

The candidate nomination process was not without its own controversies. A particularly contentious issue was the requirement that candidates disclose background information on their education and finances, and state whether they had defaulted on loans or had criminal convictions. These requirements were part of an effort to clean up politics by discouraging people with shady backgrounds from running for office while ensuring that voters had access to any adverse information about candidates. The disclosure requirements were challenged in court, but the HC ruled in May 2005 that they should be implemented.¹¹⁴ However, on 19 December 2006, just two days before the deadline for candidate nominations, the Supreme Court issued a stay on the collection and reporting of candidate information.¹¹⁵ Although the ruling did not have a direct effect on election preparations, it reinforced the public perception of a link between politics, corruption and criminality in Bangladesh.

High levels of violence continued in December, even as the political parties prepared to contest the elections. Among many other incidents, an organizing secretary of the BNP was killed in a bomb attack in Jhenaidah District, leading to a brief BNP-sponsored *hartal* and rioting in the district.¹¹⁶ In response to the general breakdown of law and order in the country, on 10 December 2006 the President and Chief Adviser decided to deploy the Armed Forces across the country to assist the civil administration in maintaining order. This decision further increased the level of volatility. As with other significant decisions, the order was apparently issued without informing or consulting the Council of Advisers. Four Advisers who had been meeting with politi-

cal party leaders to try to negotiate a resolution of the political crisis resigned in protest the following day, dealing another blow to the credibility of the CTG. One departing Adviser made a public statement regretting that the CTG had failed to create a level playing field for the elections.¹¹⁷ The four Advisers were replaced the following day.

The deployment of the Armed Forces, moreover, did not quell the violence. In December, 21 people were killed and 1,734 were injured in political violence.¹¹⁸ This brought the total casualty figures of political violence for 2006 to 244 killed and 13,152 injured.¹¹⁹

Yet another major issue of controversy that came to a head in December centred on the candidacy of retired Lieutenant General H. M. Ershad, a former military ruler and President of Bangladesh (1982-1990). Ershad headed the JP, one of the four largest parties in the country, which had toyed with joining the BNP-led Four Party Alliance, but eventually joined the opposition alliance instead. As the election approached, the HC issued a judgment confirming a decade old conviction of Ershad on a corruption case dating back almost 20 years.¹²⁰ The HC's verdict was issued on 14 December, imposing a sentence of two years imprisonment on the former President. Ershad appealed the verdict to the Supreme Court, but also called for a *hartal* in five northern districts where his support was strongest and announced that the JP would not participate in the elections unless Chief Adviser Iajuddin resigned. On 26 December, the Supreme Court denied Ershad's appeal and asked him to surrender to begin his prison sentence. A few days later, the BEC rejected Ershad's candidacy because of his conviction. Whatever the legal merits of the case against Ershad, the timing of his conviction and disqualification in a decades-old legal case left a further impression of official bias and manipulation.

Ershad's disqualification was the final straw for the opposition. On 3 January, the AL and other members of the "Grand Alliance" announced that they would boycott the elections. Several other small parties also joined the boycott. The boycotting parties withdrew their 2,370 candidates, some 60 per cent of all registered candidates. The BEC asserted that the elections would nevertheless go forward on schedule, a decision supported by the BNP.

Following the withdrawal of the opposition candidates, the Commission announced the winners for 17 now-uncontested constituencies, including those represented by former Prime Minister Khaleda Zia and her son Tariq Rahman. The Commission issued orders to proceed with the ballot printing, without the names of the withdrawn candidates. The BNP and its allies, always insistent that the election should be held within the 90-day constitutional timeframe for elections, began their official campaign.

The boycott decision led to a rapid deterioration of the already bleak political landscape. The AL announced plans to expand and intensify its program of street agitation, beginning with nation-wide blockades on 7 January 2007 then escalating the following week into “non-stop” protests until election day and beyond.¹²¹ This reinforced the already grave concern among stakeholders that the election process would not be credible or acceptable, and that the process would lead to an escalating political crisis with potentially uncontrollable violence and bloodshed in the days and weeks ahead. Police began another wave of mass arrests in Dhaka and the districts in an effort to blunt the demonstrations.

On 8 January, the EWG, a consortium of over 30 non-governmental organizations¹²² that had planned to deploy some 168,000 domestic observers, announced that it would not monitor the vote without the participation of all major parties.¹²³ Two days later, international observer teams from NDI and the International Republican Institute (IRI) withdrew from election observation. Meanwhile, the United Kingdom High Commissioner and the American and European Union Ambassadors made statements indicating that an election that excluded the opposition would not be seen as credible by the international community.

On 10 January, the United Nations issued a statement on behalf of the newly installed Secretary-General, Ban Ki-moon, expressing deep concern over the deteriorating situation and noting that the political crisis in Bangladesh had “severely jeopardized the legitimacy” of the planned elections. The statement called on all sides to refrain from violence and seek compromise. Because of the worsening situa-

tion, including the withdrawal of international election observation missions, the United Nations suspended all technical support to the electoral process, and closed its International Coordination Office for Election Observers in Dhaka. The United Nations statement urged the CTG and BEC to create a level playing field and to ensure that all parties could have confidence in the electoral process. It called on those responsible for enforcing the law to act with restraint and respect for human rights.¹²⁴ On the following day, the European Union (EU) suspended the work of its Election Observation Mission, stating that conditions for credible and meaningful elections did not exist.¹²⁵ Many Bangladeshis believed that the withdrawal of international backing for the election and the cancellation of international observation missions were crucial factors leading to the cancellation of the January 2007 elections.

The political crisis over the election came to a head late on the afternoon of 11 January 2007. The chiefs of the Army, Navy and Air Force, joined by the head of the Armed Forces’ Ninth Division, called on the President and reportedly insisted that he end the crisis either by brokering an immediate political agreement among the parties or by declaring a State of Emergency. The Council of Advisers also reportedly requested the President to resign as Chief Adviser and to declare an emergency. In response to these pressures, the President issued a Proclamation of Emergency, in accordance with the relevant constitutional provisions. The President delivered a televised speech later that evening, announcing his resignation as Chief Adviser and the indefinite postponement of the 22 January elections. His speech acknowledged that conditions did not exist for free and fair elections, and included references to the flawed electoral rolls. Nine of the CTG’s ten Advisers also resigned, leaving just one, Justice Fazlul Haque, to serve as interim Chief Adviser.¹²⁶ Many election stakeholders and the wider public initially received the announcement of a State of Emergency with relief, seeing it as a measure that could forestall bloodshed and economic paralysis, and avert an election that would have fallen far short of accepted standards. This relief was reflected in the replacement CTG’s initially very high public approval ratings.

4

**Structural Issues
Responsible for the
Collapse**

Structural Issues Responsible for the Collapse

The preceding narrative highlights a wide range of issues that contributed to the breakdown of the 2006-2007 election process in Bangladesh. These issues included technical deficiencies as well as serious political failures. A number of these deserve further analysis, both to understand better what led to the breakdown, and because many of the deficiencies would become the targets of the reform initiatives of 2007-2008.

4.1 The electoral rolls

Among the technical issues contributing to the collapse of the election process in 2006-2007, the most important was the poor quality of the electoral rolls. The erratic process through which the rolls were compiled left many with the impression that the BEC was either incompetent or not acting impartially, and that the playing field for the elections was not level. The inaccuracy of the rolls, despite repeated updates during the pre-election period, fed growing fears that the elections might not be conducted honestly. Overall, the poor quality of the electoral rolls did more than any other issue to undercut public confidence in the BEC.

Under the Constitution, it is the responsibility of the BEC to “prepare electoral rolls for the purpose of elections to the office of President and to Parliament.”¹²⁷ The 1982 Electoral Rolls Ordinance, as amended, set out specific procedures for voter registration.¹²⁸ Separate electoral rolls were to be prepared for each constituency. The rolls were to be revised before each election or whenever the BEC directed. Completed rolls were to be published in draft, providing a period in which voters or political parties could make claims and objections before the final rolls were prepared and published.

Bangladesh has traditionally had a state-initiated or “passive” system of voter registration, in which all citizens of sound mind, 18 years of age or older, are automatically registered as voters without having to appear at registration centers. This was accomplished through a process of house-to-house registration, carried out by hundreds of thousands of enumerators (usually teachers) under the direction of registration officers appointed by and under the general supervision of the BEC.

Although all eligible citizens were supposed to be included on the rolls, large numbers of citizens were omitted, including people without a permanent residence and people displaced by natural disasters.¹²⁹ In addition, Bangladeshi citizens residing abroad were not included on the rolls. The rolls had long been regarded as inaccurate, not only as a result of eligible citizens being left off, but more often because of fears that far too many people were registered.¹³⁰ The updates in 1998 and 2000, in particular, added large numbers of names, far out of proportion to the population’s growth rate.¹³¹

It is noteworthy that the opposition political parties, despite their vociferous complaints about the quality of the rolls, did not avail themselves of the opportunity to conduct a careful analysis of the draft revised rolls when they were publicly posted in August 2006.¹³² This gave the impression that they were more interested in scoring political points at the expense of the government and the BEC than engaging in a serious effort to use the time available to improve the rolls.

In addition to the question of the overall accuracy of the electoral rolls, the BEC’s reluctance to consult political parties on voter registration and its failure to abide immediately by the HC’s ruling to update existing rolls, there were a number of technical issues detracting from their quality. First, the rolls were compiled in order of voters’ numbers rather than by name, address or birth date. As a consequence, it could be difficult and time-consuming for voters or election officials to find voters’ names on the rolls on election day. To deal with this situation, political parties were allowed to set up booths outside polling centers to assist voters in locating their voter numbers before they

entered the polling center. While this system served its purpose adequately, it had notable disadvantages. For example, political parties could use their booths for informal, last-minute campaigning (including by writing the voter's number on a paper with the party's symbol), and the secrecy of voters' intentions might be compromised by their selection of which political party booth to visit.

This situation was further complicated by requiring each polling officer to check three separate rolls of voters: the 2000 roll, the names added during the July-August 2006 update (printed separately) and the names added in the December update, which were generally hand written on separate pages. There was thus significant potential for confusion and long lines at polling centers, even if the rolls had been accurate.

In the end, the poor quality of the electoral rolls and the ineffective efforts to correct the problem or to find a solution acceptable to all stakeholders undermined public confidence in the BEC and in the overall fairness and integrity of the election process. Even if the political parties had reached an accommodation to allow the elections to go forward without a resolution of the electoral rolls problem, the poor quality of the rolls would have detracted from the overall quality of the elections.

4.2 Lack of confidence in the Election Commission

An impartial Election Commission that enjoys the confidence of the principal political parties is an essential element of a sound election, particularly in a country with sharp political divisions. The inability of the BEC to win public confidence during the 2006-2007 election period was a major factor in the failure of the election process. The lack of public confidence in the Commission was closely tied to its inability to correct the electoral rolls, but this was not the only aspect of the problem.

The Constitution of Bangladesh provides for an Election Commission made up of a CEC and "such number of other Election Commissioners, if any, the President may from time to time direct."¹³³ Presidential appointments of Election Commissioners are a common procedure in many countries. However, this procedure can be problematic in countries with sharp

political divisions, such as Bangladesh. This is particularly true if the President is regarded as a backer of a particular party and if there is no requirement for him or her to consult with Parliament or with the political parties when appointing Election Commissioners. The nature of the appointment process in Bangladesh, therefore, can, even in the best of circumstances, raise suspicions about the impartiality of Election Commissioners.

The absence of a set number of Election Commissioners could also be problematic, although this was not an issue of controversy in 2006-2007. Giving the President the power to appoint any number of Election Commissioners means that in theory, the President has the power to "stack" the Commission at any time by appointing new members who espouse particular points of view. This undermines one of the purposes of the constitutional protections for Election Commissions, which is to prevent sudden changes by executive decree.¹³⁴ There were three Election Commissioners, including the CEC, at the beginning of 2006. Because of new appointments, the number of Commissioners varied during the course of the year.

As described earlier, Chief Election Commissioner Aziz did not enjoy the confidence of the major opposition parties and, as time passed, also lost the confidence of the public at large. The opposition also considered that S. M. Zakaria, who had been Secretary of the Commission until his appointment as an Election Commissioner in January 2006, was a BNP partisan.¹³⁵ After Zakaria's appointment to the BEC, a new Secretary was not appointed, but an Acting Secretary was serving, and Zakaria was seen as continuing to control the Secretariat from his new post as Commissioner. When the President appointed new members to the Commission, the appointments were not generally perceived as changing or improving the balance on the Commission, and so did little to enhance public confidence.¹³⁶

Other issues also contributed to the loss of public confidence in the Commission. For example, much of the media became disenchanted with the CEC because of lack of transparency in the Commission's operations¹³⁷ and what they regarded as his high-handed approach to relations with the media. Domestic observer groups were unhappy with the restrictions the Commission placed on their operations. Other

civil society groups were not satisfied with the Commission's implementation of other important aspects of the elections, for example the lack of enforcement of candidate expenditure limits.¹³⁸

Another structural issue that undercut the BEC's image of independence was that the ECS was staffed by civil servants who were organizationally under the Prime Minister's Office. This arrangement could have compromised the Secretariat's independence and it did lead to opposition charges that the Secretariat was being misused for political purposes. The Commissioners and the Secretariat staff, however, asserted that in practice they were fully independent.

Some important decisions, moreover, remained out of the hands of either the Commission or its Secretariat. For example, the appointment of 300 *upazila* election officers by the Public Service Commission in September 2005 raised serious controversy when media investigations suggested they had been selected on the basis of their support for the ruling party.¹³⁹ The lack of confidence in the BEC was thus replicated in regard to election officials at the local level.¹⁴⁰

In addition to the problem of personnel appointments, the BEC was dependent on the Ministry of Finance for its budgetary allocations, which were not always sufficient.¹⁴¹

4.3 Politicization of the civil service

Elections in Bangladesh are to a large extent administered by civil servants, acting under the direction of the BEC. The RPO states that the "Commission shall appoint a Returning Officer for each constituency for the purpose of election of a member for that Constituency; and ... may appoint as many Assistant Returning Officers as may be necessary..."¹⁴² Generally ROs are appointed from the ranks of Deputy Commissioners and AROs from the ranks of *Upazila Nirbahi Officers*, all of whom belong to the administrative cadre of Bangladesh Civil Service. A large number of additional officials appointed for other election-related duties also belong to various public services. These officials are under the supervision of the BEC from the time the election schedule is officially declared until the announcement of the results.¹⁴³ They receive and scrutinize nomination papers, finalize the nominations,

appoint and train Presiding Officers, distribute ballot boxes and other materials, and perform a variety of other election-related tasks. In addition, many Permanent Secretaries of government ministries, as well as lower-ranking civil servants, have duties related in some way to the conduct of elections or have the ability to influence some election procedures.

Because civil servants play such an important role in the electoral process, it is important for election stakeholders to have full confidence in the civil service as a professional, impartial, and non-political force. Unfortunately, by the time of the 2006 election season, the civil service in Bangladesh was even more highly politicized than it had been in the context of earlier parliamentary elections.¹⁴⁴ Civil servants and public institutions whose rules forbid party affiliation were becoming increasingly partisan, with politics influencing the recruitment of personnel and the operation of government offices at all levels.¹⁴⁵ The politicization of the civil service, particularly at the senior levels, was causing Bangladeshi citizens to lose confidence in the country's administrative institutions.¹⁴⁶ No single party was responsible for this trend; studies have shown that both major parties deliberately followed a policy of politicizing almost all state institutions.¹⁴⁷ However, the BNP, in part by virtue of having been in power for the past five years, had achieved the greatest influence over public institutions.¹⁴⁸ By the time the party turned over power to the CTG in October 2006, a public perception had emerged that civil service positions with electoral responsibilities had been systematically filled with supporters of the ruling party.¹⁴⁹

Another element of public service politicization that related to elections was the status of the security forces. Like the civil service, the security forces, especially the police, should be absolutely impartial during the electoral period, and should be perceived as being impartial. In practice, however, the law enforcement agencies were often used for partisan political purposes, including harassing and persecuting political opponents.¹⁵⁰ Key police positions relevant to elections included Superintendents of Police at the district level and Police Officers in Charge at the sub-district (*thana* and *upazila*) level.

To ensure that civil service politicization did not compromise the conduct of elections,

CTGs had traditionally made it a priority to shuffle the incumbents of key civil service positions prior to elections. In 2001, for example, the CTG reportedly moved about 1,300 civil servants into different positions in order to level the playing field.¹⁵¹

The CTG installed in October 2006 also adopted a policy of shuffling members of the civil service. To do so, it formed three committees, which, however, were headed by individuals associated with the BNP.¹⁵² Although the incumbents of a large number of positions were changed, the reshuffling fell far short of what was needed to restore confidence or ensure a neutral public administration.¹⁵³ The politicization of the civil service was thus a significant factor in the general distrust of the election system that contributed to the collapse of the election process in January 2007.

4.4 Political party structures and operations

Political parties in Bangladesh were not regulated by law prior to the elections scheduled for early 2007. The absence of a law regulating political parties provided a safeguard against government interference with legitimate political party activities. At the same time, however, the absence of any effective monitoring or regulations contributed to a system in which parties were free to conduct business in almost any way they wished, often at the expense of good governance or public order.

Until 2001, the RPO did not carry any provision for registration of political parties with the BEC. Even when registration of parties was codified by a 2001 amendment to the law, it was voluntary. Registration would entitle a party to certain benefits, including broadcasting on state-owned media during the campaign period.¹⁵⁴ Only six parties had registered by the end of 2006; the two largest parties did not register.

The major political parties in Bangladesh had autocratic, hierarchical internal structures and lacked any institutionalized internal party democracy.¹⁵⁵ They tended to be based around individuals or families rather than ideologies or political platforms. The party Chairperson enjoyed virtually absolute power in making key decisions, with no scope for dissent.¹⁵⁶ Increasingly, party activities and aims were directed by those with money or muscle power.¹⁵⁷

The lack of internal democracy meant that parties generally selected candidates without consulting the party membership. There was very little transparency in political party operations. Parties rarely held internal elections for leadership positions. For example, as the 2007 elections approached, neither the AL nor the BNP had held an election for Chairperson in more than a decade. Many parties did not organize party conventions on a regular basis. In most parties, the central committee retained authority to select candidates for Parliament and to name the members of party leadership at the sub-national level. Local party branches had little or no autonomy. Party leaders often hand-picked the leaders of their student branches, instead of allowing open elections. There was little scope in any of the major parties for grassroots movements for change, or for the emergence of new ideas or new blood from the lower levels of the parties. The lack of transparency or accountability in political party activities contributed to arbitrary and authoritarian approaches by party leadership.¹⁵⁸

Partly as a result of these structures, party politics in Bangladesh had developed into a highly confrontational and winner-take-all system, in which the two major parties tended to view each other as enemies rather than opponents. Party leaders often encouraged confrontation rather than accommodation. The party in government usually allowed little scope to the opposition to pursue its goals constructively in Parliament, leading to frequent boycotts and support for street agitation by the opposition.¹⁵⁹ Both major parties had resorted to street mobilization so often against military governments and each other, that this street agitation had begun to be generally accepted as "business as usual". The two major parties, according to one study, had "trapped themselves in the clutches of enmity."¹⁶⁰ This situation contributed to discrediting the major parties in the eyes of much of the public.¹⁶¹

The hold of parties over their Members of Parliament was further strengthened by two articles of the Constitution. Article 70 stipulates that elected representatives in the Parliament lose their seats if they vote against their party, thus reinforcing party discipline, sometimes at the expense of accommodation and independent thinking. In addition, Article 65 (3) sets out that the candidates for the 45 seats reserved for women in Parliament will not be

elected directly by the people, but elected by MPs. While this arrangement strengthens party structures, it does very little for the empowerment of the women selected for these positions.

Lack of internal party democracy contributed to a political environment of confrontation, street action and even violence. There was little scope for effective or independent action by those – inside political parties or out – who might have preferred to find a path toward political accommodation. Many individuals within the middle ranks of both major political parties would have welcomed a good faith dialogue and compromise measures to avert the political crisis that led to the cancelled election. These individuals were, however, unable to influence the course of events. Because of the lack of legal regulation of party activities, there was also no effective means for the government to rein in political party excesses.

4.5 “Black money”

The term “Black money” is used loosely to refer to funds obtained illegally, funds expended illegally, or funds whose origin or use are not clear and transparent. The use of Black money in politics was regarded as a pervasive problem, which seriously undermined the quality of elections. In its worst manifestations, the use of Black money in politics formed part of the web of corruption that resulted in Bangladesh being ranked last on Transparency International’s Corruption Perceptions Index.¹⁶²

The RPO sought to contain the influence of money in politics by establishing limits on campaign spending. The limits in force during the 2006-2007 election were extremely low (the equivalent of about USD 7,200 per candidate). The law laid out a process of accounting for party income and expenditure that included reporting funds received from candidates, people seeking nomination or any other source. The law also placed sharp restrictions on poster size and color, banners, use of microphones, and other campaign activities, largely aimed at reducing the need for candidates to spend large sums on campaigning.¹⁶³

All of these restrictions were routinely and flagrantly violated. One study reported that “invisible payments” made up 60-70 per cent of election expenditures.¹⁶⁴ Another analyst noted that many candidates exceeded their

legal expenditure ceilings even before the election schedule was announced.¹⁶⁵ A non-governmental tracking study of expenditures by 122 candidates found that all the candidates from leading political parties included in the study violated electoral rules on expenditures.¹⁶⁶ A commentary by a prominent journalist concluded: “our political parties have no official bank accounts which are audited and no transparency in how they receive donations, from whom and how much, [making] politics ripe ground for the entry of Black money. In fact, it is no secret that political parties depend heavily on illegal wealth to fill their coffers, without which they cannot raise the type of ready money they need for participating in elections. Thus, a dangerous nexus has already grown between Black money and politics in our country.”¹⁶⁷

All this was possible because there was little or no transparency, accountability or enforcement in campaign expenditures. In addition to the blatant illegal use of money, legal loopholes were exploited, allowing supporters of candidates to spend unlimited amounts on campaigning. Political parties not registered with the BEC – which included most political parties – had even fewer requirements to report their financial transactions.

The problem of Black money was exacerbated by the December 2006 Supreme Court ruling staying an earlier HC decision requiring personal financial disclosure by candidates. The HC’s order would have required all candidates to report on eight points of their background and financial records, including their income, their sources of income, their assets and liabilities, their record on loan defaults and their criminal record. Following the Supreme Court order, such disclosure was no longer required. This was a major setback for free and fair elections.

Black money detracted from the quality of the 2006-2007 elections period in a number of specific ways:

- The lack of transparency in candidates’ income and expenditures meant that citizens and civic groups could not form a clear idea of who was supporting each candidate, where their funds were coming from, whether special interests might have undue influence over candidates, or

what kinds of commitments candidates might have entered into to win support. One analysis concluded that “political party funds are a mystery to the public, especially their sources.”¹⁶⁸

- Candidates were selected, at least in part, based on wealth and how much money they could amass for the campaign and contribute to the party coffers. The lack of transparency in the process of candidate selection exacerbated this problem. One result was that a growing number of wealthy businessmen and industrialists were emerging as candidates, with the percentage of businessmen elected as parliamentarians increasing from 24 per cent in 1973 to 84 per cent in 2001.¹⁶⁹ The growing link between wealth, politics and corruption led to a well-known joke during the election period that “in Bangladesh, rich men want to be politicians, and politicians want to be rich men.” There were widespread allegations that party nominations were in some instances for sale to the highest bidder.
- Excess spending was contributing to unrest and street violence, since much of the Black money was said to be spent paying people to participate in rallies and demonstrations.
- The prevalence of Black money was creating an entrenched link between politics and criminality, as politicians scrambled for ways to raise additional funds. Criminal gangs began to support parties and candidates and to become an integral part of political parties.¹⁷⁰ A study by Transparency International Bangladesh (TIB) assessed that in Bangladesh, election expenditure was one of the major causes of corruption.¹⁷¹
- The growing dependence on money to run successful campaigns, together with the lack of transparency in income and expenditures was contributing to authoritarian leadership in the major political parties.¹⁷²
- The inability of the BEC to control campaign spending in accordance with the law was further undermining its reputation.¹⁷³

The enormous influence of Black money on politics was near the top of the list of electoral concerns raised with visiting UN electoral missions by candidates, parties, the media and civil society.¹⁷⁴ The use of Black money was a significant element leading to the failed electoral process in the 2006-2007 election period.

4.6 Muscle power

An issue closely related to Black money was the use of “muscle” or “muscle power” during the election period. These terms are used to describe any act of intimidation or use of force or violence in the election process, in particular by candidates, political parties or their supporters. The issues of Black money and muscle are often closely intertwined in the context of Bangladesh elections, since muscle is generally funded by Black money.

A number of studies reported that the use of muscle power was becoming increasingly prominent in the election process.¹⁷⁵ Political parties were often depicted as being dependent on their student and labor wings to provide muscle power.¹⁷⁶ However, political parties were also widely believed to maintain links to criminals, who might be used as enforcers, fundraisers and election mobilizers.¹⁷⁷ Some studies suggested that the criminalization of politics was rampant by the time of the planned 2007 elections.¹⁷⁸

Much of the violence which plagued the 2006-2007 election period was attributable to the use of muscle power, rather than to spontaneous outbreaks of violence. As noted above, political party leaders sometimes appeared to encourage violent behavior. Targets of muscle included political activists, candidates, journalists, civil society organizations, official institutions, Election Commissioners and members of minority groups. There were concerns that muscle power could manifest itself on election day through intimidation of voters, occupation of polling centers, or other violent activities.

4.7 Human rights

One of the many effects of the escalating violence and the official responses to the violence was to undercut the protection of some human rights necessary for a democratic election. By the spring of 2006, Amnesty International warned that Bangladesh was on “the edge of a human rights crisis.”¹⁷⁹

As a legal matter, the Constitution of Bangladesh guarantees fundamental rights to all citizens. In addition, Bangladesh has ratified most major UN human rights instruments, including the International Covenant on Civil and Political Rights and the Convention on the Elimination of all forms of Discrimination against Women, which require the government to ensure a broad range of human rights for the people. In practice, however, these rights were not always protected.

Freedom of assembly is guaranteed by law in Bangladesh and permits for public protests are not required. During the 2006-2007 pre-election period, however, authorities severely restricted freedom of assembly.¹⁸⁰ According to international human rights groups, police repeatedly attacked opposition rallies, targeting leading activists and subjecting them to severe beatings.¹⁸¹ Police preemptively detained tens of thousands of people to prevent them from participating in demonstrations; some were held for weeks without trial.¹⁸² The government reportedly banned assemblies on 93 occasions during the pre-election period.¹⁸³ When large protests did occur, police often used excessive force against demonstrators, including live ammunition, which caused dozens of deaths and hundreds of injuries.¹⁸⁴

Although Bangladesh has an active and varied media with some 200 newspapers, many of which did not hesitate to criticize the government, there were significant constraints on freedom of expression in the period leading up to the election. In particular, the level of violence against journalists was alarming. Several major international media watchdog groups reported that attacks on journalists in Bangladesh became a daily occurrence in the weeks before the elections planned for 2007, often carried out by security forces and political party supporters.¹⁸⁵ One such report claimed that supporters of the ruling political alliance were responsible for at least 89 incidents of violence against journalists in 2006.¹⁸⁶ Journalists worked in an environment of political intimidation which sometimes led to self-censorship and deprived the public of important political views and information. The electronic media was widely perceived as tilted heavily in favor of the government. Reporters Without Borders ranked Bangladesh in the bottom 20 per cent of countries listed on its worldwide press freedom index for 2006.¹⁸⁷

Other troubling human rights violations also negatively affected the electoral environment. Human rights groups and others reported instances of torture, arbitrary executions and arbitrary detentions.¹⁸⁸ The judicial system reportedly was not able to provide effective remedies for these problems.¹⁸⁹

A particular human rights issue of concern was the activities of the Rapid Action Battalion (RAB), an elite security force established in 2004 under the supervision of the Ministry of Home Affairs to fight crime, whose members were drawn from the Armed Forces and the police. The RAB was initially quite popular with the public because of its effectiveness in combating crime. However, human rights groups expressed increasing concern about the RAB's so-called "crossfire killings," which amounted to what many observers considered to be extrajudicial executions. By July 2006, according to one analysis, 283 "crossfire killings" had been reported.¹⁹⁰ Another report, giving somewhat different statistics, stated that:

"Crossfire" became a euphemism in the local media for extrajudicial killings, particularly by the RAB. Press reports of crossfire followed a similar pattern: members of the RAB arrested or ambushed suspects, who were then killed in the crossfire as they tried to escape. Law enforcement officials were responsible for 355 deaths, 290 of which were attributed to crossfire. The RAB was responsible for 181 crossfire deaths; members of the police were responsible for 100; other security forces were responsible for nine crossfire deaths.¹⁹¹

A number of Bangladeshi stakeholders expressed concerns that if the RAB were not carefully controlled, it could be used to influence the elections.¹⁹²

4.8 The failure of the Caretaker Government system

Bangladesh's non-party CTG system, provided for under the Constitution, may be unique in its scope as a mechanism to create confidence and ensure impartial administration during election periods. By removing the reins of power from the incumbent government 90 days before a national election, the system is intended to prevent abuses of power and ensure that steps are taken to create a reasonably

level playing field for elections. In a country as politically divided as Bangladesh, the CTG could have a key role in easing political tensions and reassuring parties that elections would be conducted impartially.

The CTG system was introduced for the national elections of 1991 at the demand of the major political parties. It was institutionalized through the 13th amendment to the Constitution in 1996, following political turmoil and a deeply flawed election. Although the losing sides in each election since 1996 criticized aspects of the CTG's performance, none had seriously questioned the legitimacy of the institution.¹⁹³ The successes of CTGs were based to a large extent on their ability to retain the confidence of the political parties and the general public through their essentially non-partisan composition and actions.

The system was given a body blow by the adoption of the 14th amendment to the Constitution, which resulted in the impression that a system designed to ensure neutrality was being manipulated for political advantage. It was this action, and the subsequent refusal by the opposition to accept its results, that set in motion the chain of events that resulted in the collapse of the planned election.

The apparent politicization of the CTG was reinforced when the President named himself Chief Adviser. This self-appointment, although not immediately rejected by the opposition, resulted for the first time in a Chief Adviser with a long-standing affiliation with a particular political party as the head of a nominally non-party institution.¹⁹⁴ The situation was exacerbated by the Chief Adviser's frequent practice of not consulting with or informing the Council of Advisers of his actions,¹⁹⁵ thus circumventing one of the safeguards built into the system. The CTG's problem was more than one of just negative perceptions, however. It was clear to both impartial observers and to members of the Council of Advisers that the government had not fulfilled its critical task of providing a level playing field for the elections.¹⁹⁶

Even with this shortcoming, the election process might have gone forward reasonably satisfactorily, except that other institutions – in particular the BEC and the civil service – were also seen as politicized and had lost the general public's confidence. In the end, events showed that under adverse conditions, even a well-conceived and tested system such as the CTG was unable to engender sufficient impartiality or public confidence for elections to proceed smoothly.



4.9 2008 Parliamentary elections chronology of events

12 January 2007	Dr. Fakhruddin Ahmed sworn in as new Chief Adviser of the Caretaker Government
13-18 January 2007	Ten Advisers to the Caretaker Government sworn in
25 January 2007	Emergency Powers Rules proclaimed, suspending rights and political liberties
31 January 2007	Entire Election Commission resigns
5 February 2007	Dr. A. T. M. Shamsul Huda sworn in as Chief Election Commissioner and Mohammad Sohul Hussain as Election Commissioner; and Brigadier General (retired) M. Sakhawat Hossain appointed as Election Commissioner a few days later
17 February 2007	Army makes a presentation to the Caretaker Government and Election Commission on the feasibility of creating photographic electoral rolls and issuing identity cards
21 March 2007	Election Commission announces intention to create electoral rolls with photographs
5 April 2007	Election Commission announces 18-month time-line for completion of photo electoral rolls
18 April 2007	Chief Advisor endorses electoral time-line announced by the Commission
26 April 2007	Election Commission holds dialogues with civil society and media
23 May 2007	Election Commission holds dialogue with the representatives of the print and electronic media
10-30 June 2007	Field testing of voter registration methodology in Sreepur municipality
15 July 2007	Release of the Electoral Roadmap, with elections to be held by the end of 2008
16 July 2007	Arrest of former Prime Minister Sheikh Hasina
3 September 2007	Arrest of former Prime Minister Khaleda Zia
10 September 2007	Ban on indoor politics in Dhaka lifted by the Caretaker Government
12 September 2007	Election Commission begins dialogue with 15 political parties on election law reform

5 November 2007	Election Commission invites one faction of the Bangladesh Nationalist Party (BNP) to join dialogue
13 November 2007	High Court stays Election Commission's invitation to BNP faction
8 January 2008	Work on delimitation of constituencies begins
February 2008	Election Commission holds second series dialogue with political parties, without BNP
March 2008	Peak of voter registration, as 14 million voters registered in March alone
10 April 2008	High Court rules on Election Commission dialogue with BNP, which begins on 27 April 2008
22 May 2008	Caretaker Government begins dialogue with political parties
10 June 2008	Final delimitation of 133 constituencies released by the Election Commission, challenges continue
11 June 2008	Sheikh Hasina released on parole
4 August 2008	Local elections held in 4 city corporations and 7 municipalities (pourashava), domestic observers find the elections generally well-conducted and the electoral rolls credible
19 August 2008	First amendments promulgated to the Representation of the People's Order (RPO)
11 September 2008	Khaleda Zia released on bail
18 September 2008	Code of Conduct for Candidates and Political Parties published
8 October 2008	Further amendments to RPO promulgated allowing parties to register with provisional constitutions
23 October 2008	Election Commission Secretariat Ordinance promulgated
3 November 2008	Emergency Power Rules relaxed to allow some political activities
12 December 2008	Campaigning begins for the ninth parliamentary elections
17 December 2008	Emergency Power Rules lifted
29 December 2008	Ninth parliamentary elections held
31 December 2008	Preliminary results show that the Awami League won 230 of the 300 parliamentary seats

5

Towards the 2008 Elections

Towards the 2008 Elections

On 11 January 2007 President Iajuddin Ahmed addressed the nation, announcing the indefinite postponement of the January 2007 elections and declaring a State of Emergency. Immediately after declaring the State of Emergency, the President accepted the resignation of his Council of Advisers and resigned as Chief Adviser. On the following day, Dr. Fakhruddin Ahmed was sworn in as the new Chief Adviser. Dr. Ahmed's ten Advisers were appointed by the President between 12 and 18 January 2007. These changes ushered in a new phase of the electoral process, which would last almost two years.

5.1 State of emergency

Under Article 141A of the Constitution of Bangladesh, the President has the power to impose a State of Emergency. The Constitution states that a Proclamation of Emergency "shall cease to operate at the expiration of one hundred and twenty days, unless before the expiration of that period it has been approved by a resolution of Parliament" and that "if any such Proclamation is issued at a time when Parliament stands dissolved or the dissolution of Parliament takes place during the period of one hundred and twenty days [...], the Proclamation shall cease to operate at the expiration of thirty days from the date on which Parliament first meets after its re-constitution..."¹⁹⁷

A State of Emergency allows the government to operate without being bound by the usual legal restrictions or by requirements to guarantee human rights and fundamental freedoms.¹⁹⁸

One of the first acts of the new CTG was to introduce the Emergency Power Ordinance 2007¹⁹⁹ on 12 January, followed by the Emergency Power Regulations (EPR) on 25 January 2007.²⁰⁰ These acts gave the CTG sweeping draconian powers. *Inter alia*, the Ordinance and Regulations:

- Banned processions, meetings, assemblies, blockades, strikes or protest gatherings, effectively putting an end to months of street agitation;
- Prohibited political activities by students, teachers, civil servants and professional associations;

- Suspended fundamental civil rights guaranteed by the Constitution;
- Prohibited any statements inciting action against the government or its activities;
- Gave the government broad powers of detention and arrest, including preventive detention, arrests without warrants, and detention without bail;
- Imposed sharp restrictions on the media;
- Gave the government additional powers to fight crime and corruption; and
- Provided the government with powers to conduct forced evictions.

The Emergency Powers Ordinance specified that "nothing stated in this ordinance or no provision subject to this ordinance can be challenged in any court."²⁰¹ Violations of the EPR's provisions could be punished by long terms of imprisonment. In addition to individual punishments, newspapers or media outlets could be closed and have their equipment seized for violations. The State of Emergency was made retroactive to 11 January 2007.

The CTG took pains to convey, especially to the media, that the EPR authorized the government to exercise these powers, rather than automatically putting them into force. However, the threat of possible government action hung over all institutions, organizations and individuals, and some of the emergency powers were acted upon vigorously and promptly. The CTG even strengthened the EPR on 8 March 2007 by announcing a "ban on indoor politics," which prohibited political parties from holding meetings of any kind.²⁰² While the exact number of detentions, arrests and cases filed was not published, it is estimated that between 100,000 and 400,000 people were detained under the EPR in 2007 alone.²⁰³ Some detainees were reportedly held for long periods without charges or bail, while others were reported to have been released quietly shortly after their detention. The detainees included thousands of political activists and many former cabinet ministers, as well as civil society activists and journalists.²⁰⁴

The State of Emergency gave the government the powers it needed to push through a robust reform program without fear of public opposi-

tion or the need for parliamentary procedures. While much of the public was initially relieved by the return to calm, the State of Emergency became increasingly problematic and controversial as the elections approached, since its provisions were clearly incompatible with the freedoms required for a democratic election.

There was a general public acknowledgement that the Armed Forces of Bangladesh were involved with the postponement of the January 2007 elections, the declaration of the State of Emergency and the appointment of a new CTG. Much of the public, however, accepted this with a sense of relief, because of the widespread feeling that the measures averted a near certainty of increased bloodshed, escalating social and economic disruptions, and the likelihood of elections that would fall far short of accepted standards. An EWG survey found “a broad consensus that the state of emergency proclaimed in January 2007 was necessary (or essential) for the country, in view of the political crisis and lawlessness prevailing under the previous CTG. Most of those interviewed expressed total discontent with the previously prevailing political situation and welcomed the State of Emergency.”²⁰⁵ Among the political parties, the AL was initially pleased with the resignation of President Iajuddin Ahmed as Chief Adviser and the chance for a new start to the election process, while the BNP was critical of developments. BNP leaders did not attend the swearing-in ceremonies of the new Chief Adviser.²⁰⁶

There was also relief that the government remained in civilian hands and that the Armed Forces did not stage a coup to restore public order, as many had feared – and some had hoped – would happen. It was clear, however, that the new government enjoyed the support of the Armed Forces, and it was frequently referred to in the media as the “military backed” CTG. The military’s quiet role was generally accepted in part because the military was one of the most trusted institutions in Bangladesh.²⁰⁷ In general, the military did not become openly involved with governing the country and maintained a low profile throughout the two years of CTG rule. Opinions differed on the extent of the military’s actual involvement in governance, ranging from views that it had a limited role, to concerns that the CTG was a civilian façade for a military government.²⁰⁸ According to one prominent participant in

government, CTG decisions resulted from an intermix of military and civilian concerns and opinions, with the military exerting predominant influence through much of 2007, while its role receded and civilian decision making was more prevalent in 2008.²⁰⁹ Overall, however, it is widely recognized that the CTG’s decisions, many of which served to support the building of stronger democratic institutions in Bangladesh, were influenced by the military.²¹⁰

The postponement of the elections and the appointment of a new CTG sparked a public debate regarding the constitutionality of the new government and on when elections would be held. Under the Constitution, the BEC is required to hold elections for Parliament within 90 days of its dissolution.²¹¹ As Parliament had been dissolved on 26 October 2006, elections were constitutionally required by the end of January 2007. The Constitution provided no specific time limit for a CTG, stating that: “There shall be a Non-Party Care-taker Government during the period from the date on which the Chief Adviser of such government enters upon office after Parliament is dissolved or stands dissolved by reason of expiration of its term till the date on which a new Prime Minister enters upon his office after the constitution of Parliament.”²¹² A further legal complication was that the State of Emergency appeared to have no time limit, as there was no Parliament in place to approve it.

How long the CTG would remain in office and its legality remained issues of controversy and quiet conversation for months, tied closely to the question of when elections would be held. The major political parties advocated prompt elections, sometimes contending that the new CTG should complete its duties within the 90 days usually accorded. Some civil society groups and individual commentators, on the other hand, believed the CTG should be given time to implement a reform program and to “clean up” politics before holding new elections. Many citizens were content with a return to calm and saw no reason to rush into a new electoral period.²¹³

These issues continued to be debated until the BEC, which was reconstituted in February 2007, announced the Electoral Roadmap on 15 July 2007. The roadmap specified that elections would be held by December 2008. Although the BEC had already settled on this timeframe

internally months earlier,²¹⁴ the announcement ended public speculation and uncertainty. The constitutionality of this timeframe was challenged in court. On 22 July 2008, the HC put the issue to rest, ruling that under “the circumstances, the timeframe declared by the Election Commission for holding the election of the members of Ninth Parliament within December, 2008 [is] reasonable.”²¹⁵ With this landmark ruling, the HC provided a legal basis for the extended tenure of the CTG.

5.2 The new Caretaker Government

It became apparent from the first speech given by the new Chief Adviser, Dr. Fakhruddin Ahmed, that his would be no ordinary CTG. In his televised address, delivered on 21 January 2007, he pledged that the “main objective of [his] government [was] to create a congenial environment for holding transparent, peaceful and truly democratic elections.”²¹⁶ To this end, he mentioned specifically the need to reconstitute the Election Commission and to prepare flawless electoral rolls. He also alluded to additional electoral reforms that might be needed, including

creating voter identification cards and procuring translucent ballot boxes. The Chief Adviser also addressed the negative effects of Black money and muscle power on elections, saying the CTG was determined to reform the electoral system to eliminate these twin evils.²¹⁷

Beyond the election-specific issues that had dominated the work of previous CTGs, the Chief Adviser also used his initial speech to make clear that his government planned to launch a serious campaign against corruption. He announced that tough new activities would be undertaken to curb corruption, including the restructuring of the ACC. He mentioned that the law enforcement agencies had already begun new operations against “godfathers, known criminals, terrorists, extortionists and anti-social elements.”²¹⁸

The Chief Adviser also commented on a range of other priorities for his government: depoliticizing the civil service, ensuring the independence of the judges by separating the judiciary from the executive branch, establishing law

and order, and dealing with urgent economic matters, including price hikes, power supplies and port management. In setting out this agenda, the Chief Adviser signaled that the CTG had plans to address issues far broader in scope than was usual for CTGs, including sensitive and deep-rooted problems that could not be resolved within the normal 90 day tenure of a CTG.

5.3 Reconstituted Election Commission

Three new Election Commissioners were appointed to constitute a new Election Com-



Dr. ATM Shamsul Huda was sworn in as Chief Election Commissioner on 5 February 2007. Photo courtesy of BEC.

mission in February 2007, following the resignation of the entire slate of sitting commissioners. On 21 January 2007 CEC Aziz had resigned from the BEC. His resignation was followed by the resignation of the other remaining commissioners ten days later.²¹⁹ Their resignations resolved what could have been a difficult political and legal issue, since neither the President nor the CTG has the power to remove Election Commissioners except through recourse to procedures outlined in the Constitution.

On 5 February 2007 Dr. A. T. M. Shamsul Huda, who had a background in Bangladesh’s civil service and had served as a Secretary to the Government in a number of Ministries, was sworn in as Chief Election Commissioner. Mr. Muhammad Sohul Hussain, a judicial officer and former Secretary of the Ministry of Law, Justice and Parliamentary Affairs was sworn in as an Election Commissioner on the same day. Brigadier General (retired) Sakhwat Hossain, a former senior officer in the Bangladesh Armed

Forces was sworn in on 14 February 2007. Humayun Kabir was appointed to the BEC as its new Secretary on 11 February 2007. The new BEC took about one month to familiarize itself with the complexities of the issues that had led to the collapse of the January 2007 electoral process, and reviewed many of the reform proposals put forward by civil society. The review process concluded that the existing electoral rolls could not be fixed and set the creation of new electoral rolls as the priority issue facing the BEC.²²⁰ The BEC promptly became involved in the discussions that were already underway on creating new electoral rolls and National Identification Cards (NID) as a by-product to voter registration.

The BEC announced its roadmap for elections after five months in office on 15 July 2007, following a series of consultations with civil society and the media. The release of the roadmap was a major milestone in the electoral process, as it established the election date and set out the activities the BEC would undertake leading to elections. The principal determining factor of the roadmap's timeframe was voter

registration, which the BEC estimated would take approximately eighteen months to complete. The other activities under the roadmap included legal reforms, the restructuring of the ECS, redelimiting the boundaries of constituencies, dialogues with political parties and other stakeholders, local elections and political party registration.²²¹

The BEC chose to announce the electoral roadmap while the Chief Adviser was out of the country, signaling its autonomy in establishing the electoral timeline. Although the CTG's reform agenda extended to issues well beyond elections, it deferred to the BEC on establishing the timeframe for a return to elected government.²²² Nonetheless, the implementation of roadmap activities required the cooperation of the CTG, especially in regard to lifting the "ban on indoor politics" in order to allow the BEC to host dialogues with the political parties. The political parties, while accepting the need for the preparation of new electoral rolls, were generally unhappy with the extended schedule, advocating that elections be held much sooner.

Electoral roadmap²²³

	Jan-Mar2007	Apr-Jun 2007	Jul-Sep 2007	Oct-Dec 2007	Jan-Mar 2008	Apr-Jun 2008	Jul-Sep 2008	Oct-Dec 2008
Reconstitution of the BEC	[Shaded bar]							
Appointment of commissioners	[Shaded bar]							
Reconstitution of secretariat	[Shaded bar]	[Shaded bar]	[Shaded bar]	[Shaded bar]				
Electoral Reform	[Shaded bar]							
Consultations with civil society		[Shaded bar]	[Shaded bar]	[Shaded bar]				
Consultations with media		[Shaded bar]	[Shaded bar]	[Shaded bar]				
Dialogues with political parties		[Shaded bar]	[Shaded bar]	[Shaded bar]				
Amendments to electoral laws			[Shaded bar]	[Shaded bar]	[Shaded bar]			
Electoral Rolls Preparation	[Shaded bar]							
Design methodology and technology		[Shaded bar]	[Shaded bar]	[Shaded bar]				
Pilot project		[Shaded bar]	[Shaded bar]	[Shaded bar]				
Procurement and deployment of equipment		[Shaded bar]	[Shaded bar]	[Shaded bar]				
Software development		[Shaded bar]	[Shaded bar]	[Shaded bar]				
Recruitment and deployment of staff		[Shaded bar]	[Shaded bar]	[Shaded bar]	[Shaded bar]	[Shaded bar]		
Enumeration and data entry			[Shaded bar]	[Shaded bar]	[Shaded bar]	[Shaded bar]	[Shaded bar]	
Printing, posting and correction of draft rolls				[Shaded bar]	[Shaded bar]	[Shaded bar]	[Shaded bar]	[Shaded bar]
Printing and distribution of final rolls				[Shaded bar]	[Shaded bar]	[Shaded bar]	[Shaded bar]	[Shaded bar]
Delimitation of Constituencies	[Shaded bar]							
Delimitation					[Shaded bar]	[Shaded bar]	[Shaded bar]	[Shaded bar]
Local Elections	[Shaded bar]							
City corporation and municipal elections					[Shaded bar]	[Shaded bar]	[Shaded bar]	[Shaded bar]
Union and parishad elections					[Shaded bar]	[Shaded bar]	[Shaded bar]	[Shaded bar]
Upazilla parishad elections	[Shaded bar]							
Parliamentary Elections							[Shaded bar]	[Shaded bar]
Party registration							[Shaded bar]	[Shaded bar]
Declaration of schedule and elections								[Shaded bar]



The Chief Election Commissioner met with voters at various voter registration sites to ensure their participation in the process. Photo courtesy of UNDP.

5.4 BEC dialogue with stakeholders

The BEC conducted three rounds of dialogue with the political parties leading up to the 2008 parliamentary elections. The dialogue was aimed at making the reform process transparent and inclusive, and getting political party buy-in for planned reforms, especially changes to the election law, the RPO.

Before engaging with the political parties, however, the BEC hosted conferences with civil society, including the NGO sector and the media. Many Bangladeshi NGOs had developed, advocated and published detailed proposals for reforming various aspects of the electoral process. Notable among these proposals were those developed by the Center for Policy Dialogue, Shujan, JANIPOP and TIB, although many other member organizations of the EWG, and others, had also developed proposals. The BEC therefore had the benefit of a broad range of existing proposals available as it began to develop its own reform program. The BEC used the dialogue with civil society to receive feed-back on its ideas, and to hear additional proposals. This process of transparency and dialogue, although at times controversial, was an exemplary effort by the BEC and in line with best practices in international election administration. The dialogue not only resulted in improved electoral laws and practices, but was a major factor in building public confidence in the BEC that proved to be a large contributor to the success of the elections.

The first dialogue with civil society representatives was held on 26 April 2007. Participants discussed a broad range of issues, among them the separation of the ECS from the Prime Minister's Office, barring individuals who had worked for foreign-funded NGOs from contesting the polls, banning the parties' student wings and requiring a minimum number of women to be included in different committees of the political parties.²²⁴ Civil society groups' reactions to the dialogues

were very positive. One participant noted that the BEC was extremely receptive to input and that the Commission appeared to have studied various groups' analyses and papers before the dialogue session.²²⁵

The second dialogue, with editors and journalists, was held on 19 May 2007. At this dialogue the media representatives and the BEC focused on such issues as political party registration requirements, including the provisions for internal democracy. The dialogue's participants also discussed barring people who had held positions of profit in the government from running for office within three years of having held such positions, and the option for voters to select "none" on their ballot.²²⁶

On 28 August 2007, the CEC announced that the BEC would host dialogues with 15 political parties starting on 12 September 2007. The 15 parties were selected on the basis that they had won at least one seat in Parliament since independence, or had received at least two per cent of the votes cast in any parliamentary election. The announcement came after the BEC had held meetings with the CTG, and had received positive signals that the ban on indoor politics would be lifted. The BEC considered lifting this ban to be important, since it would enable the parties to meet and discuss the BEC's reform proposals internally before the dialogue. The CEC announced that the parties would be sent draft reform proposals,

including draft amendments to the RPO and the Election Code of Conduct 1996, with the invitation letters to the dialogues.²²⁷

On 10 September 2007, two days before the start of the dialogue, the CTG did lift some restrictions on indoor politics within the city of Dhaka, in order “to create an environment conducive to talks with political parties.”²²⁸ While political parties were pleased to have some relaxation of the EPR, they and human rights groups were critical of the continuing restrictions on most political activities.²²⁹

Two incidents disrupted the BEC’s preparations for the dialogues, which were scheduled to extend into November 2007. The first was an outbreak of violence on the campus of Dhaka University on 20 August 2007, which caused the CTG to deploy the military to the university campus, declare a curfew, and impose strict restrictions on the media.²³⁰ As political tensions increased around the country after the campus violence, the CTG began to reconsider its plan to lift the ban on indoor politics. The other major incident affecting the BEC’s dialogue with parties occurred on 3 September 2007, when Begum Khaleda Zia was arrested on corruption charges. Her arrest exacerbated existing tensions within the BNP and caused a split in the party leadership. After the split, each of the two factions claimed to be the legitimate wing of the party, and both sought an invitation to the BEC’s dialogues.

The split of the BNP remained unresolved when the ban on indoor politics was lifted on 10 September 2007, through an amendment to the EPR.²³¹ This issue posed a dilemma for the BEC in organizing the party dialogues in accordance with the criteria it had set out. The BEC decided that it would determine which faction of the BNP to invite to the dialogues based on its own legal analysis of the BNP’s constitution.²³² On 5 November 2007, the BEC invited the faction led by Abdul Mannan Bhuiyan, the party’s Secretary-General. Bhuiyan had been expelled by Khaleda Zia on the evening of her arrest,²³³ but the BEC found that the BNP constitution did not confer the power on the party President to expel the Secretary-General. The BEC’s decision was challenged in court on 13 November 2007, after Khaleda Zia, from prison, managed to send a notice to the BEC threatening legal action if the BEC did not withdraw the invitation to the BNP faction.²³⁴

The issue ultimately went to the HC after the BEC declined to withdraw its invitation. Acting on a legal petition from Khaleda Zia, the Court issued a stay on the BEC’s dialogue with the BNP.²³⁵ The BEC decided not to appeal the HC ruling. Instead it waited for the HC to make its final ruling in the case. However, the HC did not make its ruling until 10 April 2008, almost five months later, lifting the stay on the BEC’s dialogues with the BNP, but not making a conclusive ruling on which faction legitimately represented the party.²³⁶ By this time, the BEC had not only completed the first round of talks with the other 14 parties, but had also held additional, follow-up dialogues with political parties in February 2008. The BEC’s first meeting with the BNP was finally held on 27 April 2008. At the time of the April meeting, the BNP had not yet reunited, and Hafiz Uddin Ahmed, who had been invited to the original November 2007 talks and had not reconciled with the faction of the party allied with Khaleda Zia, led the BNP delegation.²³⁷

According to BEC officials, the decision to invite one of the BNP factions was among the most difficult decisions that it had to make during its tenure. After the invitation, the BEC came under intense criticism and pressure for allegedly having been biased towards one of the factions, and for seeking to split the BNP.²³⁸ BNP leaders from that point forward viewed the BEC with suspicion.²³⁹ Having one of the two major parties doubt the BEC’s impartiality was a significant negative aspect of the election process.

With this important exception, the dialogues with civil society, the media and political parties were successful in creating a participatory environment for electoral reforms, thus increasing the chances reforms would be accepted for the 2008 elections, as well as sustained further into the future. While not all of the political parties were supportive of the BEC’s reforms – indeed, some reforms were sharply opposed – the dialogues gave the parties the opportunity to have their voices heard, which was key to ensuring their participation in the elections and to having some sense of ownership of the process. As a result of the discussions, the BEC reached broad consensus with the political parties on the large majority of issues discussed.²⁴⁰ The Commission took the additional step of recording the proceedings and publishing a book on the dialogues,

in which many of the meetings' details were made public.²⁴¹

The BEC called a third, originally unscheduled, set of meetings with political parties in September 2008 to discuss political party registration. On the basis of this final dialogue, the BEC agreed to relax party registration requirements, leading to the RPO being amended for the second time in 2008.

5.5 The anti-corruption campaign

The CTG, as set out in the Chief Adviser's initial speech to the nation, made combating corruption one of its major priorities. Over the first nineteen months of the CTG, up to 1 September 2008, the ACC lodged a total of 1,146 cases and brought charges to court in 117 cases. A considerable number of these were against top level bureaucrats, business leaders, and politicians of both major parties.²⁴² This was a significant shift from past precedent that showed the seriousness of the CTG's intentions. Because many senior political leaders were caught up in the CTG's anti-corruption net, the anti-corruption campaign became closely linked with the political situation and with election preparations. For the political parties, demands for the release of detained party leaders became a central issue.

Much of the CTG's anti-corruption drive was carried on under the EPR, which enabled the government to detain suspects without specific charges and to keep them in jail without bail. Over time, however, many of the cases were dismissed by the courts on technicalities, leading to complaints that the cases had not been well-prepared. In addition, the anti-corruption campaign was also weakened by allegations that it had become politicized. The merit of most cases appears not to have been challenged, however.²⁴³

The ACC, formed in 2004 by the Anti-Corruption Act 2004, had not pursued an effective anti-corruption agenda prior to the events of 11 January 2007.²⁴⁴ Shortly after the declaration of the State of Emergency, the entire ACC resigned and was replaced by a new Commission, headed by retired Lieutenant General Hasan Mashhud Chowdhury, a former Chief of Army Staff. The ACC was significantly strengthened under the CTG, and was supported by additional staff, as well as by a revision to the 2004 Anti-Corruption Act.²⁴⁵ The ACC pursued its anti-corruption drive vigorously, and pub-

lished four lists of corruption suspects in 2007, with a total of 177 names.²⁴⁶

The ACC was further supported by the CTG through the establishment of "twenty different task forces, consisting of one member each from the ACC, Directorate General of Forces Intelligence, National Security Intelligence, National Board of Revenue, Rapid Action Battalion, the Armed Forces, and the Special Branch of Police."²⁴⁷ The CTG also established the National Coordinating Committee, which was led by the Communications Adviser, and had extensive powers to "confiscate assets of corruption suspects, seize documents for investigation, conduct raids, issue arrest warrants, and take measures to recover illegal funds deposited in foreign banks."²⁴⁸ The participation of the various law enforcing agencies in the anti-corruption campaign involved them at least indirectly in the political process.

Among those detained and charged, the most prominent were the two major party leaders, both former Prime Ministers: Sheikh Hasina and Begum Khaleda Zia. Sheikh Hasina was arrested on extortion charges on 16 July 2007²⁴⁹ and was held in detention for eleven months. Khaleda Zia was arrested on 3 September 2007 on charges of corruption and abuse of power,²⁵⁰ and remained in detention for twelve months. The "two ladies," as they were often referred to, were detained at facilities within the Parliament compound. The arrests of the two most prominent political figures in Bangladesh showed the seriousness of the CTG's purpose at that time. It indicated an intention to reform the political system in part by excluding the participation of the leaders of the two parties that were deemed responsible for leading Bangladesh into a political crisis in early 2007.²⁵¹ The idea of excluding the two leaders from the upcoming election was popularly referred to as the "minus two formula." Iterations of this idea involved either prosecuting and imprisoning the "two ladies" so they would not be eligible to run for office, or inducing them to go into exile. Eventually, however, the "minus two formula" collapsed amid a growing recognition that the two major political parties would not participate in the elections without their leaders. Sheikh Hasina was released on parole on 10 June 2008²⁵² and Khaleda Zia was released on bail on 11 September 2008.²⁵³

While the anti-corruption drive enjoyed strong

popular support at its onset, it was not above criticism. According to Odhikar, a domestic human rights advocacy group, "the anti-corruption campaign initially received substantial public support but it could not keep [it], as it had become apparent that investigation and prosecution decisions...had political angles. Senior political leaders and others were picked up and imprisoned on not so serious accusations, where others with more notoriety remained untouched."²⁵⁴ Odhikar's analysis reflected a more general public perception that the anti-corruption drive had become intertwined to some extent in political motives, with the authorities going light on politicians willing to accept radical reforms but cracking down on those who would not. This image undermined the anti-corruption drive.

Most damaging to the anti-corruption campaign, however, was the ineffectiveness of prosecutions. Relatively few convictions were handed down, for a variety of reasons: the time was too short for the enormous task at hand; some cases were poorly prepared, leading to their dismissal on technical grounds; and the judiciary did not appear to be fully supportive of the anti-corruption drive.²⁵⁵ According to one civil society representative, the courts were not willing to accept the CTG's efforts to short-cut normal legal procedures, which amounted to "an abuse of power by the CTG to combat abuse of power."²⁵⁶ By mid 2008, moreover, the CTG's political will to pursue the anti-corruption campaign was largely sacrificed in the interest of ensuring that the major political parties would participate in the elections.²⁵⁷ On 28 August 2008, the anti-corruption campaign suffered a critical blow, as 200 prominent detainees were released, in what one well known observer called "the day of supersonic bail."²⁵⁸

Some analysts have accorded high praise to the anti-corruption campaign, saying that it disproved the notion that political leaders were completely above the law and not subject to any form of accountability. Other observers, however, assert that while the CTG's efforts to combat corruption were laudable and sent an initial signal that no one was immune for past wrong-doing, in the end the anti-corruption campaign failed to hold top leaders accountable or remove them from their positions of power. Moreover, some assert that the many failed prosecutions were

counterproductive since the result was that many of those released had gained perpetual immunity.²⁵⁹

5.6 Dhaka University riots

On 20 August 2007 the CTG was faced with the start of its biggest law-and-order challenge when riots broke out at Dhaka University. The riots followed accusations that students and a teacher had been assaulted by army personnel at a university football match.²⁶⁰ This prompted students to demand an immediate withdrawal of the Armed Forces camp stationed at the university campus. Demonstrations were held in defiance of the EPRs.²⁶¹ While the Armed Forces withdrew its camp from Dhaka University on 21 August 2007, students from other educational institutions around the country had begun demanding the withdrawal of military forces from their campuses.²⁶² The general public was quick to join in the protests as violence escalated around the country.

The CTG responded to the riots by placing curfews on the six divisional cities every evening beginning at 8:00 p.m., from 22 to 27 August 2007.²⁶³ During this time all major public universities and colleges were closed and students were required to leave their dormitories.²⁶⁴ In addition to these measures, the government shut down mobile phone networks from the evening of 22 August 2007 until the next morning, citing security concerns. It also warned the press to abide by the EPRs, which held that the media should not "hinder the government in pursuing its objective."²⁶⁵ The CTG promised a judicial inquiry into the incidents that sparked the riots and made an apology for the clashes.²⁶⁶

In the days that followed it was estimated that at least 100 people were injured and one person was killed in the riots. The Armed Forces detained five university professors who were accused of provoking the unrest.²⁶⁷ Two of the professors had their houses raided by the Armed Forces.²⁶⁸ A photograph depicting a civilian kicking an army officer created tension between the military forces and journalists during the riots as the picture was perceived as tarnishing the image of the Bangladesh military. During the period of curfew that followed the riots, it is estimated that at least 30 journalists were beaten by security forces.²⁶⁹

5.7 Splits in the political parties

The arrests of Sheikh Hasina and Khaleda Zia, as well as other prominent politicians, caused severe strains in the AL and the BNP. While some party leaders wanted to continue to engage with the CTG and the BEC despite the arrests of their leading members, other party leaders continued to push for the release of the former Prime Ministers at all costs. The divisions in the parties resulting from these tensions were termed by the Bangladeshi media as the “reformist” and “loyalist” factions. The BNP was divided into two major factions, one led by prominent members loyal to Begum Zia and the other led by Abdul Mannan Bhuiyan, who had been Secretary-General of the party until the time of Zia’s arrest. While the AL was able to contain internal dissent much more effectively than the BNP, it also experienced internal strains during the period of the CTG.

While these splits in the parties originated largely from internal tensions, they were encouraged by the CTG.²⁷⁰ This was clear to many analysts of Bangladeshi politics, one of whom wrote that:

...the government sought to force [Sheikh Hasina and Khaleda Zia] to go to “political” exile, failing, [it] interned them and tried to undertake reforms keeping them in jail. It used a carrot and stick policy to reform the parties. Those who agreed to work as protagonists of reform were spared of being sent to jail, while the party loyalists (anti-reformists) were charged with corruption and, in many cases, harassed. Some mid-ranking and senior leaders of the two main parties – BNP and AL – apparently responded to this government policy, demanding that party leaders at different levels be chosen in a democratic manner and not by the whim of the party president. Some of them openly criticized their party presidents for behaving in an autocratic manner. They alleged that the party leaders did not hold elections to different party forums mainly to retain their leadership positions. One of the important proposals that the reformists in both BNP and AL advanced was to adopt measures to limit the discretionary power of the party president.²⁷¹

In the end, both the CTG and the “reformist” party leaders underestimated the staying

power and the popular support of the traditional party leadership, and the extent to which they were rooted in the political system. The rank-and-file members of the major political parties generally continued to support the parties’ two leaders and to disdain the new “reformist” wings. By early 2008, it was becoming apparent that if the AL and the BNP were to participate in the 2008 elections, both Sheikh Hasina and Khaleda Zia would have to be released from prison in order to lead their respective parties. As a result, the CTG began to engage with the two former Prime Ministers in 2008 as part of its strategy to return the country to elected government.²⁷²

The 2007-2008 period also saw several major initiatives to start new political parties. Ferdous Ahmed Koreishi launched the Progressive Democratic Party; the Nobel prize-winning economist, Muhammad Yunus, announced the formation of the Nagorik Sakti (Citizens’ Power) Party; and Major General Syed Mohammad Ibrahim launched the Kallyan Party. Political analysts noted that the birth of these parties was likely encouraged by the CTG as part of its effort to break the major parties’ hold on politics. As evidence, they cited that the CTG gave these initiatives political space to organize and conduct meetings (by not enforcing the EPR),²⁷³ while the BNP and AL were still prohibited from undertaking political activity. In the end, none of these parties gained wide public support and only the Kallyan Party was registered with the BEC before the 2008 elections.

5.8 Caretaker Government dialogue with political parties

By January 2008, after one year in power, the CTG was coming under increasing pressure. The rising cost of energy and essential goods was taking a toll on the government’s popularity. The continuing State of Emergency was growing increasingly irksome to the political class. Efforts to prosecute political leaders on corruption charges were going far more slowly and less successfully than originally anticipated. It was becoming clearer that the newly established “reformist” parties were not attracting wide popular support. With time passing quickly and less than one year left to complete its broad reform program before elections, the CTG was facing an internal political crisis, and did not have a clear strategy for resolving the many problems it faced.²⁷⁴

On 8 January 2008 four CTG Advisers resigned. The appointment of four new Advisers marked the beginning of a shift in the government's approach to political reform,²⁷⁵ as it became increasingly clear that the "minus two formula" was unsuccessful and that the government would have to engage with the established political leaders in order to hold successful elections.²⁷⁶ Nonetheless, it took several more months before the CTG reached internal consensus – and agreement with the military – that it would need to downscale its goals and seek an accommodation with the two jailed leaders of the political parties.²⁷⁷ At this point, the primary goal of the CTG became ensuring that the two major parties agreed to participate in the elections, while salvaging as many of the CTG's reforms as possible.²⁷⁸

Publicly, this shift was marked by the CTG's initiative to hold its own political party dialogues, to which 19 parties, including both factions of the BNP, were invited on 14 May 2008.²⁷⁹ These dialogues began on 22 May 2008. During the discussions, the Chief Adviser pledged to hold the 2008 elections as scheduled, and heard specific demands from the parties.²⁸⁰ At the opening of the dialogue, the Chief Adviser stated that the talks, which were scheduled to continue over the coming weeks, would yield "good results" for everyone.²⁸¹ Even as the talks opened, however, their future remained uncertain, since both the AL and the BNP were demanding the release of their leaders from detention, the lifting of the State of Emergency, and the lifting of restrictions on political activity as pre-conditions for their continued attendance.²⁸²

At approximately the same time, however, the CTG began engaging in intense behind-the-scenes negotiations with AL and BNP leaders and their representatives. These discussions proceeded intermittently over several months. The talks explored a variety of possibilities, moving from attempts to persuade the party leaders not to run for office, to suggestions that they form a government of national unity.²⁸³ While these initial proposals were not accepted, the two leaders did reportedly agree to maintain the CTG's reforms and to continue to pursue the campaign against corruption.²⁸⁴ In the end it was these informal discussions that secured the BNP and AL agreement to participate in the elections, as the CTG increasingly yielded to the political parties' demands.²⁸⁵

5.9 Electoral reforms

As these political developments played out publicly and behind the scenes, the BEC proceeded with preparations for the elections, in accordance with the roadmap it issued in July of 2007.

Foremost among these preparations was the design and implementation of a massive project to create electoral rolls that included photographs of all voters. The decision on this emerged from discussions and studies that began just days after the installation of the new CTG. Design and planning efforts began almost immediately and a pilot project was implemented in June 2007. With the success of the pilot project, a new Electoral Rolls Ordinance was issued to provide the legal basis for changes in the system of voter registration. The project then moved into high gear and remained a major priority of the BEC until its completion over a year later, in the summer of 2008. Voter registration was conducted through the successful collaboration of the BEC and the Armed Forces, supported by other government offices, civil society and the international community. This enormous undertaking drove the entire election schedule and its successful completion was an essential prerequisite for holding the elections. By the end of the project, over 81 million voters were registered. Notably, moreover, the creation of the new electoral rolls was one of the few electoral reforms undertaken by the BEC that was not challenged by the political parties.

In addition to voter registration, the BEC embarked on an ambitious electoral reform program touching on the entire range of election issues, including sensitive political matters, technical procedures, and internal organization. The reforms were aimed at addressing the various deficiencies that had emerged during the 2006-2007 election process. While many of the reforms emerged from the BEC's dialogue with civil society, the BEC developed its reform agenda early in its tenure. The Secretary of the Election Commission delivered a presentation to international donors as early as 25 April 2007 where he outlined the BEC's reform objectives, providing details on its ideas for legal, procedural and institutional reforms.²⁸⁶

From a legal standpoint, most of the reforms were enacted through ordinances promulgat-

ed by the President, on the recommendation of the CTG, using his powers under Article 93 of the Constitution. Ordinances have the legal standing of an Act of Parliament, but must be ratified by Parliament at its first sitting in order to continue in force. The President promulgated 122 ordinances during the 2007-2008 period. The ordinances relating to elections were drafted by the BEC in cooperation with the Law Ministry, and were subject to final review and approval by the CTG. This mechanism was used to put into place a number of highly significant electoral reforms.

In addition to ordinances, the BEC had the authority under different electoral laws to make rules and regulations under them. The bulk of the BEC's electoral reforms were captured in the ordinances, rules, regulations, guidelines and codes of conduct that were drafted and adopted by the reconstituted BEC. However, the BEC also implemented electoral reforms that did not require the introduction or revision of laws or rules. These initiatives included the introduction of translucent ballot boxes and taking steps to strengthen the ECS administratively, such as revising the staff rules and upgrading the website.

Some of the key electoral legal reforms included:²⁸⁷

- The Representation of the People Order (Amendment) Ordinance 2008 was promulgated on 19 August 2008. This ordinance put into place a wide range of electoral reforms, including additional qualification requirements for candidates, requirements for political party registration, changes to campaign financing, and revised candidate nomination procedures. Most of the reforms captured in the ordinance were the subject of the first and second BEC-political party dialogues.
- The Representation of the People Order (Second Amendment) Ordinance 2008 was promulgated on 8 October 2008, after the third round of BEC-party dialogues. This ordinance amended the RPO to allow parties to register with provisional constitutions.
- The Election Commission Secretariat Ordinance 2008 was promulgated on 23 October 2008, formally separating the ECS from the Prime Minister's Office.

- The Code of Conduct for the Candidates and Political Parties participating in the Parliamentary Elections was announced by the BEC on 18 September 2008. The Code of Conduct put into effect new rules and restrictions for the conduct of campaigns.
- The Code of Conduct for Observers and the Guidelines for Domestic Election Observation were put into effect by the BEC in December 2008. The new rules regulated the conduct of domestic observer groups and required their accreditation with the BEC.

The BEC also revised the boundaries of parliamentary constituencies according to existing rules, based on the 2001 census results, which were released in 2007. Although this was supposed to have been done following every census, it had not been done since 1984, with the result that there were very large disparities in constituency size.²⁸⁸ The BEC redrew the boundaries of 133 constituencies through a comprehensive process that spanned many months in 2008. The delimitation of some constituencies was challenged in court, with a final resolution pending until shortly before the elections. In addition, the BEC undertook internal restructuring, personnel changes and information technology upgrades.

5.10 Local elections

As part of the electoral roadmap, local elections – including elections for city corporations, *pouroshavas*, union *parishads*, and *upazila parishads* – were to be held before the end of 2008. The timing of these elections became an issue of contention between the parties and the BEC, as the political parties wanted the priority to be placed on parliamentary elections and for the other elections to be delayed until the new Parliament was in place.

The debate was particularly intense regarding the holding of elections for the *upazilas*, which had been subject to the influence of the local MPs, and for which elections had not been held since 1990. Setting the stage for the *upazila* elections, the CTG formulated the *Upazila Parishad* Ordinance in June 2008, which would have given the elected representatives far more independence from the local MPs. While on the surface this was a simple reform to devolve more authority to the local level, it

was also aimed at reducing the major parties' stranglehold on political power by providing an opening for the emergence of local leaders with real authority. The parties recognized this and objected strenuously to holding *upazila* elections before the parliamentary elections. The timing of the *upazila* elections became a major controversial issue in the behind-the-scenes political party dialogue with the CTG,²⁸⁹ as well as with the BEC.²⁹⁰ Ultimately, the CTG and BEC yielded and agreed to postpone the *upazila* elections until shortly after the parliamentary elections.

The schedule for *upazila* elections was announced together with the parliamentary elections schedule, and preparations for the polls were conducted simultaneously with the preparations for the parliamentary elections. The elections themselves, however, were not actually held until 22 January, 2009. After the elections, when Parliament adopted the "*Upazila Parishad (Reintroduction of the Repealed Act and Amendment) Act 2009*," the *upazila* positions were stripped of the independence conferred on them by the *Upazila Parishad Ordinance*.²⁹¹

Separately, the BEC decided to postpone the planned elections for 4,000 union *parishads*, the lowest level of local government. The postponement was announced on 20 June 2008. The BEC did proceed, however, with elections for four of the six city corporations, and nine of the 308 *pourashavas*.²⁹² These local elections were held on 4 August 2008, and were observed by the EWG, as well as by a small number of international observers. The EWG assessment concluded that the process was well conducted, but noted some shortcomings in the electoral procedures. In particular, the EWG urged that votes should be counted in the presence of observers for added transparency. Another concern noted during the local elections was that polling officials did not appear sufficiently informed or trained on the use of the electoral rolls and the new NIDs.²⁹³

An exit poll conducted by the IRI in Rajshahi found that 90 per cent of the respondents described the election as "free and fair" and that 78 per cent of the respondents encountered no problems while voting (while an additional 15 per cent of respondents stated that the only problem was that the wait was too long).²⁹⁴ These positive reviews built confidence in the new electoral rolls and in the upcoming par-

liamentary elections in general. On the other hand, a number of stakeholders were sharply critical of the 4 August elections, charging that both procedural irregularities and manipulation in the counting of the votes took place.²⁹⁵

5.11 Public perceptions

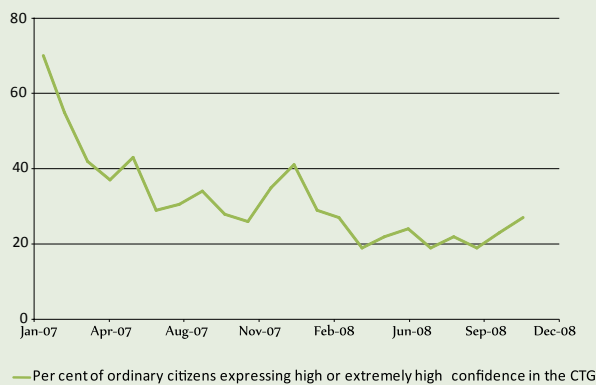
Several organizations, including the EWG (with support from the Asia Foundation), IRI, BRAC University, and the media conducted public perception surveys from February 2007 to January 2009. During this period, the EWG conducted a total of 23 monthly surveys that gathered data on citizens' perceptions on current events, the performance of the CTG, the law and order situation, the reform process, and the anti-corruption campaign. The surveys broadly concluded that public support for the CTG gradually declined over the course of its tenure; that rising food prices were the major issue of concern to citizens during 2008, contributing to the CTG's declining popularity; and that the BEC enjoyed strong support from the population.

Some of the trends that were observed included:

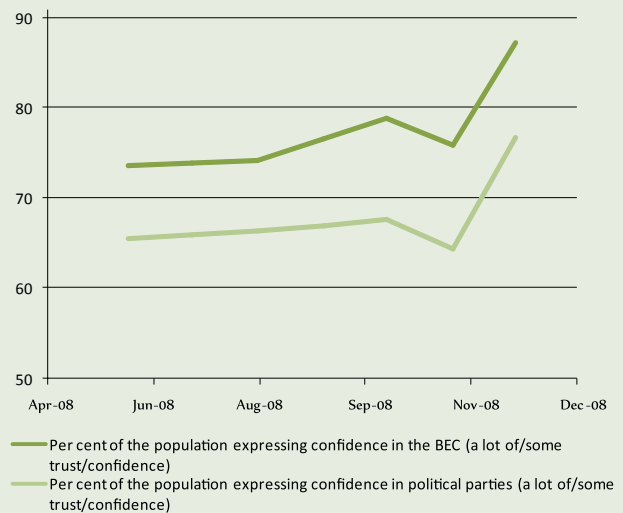
- In regard to the CTG, the first EWG National Public Perception Study conducted in February 2007, a month after the new government took office, found that approximately 70 per cent of citizens, civil society members, and local government officials expressed "high or extremely high" confidence in the new CTG, with the remaining citizens expressing "reasonable confidence."²⁹⁶ The level of confidence in the CTG declined to 41 per cent after 12 months. A survey conducted by the Institute for Governance Studies at BRAC University between January and March 2008 found that 79 per cent of the population expressed dissatisfaction with the price of essential goods.²⁹⁷
- The survey data indicated sizeable and unwavering support for the BEC. According to surveys conducted by IRI, support for the BEC showed an upward trend from May 2008 to December 2008, the final eight months before the election. In May, 73.6 per cent of the population expressed "a lot of confidence/trust" or "some confidence/trust" in the BEC. In December this aggregate reached 87.2 per cent.²⁹⁸

- During the same period, the survey data indicated more limited support for political parties, although their support also showed an upwards trend as the elections approached. According to surveys conducted by IRI, in May 2008, 65.5 per cent of the population expressed “a lot of trust” or “some confidence/trust” in the political parties. In December this aggregate reached 76.6 per cent.²⁹⁹
- IRI surveys tracked responses to the question “are things moving in the right or wrong direction in Bangladesh?” Between May and December 2008, as the election approached, the percentage of the population believing things to be “heading in the right direction” increased steadily from 34 per cent to 62 per cent, while the percentage of the population believing things to be “heading in the wrong direction” decreased steadily from 64 per cent to 37 per cent.³⁰⁰
- IRI surveys also tracked responses to the question “which issue requires the most attention from the government at this time?” Between May and December 2008 the percentage of the population believing that price inflation was the number one issue dropped from 50 per cent to 24 per cent, while the percentage of the population believing that corruption was a priority issue increased from 14 per cent to 37 per cent.³⁰¹
- A December 2008 survey conducted for the Bangladeshi newspaper Prothom Alo found that 60 per cent of the population supported steps to arrest “accused politicians,” and that 78 per cent of the population disapproved with the way in which politicians were granted bail immediately before the elections.³⁰²

Confidence in the CTG³⁰³



Confidence in the BEC and political parties³⁰⁴



5.12 Political party registration

On 19 August 2008 the RPO was amended to include provisions for the mandatory registration of political parties with the BEC. Previously, registration had been voluntary and very few parties had registered. The motives behind compulsory party registration was to try to break the cycle of destructive politics, to encourage internal democracy within parties, to facilitate interaction between the BEC and the political parties, to require more transparency and accountability in the activities of the parties and to bar “signboard only” parties from participating in elections. Parties had to meet a number of new requirements to be able to register.

A week later, on 26 August 2008, the BEC invited the political parties to apply for registration by 15 October 2008, stating: “If there is a problem regarding registration by October 15, we can discuss it with political parties and reach a solution.”³⁰⁵ Political parties immediately voiced concerns over the registration requirements. They were particularly vocal regarding the new condition that the party constitutions must forbid the formation of affiliated organizations. Parties also voiced concerns that they would not be able to meet the proposed requirements of including women in one third of the party positions. In addition, the parties expressed concerns that they would not be able to revise their constitutions by the registration deadline, since they would not be able to hold party councils under the State of Emergency to amend their constitutions.

In order to discuss the parties’ concerns, the BEC hosted a third round of talks with 16 political parties from 12 – 20 September 2008. Despite party objections, the BEC held firm on most of the requirements for registration. It did, however, agree to address the problem of parties not being able to amend their constitutions by holding council meetings under the State of Emergency.³⁰⁶ Through a second amendment to the RPO on 6 October 2008, the BEC was allowed to register any political party on the basis of a “provisional constitution,” compliant with the conditions set for registration of the RPO, subject to the condition that it would submit “a ratified constitution within six months of the first sitting of the Ninth Parliament.”³⁰⁷ The major parties generally welcomed this change and stated that they would seek registration under the relaxed rules.³⁰⁸

By mid-October, parties had begun to revise their constitutions to meet the RPO requirements. Uncertainty remained, however, whether some of the major parties, in particular the BNP and JI, would submit registration papers under the new rules. Fears were emerging that there could be an election boycott by some parties, which could call the credibility of the election into question. Against this background, on 13 October the BEC agreed to a request made by the BNP and JI to extend the deadline for submission of the required documents to 20 October 2008.³⁰⁹ Having won this concession, the two parties submitted their registration documents, although they still held out the possibility that they might boycott the election.

By 3 November 2008, only ten days before the 13 November deadline for parties to submit candidate nominations, the BEC’s technical committee finished reviewing 107 party registration applications. It deemed 30 parties eligible for registration, including the country’s four largest parties, the AL, the BNP, the JP and JI.³¹⁰ The BEC, however, did not finalize the list of parties receiving registration until 23 November 2008, well into the candidate nomination period. At the end of the process, 39 parties were registered,³¹¹ of which 38 contested the elections.³¹² Of these, four parties were new: the Liberal Democratic Party (which won one seat in the 2008 elections), Oikkobodho Nagorik Andolon, Islamic Front Bangladesh, and Bangladesh Kallyan Party.³¹³

5.13 Election timing issues

While momentum continued to build towards holding elections in the final weeks of 2008, many critical issues were left unresolved until extremely late in the process. Major issues of contention included the requirement for political parties to agree to implement internal reforms in order to be registered, and questions over whether and when the State of Emergency would be lifted, as was being demanded by the BNP, the AL and other political parties. The BNP also argued for the repeal of Article 91E of the RPO, which gave the BEC the power to cancel a candidate’s nomination for “serious illegal activity.”³¹⁴ Additionally, the BNP demanded that no more of its leaders be arrested, and that those leaders already arrested be released.³¹⁵ Last minute negotiations over these issues caused the election timeline to be moved four times.

The changes in election dates were made to ensure the participation of all political parties. As the election time fast approached, the Four Party Alliance under the leadership of Begum Khaleda Zia had been threatening to boycott the elections. They set out a number of their demands as preconditions for taking part in the polls and later refocused them as a seven-point demand. Most of the demands were political, as noted above, with the exception of demands for the cancellation of a few provisions of the RPO and a demand to reschedule the date of both parliamentary and *upazila* polls. The CEC made it very clear his view that the elections could only be held with the participation of all political parties. The CTG was also very keen to bring all parties on board. A four-member team of Advisors started talks with the two major political alliances to work out a solution. While both the alliances agreed on some issues, they differed on the date of parliamentary elections. The BNP wanted to shift the date back by a month but the AL insisted on 18 December, as announced by the Commission. Having failed to strike a deal between the two alliances, the Advisors abandoned their efforts on 16 November and announced the determination of the government to stick to the original date. Another effort was also made by the CTG to end the stalemate by engaging five Advisors who lobbied the leaders of both the alliances, but this effort also ended in failure.

The BEC then took upon itself the onerous task of reconciling the parties to the election date through a round of hectic talks with the leaders of both the alliances. The Four Party Alliance had indicated their preference for taking part in the polls on 28 December if three other conditions were met. The Grand Alliance stuck to 18 December. The CTG indicated its willingness to consider totally withdrawing the State of Emergency after the last date for candidates' withdrawal and agreed to hold the *upazila* elections after the parliamentary polls. In the end, the BEC announced a new schedule fixing 29 December as polling day and setting 23 November as the last day for submission of nominations, 25-26 November as the scrutiny period, and 1 December as the last day for withdrawal of nominations.³¹⁶ This fourth and final change of the election schedule was a concession to the BNP to secure its participation.

In addition to the delays caused by political issues, pending decisions by the HC on whether to reinstate candidates disqualified by the BEC and ROs delayed the printing of ballots and could have threatened the timing of the elections. As it was, late decisions by the courts forced the BEC to reprint millions of ballots at the last moment when 10 candidates were reinstated.³¹⁷ Yet another issue complicating election preparations was the late HC ruling on the delimitation of constituencies, which delayed the announcement of election schedules.

5.14 Election campaigns

The campaign period was regulated by the Code of Conduct for Political Parties and Candidates for the Parliamentary Elections, which was prepared by the BEC based on Article 91B of the RPO, and was issued on 18 September 2008.³¹⁸ The timeline for the campaign period was announced on 23 November 2008, after the official election schedule had been revised for the fourth time.³¹⁹ While according to Rule 12 of the Code of Conduct campaigns could last up to three weeks, the BEC announced only a two week campaign period, lasting from 12 December 2008 to midnight on 27 December 2008,³²⁰ ending 24 hours before election day, which had been set for 29 December 2008.

The CTG relaxed some provisions of the EPR to allow for less restricted political activities before elections, beginning on 3 November 2008. The relaxation of the EPR included allowing political parties to hold meetings and rallies, and allowing the media to operate without restrictions.³²¹ However, the EPR was not completely lifted until 17 December 2008, five days into the campaign period. The final lifting of the EPR came only a day before the expiry of an ultimatum issued by the BNP, which threatened to boycott the elections if the EPR were not lifted.³²² The issue of lifting the EPR had become a major concern as the elections approached, dominating media interest as major political parties demanded its repeal.

As both the BEC and the CTG sought to retain control over the pre-election environment, the CTG issued a warning to political parties as early as 11 November 2008 not to violate the EPR and to refrain from processions and rallies until the start of the campaign period.³²³ The BEC, in turn, issued warning letters to

the AL and the BNP not to violate the Code of Conduct. The BEC issued these warnings in response to relatively minor infractions by the parties in order to convey its seriousness about enforcing the Code of Conduct.³²⁴

Despite the CTG apprehensions about lifting the EPR, political parties by and large complied with the Code of Conduct and the campaign period was generally calm and well ordered. Although the political parties feared that their campaigns would be conducted in a restrictive environment, in the end they were able to campaign and express themselves freely within the limited time available. Party leaders toured the country stumping for their parties' candidates. Domestic and international observers reported generally positively on the brief campaign period. Contesting candidates stated that the newly revised Code of Conduct required them to change some of their previous campaign practices, such as setting up multiple electoral camps in a constituency. However, candidates continued to be engaged with voters, and one candidate reportedly increased door-to-door campaigning because of the restrictions on traditional campaign practices.

5.15 Media coverage

The 2008 elections enjoyed broad coverage by both print and electronic media, with strong competition among television channels, and an abundance of national and local daily newspapers. There were 13 national TV channels in operation, all of which hosted a range of political talk shows, and many of which featured special elections programs. In addition, there were around 250 newspapers in Bangladesh, providing ample – if not always professional – coverage to those who sought it out.³²⁵

However, the media faced significant restrictions under the CTG. Government pressure was exerted through telephone calls by intelligence services to journalists and editors, warning the media not to report on certain issues.³²⁶ Media restrictions were especially tight during the riots at Dhaka University in August 2007, when security forces reportedly beat 30 journalists.³²⁷ The international media advocacy organization Reporters Without Borders reported that 40 journalists were arrested in 2007 and that the Armed Forces "committed serious press freedom violations aimed at silencing independent journalists."³²⁸ It summed

up the media environment under the CTG as follows:

[When a] State of Emergency was declared on 11 January...the country's TV and radio were ordered to stop broadcasting their news programs for two days. When the government faced student demonstrations at the end of August, it banned stations from broadcasting talk shows and political programs. Army intelligence services officers summoned editorial heads and threatened them with draconian criminal proceeding, including under Article 5 of the State of Emergency Regulations. CSB News and *Ekushey* TV were ordered by the Press Information Department not to broadcast "provocative" reports and commentaries. A management figure at ATN *Bangla* told Reporters Without Borders, "The ban on talk shows is a disaster. While there is no Parliament, political broadcasts are the best way for citizens to comment on the government's decisions."³²⁹

For the 2008 parliamentary elections, however, the press reportedly enjoyed significant freedom, and covered the campaigns, voting and election results enthusiastically.³³⁰ While the BEC had attempted to implement a media code of conduct for the 2008 elections, the code was not finalized due to resistance from the media and because the BEC's attention was focused on matters that it considered a higher priority.³³¹

5.16 Election observers

The 2008 elections were observed by a large number of national and international election observers. The largest number of domestic observers were deployed through the EWG, a coalition of 32 national NGOs, which reportedly deployed approximately 155,000 observers.³³² Other national observer organizations conducting monitoring activities outside the EWG framework included JANIPOP (also an EWG member), which conducted its own long-term observation project, and Brotee, which engaged in informal contacts with minority and vulnerable voters in 11 constituencies.³³³

International observer delegations included the EU Election Observation Mission, the Commonwealth Observer Mission, the IRI Observer Mission, the NDI Observer Mission, the Asian Network for Free Elections (ANFREL),

and teams deployed by diplomatic missions. Before deployment, international observer groups had to make a difficult, and in one case ground-breaking, decision on whether to observe an election process that was conducted in part under a State of Emergency.³³⁴ In total, the international community deployed approximately 380 international observers, including long term and short term observers.

5.17 Election day

Domestic stakeholders and international observers found election day to be mostly calm, peaceful, well administered and generally in line with international standards. While observer groups, parties and the media reported violations of the code of conduct and a few incidents of violence, the overall integrity of the electoral process was considered to be sound. Turnout stood at a record 86.34 per cent with 70,648,485 votes cast. More than one million personnel were deployed in support of the elections, including half a million election officials and 550,000 members of the law enforcement agencies.

5.18 Election results

The AL won the parliamentary election by a landslide, securing 230 of the 300 contested

seats, despite obtaining slightly less than 50 per cent of votes cast. The BNP won only 30 seats, although it received 32.50 per cent of the popular vote. The JP won almost the same number of seats – 27 – despite garnering just over seven per cent of the vote. JI won only two seats in Parliament, with 4.7 per cent of the vote.³³⁵ These sharp disparities are, for the most part, the result of Bangladesh's first-past-the-post election system and have prompted some civil society members to urge considering moving to a system of proportional representation.³³⁶ The AL's electoral victory did not come as a surprise to observers of the electoral process, and is in line with the anti-incumbent trend in previous Bangladeshi elections. The scale of the AL's victory, however, surprised even the AL.

Eighteen women were elected to Parliament; a very small percentage but still higher than in any previous election. The 45 reserved seats for women, which were filled through proportional elections within the Parliament, gave an additional 36 seats to the AL. In addition, 14 of the elected members of Parliament belonged to ethnic or religious minorities, all of them elected under the AL banner.³³⁷

Election Results³³⁸

Party	Votes obtained	Constituencies contested	Seats won	Per cent vote
Awami League	33,634,629	264	230	48.04%
Bangladesh Nationalist Party	22,757,101	260	30	32.50%
Jatiya Party	4,926,360	49	27	7.04%
Jamaat-e-Islami	3,289,967	39	2	4.70%
Jatiya Samajtantrik Dal	506,605	7	3	0.72%
Bangladesh Workers Party	262,093	5	2	0.37%
Liberal Democratic Party	191,679	18	1	0.27%
Bangladesh Jatiya Party	181,675	12	1	0.26%
Independents	2,060,392	151	4	2.94%
Others	1,819,766	762	0	2.60%
"No"Vote	381,924	-	-	0.55%
Invalid votes	639,294	-	-	0.90%

For the 2008 parliamentary elections, candidates were required to disclose significantly more information for public scrutiny than in previous elections. This meant that voters had access to information on the criminal records and income of candidates. Despite this background information being readily available, voters still elected a significant number of

Members of Parliament with dubious backgrounds. According to research conducted by the NGO Shujan, 134 of the elected members of Parliament had criminal cases charged against them in the past; 91 still had cases pending. At least 18 elected law makers had murder charges pending, and two were accused of committing war crimes.³³⁹



6

Major Electoral Reforms

Major Electoral
Reforms

Major Electoral Reforms

Major initiatives were undertaken by the BEC and CTG to reform the electoral and political processes in Bangladesh before the ninth parliamentary elections. The reforms introduced by the BEC changed the procedures for conducting elections through innovations in voter registration, requirements for registration of political parties, changes in the candidate nomination and information disclosure process, restructuring of the ECS, changes in the rules for the deployment and accreditation of domestic election observers, and the introduction of translucent ballot boxes. The BEC and CTG also introduced rules that affected how political parties and candidates conducted themselves before, during and after election day. In addition, the BEC redrew the boundaries of 133 parliamentary constituencies.

6.1 Reform of the electoral laws

Amendments to the RPO and other legislation were at the core of the BEC and CTG's efforts not only to make technical improvements in election management, but also to affect the conduct of political parties and candidates. The first set of amendments to the RPO, promulgated in the Representation of the People Amendment Ordinance, 2008 on 19 August 2008, included 67 changes to the law. The most significant of these were:

- Changes to nominations requirements (Article 12, Clause 1 and Article 3a);
- Reducing the number of constituencies an individual candidate was allowed to compete in from five to three (Article 13A, Clause 3);
- Reducing the number of polling agents of a candidate to one agent per polling booth (Article 22, Clause 1);
- Introducing an option to vote for "none of the above candidates" (Article 31, Clause 5bb);
- Raising the maximum allowable election expense per candidate to 1.5 million taka from 0.5 million (approximately USD 22,000 from approximately USD 7,200) (Article 44B, Clause 3);
- Allowing more time for the submission of reports on campaign expenses (Article 44C, Clause 1);
- Raising the maximum amount allowed to

be spent by parties for elections (Article 44CC, Clause 3);

- Allowing more time for parties to submit expenditure statements after elections (Article 44CCC, Clause 1);
- Introducing a rule under which parties not submitting expenditure statements on time would be subject to a monetary fine or cancellation of registration (Article 44CCC, Clause 5);
- Introducing strong rules for political party registration, including provisions for the representation of women in party leadership positions, prohibition against party affiliated student or teacher organizations, and grassroots nomination of candidates (Chapter VI A); and
- Empowering the BEC to cancel a contestant's candidacy upon receiving and investigating reports of serious illegal activity (Article 91E).

On 6 October 2008 a second round of amendments to the RPO introduced 11 additional changes. While most of these amendments were minor, the second set of amendments allowed parties to be registered with a provisional party constitution, and provided that a new party constitution modified to accord with the new legal requirements be ratified within six months of the first sitting of the Ninth Parliament (Article 90D). This was necessary because under the State of Emergency, political parties were not free to hold the large political gatherings necessary to change some party constitutions.

In addition to the changes in the RPO, the BEC introduced a Code of Conduct for candidates and political parties, which significantly changed permitted campaigning practices. A new voter registration law provided the legal framework for new electoral rolls with photographs. Revised guidelines governed the work of domestic observers. Other structural issues affected by the overall reform process were the participation of women and minorities in the electoral process, and voter education. As described above, the BEC approached the reform process in a consultative fashion, inviting political parties for discussions on three occasions, and hosting dialogues with civil society,

domestic observer groups, and the media.

These and other changes were aimed at systematically addressing the major issues and problems that led to the loss of public confidence and eventual failure of the 2006-2007 election process. The sections below provide details on the various reforms.

6.2 Voter registration

One of the most significant and far reaching innovations of the 2008 election was the decision to create electoral rolls that would include photographs of each of Bangladesh's more than 80 million eligible voters. This plan arose out of the political parties' long-held suspicion regarding the methodology of preparing the electoral rolls and the evidence of the extent to which the existing rolls were seriously flawed. The lack of confidence in the integrity of the electoral rolls, reflected in the widespread belief that over 10 million "ghost voters" were included on the rolls, had been a major factor in undermining public confidence in the previous attempt to hold parliamentary elections. Civil society organizations and opposition political parties asserted that flaws in the rolls could be exploited and used to rig the election's outcome. The problem was compounded by the failure to improve the electoral rolls despite three separate nationwide house-to-house enumeration processes in 2005 and 2006. The BEC's inability to sort out the problem undercut public faith in its capacity to administer a fair and honest election process.

The idea of creating electoral rolls with photographs had long been discussed as a possible solution to these problems, and had been put forward by civil society and opposition parties. Creating these rolls, however, would involve monumental challenges of design and development, organization, logistics, procedures, training, civic education and, not the least, financing. Such a process would involve major political risks as well as technical and organizational challenges, since it would require delaying the elections for at least a year and possibly much longer, and it might be perceived as an effort to deliberately delay the return to democratic governance. Moreo-



The voter registration process required enumerators, data entry operators and those supporting the process to travel to hard to reach areas to ensure all eligible voters were registered ahead of the 2008 election. Photo courtesy of UNDP.

ver, if a program to create electoral rolls with photographs failed, this would undermine the authority and the reputation of the BEC and the CTG, with uncertain and potentially disastrous consequences.

The voter lists project would become by far the largest and most complex of Bangladesh's electoral reforms. While discussions of the issue began almost immediately after the creation of the new CTG in January 2007, the final decision was not taken until months later, after much careful study, deliberation and testing.

6.2.1 Decision to create electoral rolls with photographs

The final decision to create electoral rolls with photographs grew out of initial discussions on issuing voter identification cards. In January 2007, as one of its first steps, the CTG appointed an eight-member technical committee, headed by the vice-chancellor of BRAC University, Professor Jamilur Reza Chowdhury, to study the feasibility of introducing voter identification cards³⁴⁰ as a possible solution to the electoral rolls problem.³⁴¹ The appointment of this group reflects the importance attached to this issue by the CTG from its earliest days in office. The work of this committee was complemented by the Armed Forces, which separately began to research a voter registration methodology under the initiative and leadership of the Military Secretary, Major General Md. Shafiqul Islam, in February 2007. The initial findings of the Armed Forces were that the project, if the Armed Forces were to conduct it, could be completed in 12 months with a budget of 5 billion taka (approximately USD 65.9 million).³⁴² However, this proposal did not include many critical aspects for voter registration, including enumeration, training, consumables, quality control, technology infrastructure, BEC equipment and capacity issues, and registration center costs.³⁴³



The Bangladesh Armed Forces provided all out support to the voter registration process including the deployment of personnel as well as equipment to enable the Bangladesh Election Commission to register 81 million voters in less than one year. Photo courtesy of UNDP.

The Armed Forces made a presentation to the CTG and the BEC on 17 February 2007 on the feasibility of creating new electoral rolls and preparing voter ID cards, as an additional element of the registration process, after which the Chief Adviser asked the technical committee to examine the Armed Forces proposal.³⁴⁴ On 5 March 2007, the technical committee re-



Helping to return democracy to Bangladesh, the Bangladesh Army assists the PERP project to prepare voter lists for distribution to over 35,000 polling centers across the country, in time for the 2008 Parliamentary election. Photo courtesy of UNDP.

leased a report that found that a voter ID card could be introduced for approximately 90 million people in one year at a cost of 3.85 billion taka (approximately USD 55 million).³⁴⁵ The report recommended that:

- Voters' information should be gathered through house-to-house visits;
- Birth and death registration should be integrated into the voter registration process;
- The registration database should be maintained at the *upazila* and national levels;
- Fingerprint identification software should be used to avoid duplicate registration;
- The existing legal framework for voter registration should be reviewed; and
- NIDs should be issued through the registration process.³⁴⁶

The new BEC, meanwhile, had been examining the issue of the electoral rolls as one of its first orders of business. Within a month of its appointment, the BEC concluded that the old rolls could not be corrected and decided that it must create new electoral rolls with photographs.³⁴⁷ The views of the BEC were thus converging with those of the new CTG.

Following several weeks of internal deliberations, the BEC announced on 21 March 2007 that it would introduce electoral rolls

with photographs and issue NIDs.³⁴⁸ The BEC's announcement came against the backdrop of a pending decision by the HC, which, in fact, ruled a few days later that the BEC should update the 2000 electoral rolls and should issue identification cards.³⁴⁹ The BEC's decision to create new electoral rolls was made independently, and before it had secured guaranteed donor support for the project. However, the decision to issue NIDs was made by the CTG.³⁵⁰

On 5 April 2007 the BEC announced an 18-month timeline for completing the electoral rolls with photographs. This timeline was based on a six-month time-

frame for preparing a project proposal, procuring equipment and recruiting staff, and a 12-month timeframe for conducting work in the field.³⁵¹ With these decisions and public announcements, the BEC launched the largest program of the pre-election period. Under the best of circumstances, updating a voter registry is an enormous and complicated task. The program initiated in Bangladesh was staggering in scope, one of the largest such programs ever undertaken anywhere.

While the plan to create electoral rolls with photographs was still in its conceptual stage, the BEC began to receive proposals from a range of vendors to implement the project. These included a proposal from IBM, which offered to complete a project within eighteen months at a cost of USD 400 million.³⁵² The BEC dismissed this offer immediately as too expensive. Proposals were also put forward by British and German companies, as well as by a Pakistani public sector enterprise. The proposals estimated an implementation timeline of four to five years, at a cost ranging from USD 200 – 650 million.³⁵³ The CTG's technical committee submitted for consideration a methodology that would take sixteen months and cost USD 235 million, using hundreds of local vendors to implement the project. The BEC was wary of this plan because of the challenges of managing so many vendors and because

some of the same vendors had not performed adequately when the BEC had attempted to produce national identification cards in the mid-1990s.³⁵⁴

Against this background, the proposal by the Armed Forces looked to be the most acceptable to the Commission despite a few areas of disagreement. The BEC was well aware that the Armed Forces had been heavily involved in the development of the registration methodology, and initially had studied voter/citizen registration processes and NIDs in Bangladesh (the 1996 voter ID process), India, Pakistan and Malaysia.³⁵⁵ The Armed Forces made concerted efforts in developing registration software in partnership with local vendors and prepared the operational plans on which the implementation of the project depended. The Armed Forces refined their initial proposal and presented the BEC with a revised methodology that addressed some BEC concerns. They also presented a far more reasonable budget than those proposed by other vendors. The final methodology for voter registration was the result of many discussions, modifications and inputs.

In the BEC's final analysis, the Armed Forces, given its operational capacity, skilled staff, and status as a government institution, emerged as the most appropriate entity to implement the electoral roll with photographs project. Despite the concern expressed during the turbulent months of late 2006 that elements of the Armed Forces might emulate past actions and stage a coup, and some continuing concerns about the role of the military as the force behind the CTG, overall public perceptions of the military in Bangladesh were positive and it was regarded as a relatively impartial and effective organization.³⁵⁶ The high level of trust in the military explains why Bangladeshi citizens did not seem to be concerned about the military's involvement in the electoral rolls preparation process. The Armed Forces, moreover, is the only organization in Bangladesh that possesses the personnel resources, the technical skills, organizational capacity and geographic reach to undertake successfully a project as large as the electoral rolls with photographs project. Still, the BEC weighed its options carefully before deciding to partner with the Armed Forces, and despite Armed Forces³⁵⁷ leading role in designing and implementing the project, voter registration remained under the overall

supervision of the BEC.

The final voter registration methodology included both the Armed Forces' proposed methodology – which called for all voters to visit registration centers – and the BEC's traditional house-to-house enumeration procedures. The result was a "mixed" registration system, under which the BEC and individual voters shared responsibility for ensuring that every eligible person was registered. This was a change from the "government-initiated" or "passive" system of voter registration used in the past, under which the BEC bore the entire responsibility to ensure all voters were properly registered. The shift to a system with "voter-initiated" or "active" elements that required each voter to take positive action (i.e., visiting a registration center) to be registered was a radical shift with far-reaching implications. Under "active" registration systems in many countries, a substantial number of eligible citizens remain unregistered, either for lack of interest or other reasons.

The shift in registration systems in Bangladesh, therefore, opened the possibility that many citizens would either not take the trouble to appear at registration centers or not understand that they needed to do so in order for their names to appear on the electoral rolls. This inertia or lack of knowledge could have left many individuals disenfranchised. Minority groups, women, first-time voters and illiterate people could have been especially at risk to remain unregistered. In a worst case scenario, large numbers of individuals could have appeared at polling centers on election day expecting to have been put automatically on the electoral rolls, as they had in the past, demanding their right to vote. Avoiding such problems when shifting from "passive" to "active" registration normally requires a very large and effective voter and civic education campaign. These were issues of concern for both the BEC and the Armed Forces as they began to undertake the new registration process and led to the development of an extensive outreach program.

The issuance of NIDs as part of the voter registration process proved to be a strong motivating factor for the active participation of citizens. Most Bangladeshis had never before had an official identification document and the opportunity to obtain a NID became a

powerful incentive to register. In the end, the public information campaigns and incentives – together with the remaining “passive” house-to-house enumeration – proved sufficiently effective to result in near-universal registration. Over the longer term, the BEC is considering transforming registration into an entirely “voter initiated” process.³⁵⁸

The government turned to development partners, in particular UNDP, for technical assistance for voter registration, as well as for support with resources mobilization and procurement. UNDP prepared an extensive study for the BEC and Armed Forces’ use on information technology requirements and procedures.³⁵⁹ The final voter registration methodology was reflected in UNDP’s Preparation of Electoral Rolls with Photographs (PERP) project document, which was signed by the BEC and UNDP on 27 August 2007. The PERP project document established a budget of USD 82 million, of which more than half was to be contributed by international development partners. The project document also set procurement guidelines for the project. A separate office for the PERP project was established near the BEC and UNDP offices and Brigadier General Shahadat Hossain Chowdhury was seconded from the Army as Project Director.

The Armed Forces’ relationship with the BEC in respect to voter registration was formally set out in a Memorandum of Understanding (MOU) signed on 5 May 2008. Prior to full-scale registration, a pilot project was undertaken in Sreepur in June 2007, after which the BEC formally requested the assistance of the Armed Forces. At this point, the Armed Forces prepared the order for “Operation Nbojatra” (A New Beginning). The operational order was published on 25 July 2007, and served as the base reference point for the Armed Forces’ voter registration activities.³⁶⁰ Under the terms of the MOU, the Armed Forces would be reimbursed for the costs of fuel and daily subsistence allowances of the officers and staff of the Armed Forces engaged in the operation; remuneration and training costs of the data entry operators and other staff; all costs incurred in the management of registration centers and control rooms; fuel for generators, and providing any urgent maintenance to laptop computers, as well as other specific technical tasks. The MOU stated that the Armed Forces could be reimbursed for expenses up to 531.5 mil-

lion taka (approximately USD 7.8 million).

In July 2007, the Armed Forces set up a Central Coordinating Cell (CCC) to implement Operation Nbojatra. The CCC included sections dealing with planning, budgeting, logistics, biometric matching, troubleshooting, and program development. It was comprised of officers from the Bangladesh Army, Navy and Air Force. In addition to the CCC, each army formation set up a coordinating cell. District Coordinating Cells, comprised of six to eight officers and 40 men, were set up at the district level. The CCC played a crucial role as a communications hub, maintaining a website containing operational policies and software updates, and communicating directly to the field by e-mail (which enabled the CCC to send registration software updates electronically to the field).³⁶¹ The Navy’s inclusion in the operation allowed coastal areas to be accessed with Navy boats. Coastal areas were given special consideration, and registration was planned to be completed before the hurricane season.³⁶² Overall, some 10,000 military personnel participated full time in the voter registration exercise, working with approximately 220,000 civilian personnel.³⁶³

6.2.2 Methodology of voter registration

The final methodology remained subject to ongoing lessons learned and special circumstances. Voter registration involved a range of actors, including BEC staff, Armed Forces’ officers and enrolled men, local officials and leaders, and civil society organizations. A National Steering Committee on Voter Registration was formed in May 2007 to provide overall guidance for the registration process. Headed by the CEC, it was composed of the two other Commissioners, representatives of the Armed Forces, officers of the ECS, and representatives of the government and UNDP.

The task of registering 81 million voters over the course of less than 12 months was conducted with a focus on “getting the job done,” and remained flexible throughout the process. Registration teams, comprised of one team leader, eight to twelve computer operators and seven support staff (including four police officers) moved across the country, conducting registration in one area before moving on to the next. Each team had four to eight laptop computers, fingerprint scanners, and webcams, as well as two generators.³⁶⁴ BEC



Voters' biometric data was captured using mobile units of laptop computers and webcams. Photo courtesy of UNDP.

staff, enumerators, civil society, and local officials supported the registration teams. The entire registration process would typically be conducted for 30 to 37 days in an area. Voter registration was generally conducted in seven stages:³⁶⁵

1. **Coordination of partners prior to voter registration:** Approximately 30 days before opening the voter registration centers in a specific area, the Armed Forces called a coordinating meeting of important stakeholders, including election officials, local administrators, civic leaders, and civil society organizations. At these coordinating meetings the process for voter registration in an area was outlined, and operational requirements – such as the number of enumerators, data entry officials, and supervisors – were shared. Local BEC officials appointed enumerators and verification committees accordingly.
2. **Awareness building:** The EWG, through an MOU with the BEC, conducted awareness building activities in communities where voter registration was planned under the Armed Forces' operational plan. The EWG's activities included public announcements with microphones (mik-

ing), community meetings, street theatre, public service announcements broadcast through television and radio, and the distribution of posters and leaflets. EWG partner organizations were allocated a set budget and specific activities from EWG headquarters, but also maintained the flexibility to work with the BEC, Armed Forces, and public administrative officers at the local level to prioritize particular approaches based on local circumstances and community needs. In addition, the CEC and his two other colleagues made frequent trips throughout Bangladesh to raise awareness on voter registration.

3. **Enumeration:** Approximately seven days before opening the registration centers, locally recruited enumerators, who were mainly teachers, conducted a house-to-house enumeration, collecting 25 pieces of voter data on all people eligible to vote. Family members provided the information of any residents not present at the time of the enumerators' visit. In many cases, enumerators had to revisit households on more than one occasion. After filling out a registration form for each individual, the enumerator provided voters with a receipt and instructions on when

and where to present themselves to complete registration by being photographed and having their fingerprint scanned. The 2007 Electoral Rolls Ordinance allowed for voters having migrated to choose one permanent address at which to register.

- 4. Capture of biometric data at registration centers:** The Armed Forces managed the registration centers where voter enumeration was completed. At the centers, voters presented themselves at a specified time and collected their enumeration form. The enumerator and other local leaders, including current and former ward commissioners or former local election candidates, verified the voter's identity. The voter's photograph was taken and fingerprint scanned. A photograph was also taken of the voter's signature. The data entry operator then entered the voter's name and four other pieces of data from the enumeration form to create a digital file for the voter. The operator then informed the voter of when and where to collect the NID.

Special provisions were made for voters who missed enumeration. These voters were allowed to complete enumeration forms at the registration centers. Mobile teams also moved to the homes of elderly and disabled people, and to prisons and hospitals to finalize the registration process.

- 5. Completion of data capture:** A team of data entry operators worked as backstop support and entered the remaining data from the enumerators' form to the voters' digital record. Data was backed up each night, and transferred to the central *upazila* computer server. Voter records were proof-read against the voter's enumeration form at the *upazila* level. Once the necessary corrections were made, the *upazila* data was sent to the CCC.
- 6. Finalizing the draft electoral rolls:** At the CCC, the voters' biometric records were scanned for duplicate entries using two types of software. Biometric matching was conducted across 480 *upazilas* and six city corporations. Records from neighboring registration areas were also included in the matching exercise. Any

duplicate entries were verified at the sub-district level and eliminated. The draft electoral rolls and NIDs were printed and laminated at the *upazila* level. The draft electoral roll was subsequently displayed in each registration area for seven days before final revisions were made to enable individuals to check their entries and make any necessary corrections. The final electronic electoral rolls were then sent to the central server at the CCC for compilation into a national database.

- 7. Issuance of NIDs:** Local leaders, including ward commissioners, distributed NIDs to voters in the registration area. The NID's were of basic quality, and consisted of laminated color print-outs.

6.2.3 The pilot project

The voter registration methodology was tested in a pilot project in Sreepur Municipality in Gazipur District from 10 – 30 June 2007. The site was chosen because of its rural and urban setting, and its proximity to Dhaka. Although the pilot project began before all necessary equipment had been procured, and before the voter registration software had been thoroughly tested and finalized, the methodology proved successful. The pilot project was conducted using 16 registration centers, 24 laptop computers, 60 data entry operators, and 145 enumerators. Since equipment had not yet been procured, a private company, Grameen Phone, made a donation of 20 laptop computers in order to carry out the pilot project.³⁶⁶ By 30 June, the BEC had registered 41,076 voters (44,687 were on the roll previously)³⁶⁷ in Sreepur.

The pilot project not only affirmed the feasibility of the process, but also allowed the BEC and the Armed Forces to adjust the methodology in preparation for a nation-wide registration effort. The lessons learned included:³⁶⁸

- While the BEC had feared that women would be reluctant to be photographed at registration centers, women turned out in large numbers. The BEC had made an effort to sensitize the community on female registration by reaching out to local Imams, a process that continued through the later stages of voter registration.
- The BEC found that voters were willing to participate in the two-step voter registra-

tion process and that the issuance of NIDs proved to be a significant factor motivating voters to appear at registration centers for photographing and fingerprinting.

- Two distinct methodologies for capturing voter data were tested during the pilot project. Under one methodology a voter's data was entered into a computer immediately after house-to-house enumeration, while under a second methodology the voter's data was entered into a computer after the voter completed registration at the center. The second methodology was found to be more efficient, reducing the average registration time of a voter by two minutes.
- The BEC and the Armed Forces discovered that there were often mistakes in the data entered into voters' records. A proofreading process was added after the pilot project to reduce errors in data entry.
- The BEC and the Armed Forces discovered that by entering only the most important voter information at the time that biometric data was captured (leaving other data points to be entered after closing the registration center), a data entry operator's efficiency would be raised from 40 to 60 voters per day.
- After the pilot project, the private company Tiger IT emerged as the technology company with the most appropriate software solution.

Overall, the pilot project showed that the BEC and the Armed Forces worked well together, and that the process of awareness building, enumeration, registration, verification, printing and distribution of NIDs was successful.

6.2.4 Enabling law for voter registration

On 27 March 2007 the HC ordered the BEC to update the 2000 electoral rolls, as required by the 1982 Electoral Rolls Ordinance. The BEC's new methodology required, however, that voter registration be conducted from scratch, preparing entirely new rolls without reference to the previous roll.³⁶⁹ Thus, the creation of the electoral rolls with photographs required a new voter registration law, which the BEC drafted as the 2007 Electoral Rolls Ordinance.³⁷⁰ The draft law was slightly modified by the CTG and then promulgated by the President on 9 August 2007.

The 2007 Electoral Rolls Ordinance superseded

the 1982 law. It stated in Article 5 that: "... the electoral rolls shall be prepared by a computer database, and after the enrollment of the voters a voter list with photographs shall be implemented." While the 2007 Ordinance made the key provision to establish a computer database of voters and allowed the BEC to begin registration without being bound by the existing rolls, many of the important provisions from the 1982 law were retained.

Provisions incorporated into the 2007 Ordinance from the previous law included:

- Voter eligibility criteria (Bangladeshi citizenship, 18 years of age, resident in the electoral area or constituency, of sound mind), which are also constitutional provisions;
- Restrictions on voters being registered more than once; and
- Provisions for displaying a draft of the electoral rolls and allowing for additions, corrections and changes, before publishing the final roll.

New elements of the 2007 Electoral Rolls Ordinance included:

- Provisions to create a database of voters and prepare photographic electoral rolls (Article 5);
- A required annual update of the electoral rolls to add voters having turned 18, remove deceased or disqualified voters, and update the roll based on voters' migration (Article 11);
- Provisions for punishment of any individuals creating obstacles to voter registration (Article 19).

6.2.5 Partnership of diverse stakeholders

The voter registration process required the close cooperation and partnership of the BEC, the Armed Forces, the CTG, citizens, and other actors including UNDP, international donors, civil society, and the private sector. This effective partnership arrangement, especially between the Armed Forces and the BEC, which was hailed as a prime example of successful civil-military partnership, played to the particular comparative strengths of the various actors. The diversity of the partners involved in voter registration was also reflected in the PERP Project Steering Committee, which was responsible for providing overall direction to



The EWG implemented an awareness program which educated citizens on the voter registration process through television advertisements, radio broadcasts, rallies, the distribution of leaflets, banners and other activities. Photo courtesy of EWG.

the voter registration project and for monitoring and controlling its progress. Under the chairmanship of the CEC, the Committee included the two other Commissioners of the BEC, representatives of the Armed Forces, officers of the ECS, representatives of the relevant Ministries of the Bangladesh Government, UNDP and international donors. In summary:

- The BEC had the overall responsibility for the supervision and implementation of the voter registration process. It made the crucial policy decisions and was responsible for the procurement of the required project materials. It managed the relationships among the partners, and ensured that the approach to the project was grounded in the political context of the interim period. It worked with the CTG to formulate the required enabling ordinance, ensured house-to-house enumeration and the implementation of a pilot project, and maintained public relations. It mobilized its own staff at the field level to train and manage enumerators, to constitute committees that verified voters' identities at polling centers, and to display the draft and updated electoral rolls.
- The Armed Forces, which worked in close coordination with the BEC, managed the complex operational and logistical aspects of voter registration, including software development with local software de-

velopers. It created the operational plan for voter registration, organized and managed the registration centers, provided valuable assistance in managing the supply chain, managed the electronic data flow and printing of the electoral rolls and NIDs, and provided skilled manpower. The Armed Forces also managed the process of identifying duplicate voting records, which included software-based fingerprint and photograph matching across specific voter registration areas.

- The CTG created an overall enabling environment for the massive task. It ensured the cooperation of government ministries, local administrators and police forces, and saw that the necessary enabling ordinance was put forward in a timely manner. In addition, the CTG supported the decisions of the BEC and the Armed Forces' involvement in voter registration.
- The EWG civil society network raised voter awareness through an extensive array of activities, including television and radio public service announcements, displaying banners, using microphones to spread information, rallies and community meetings, and the distribution of posters and leaflets. The EWG signed an MOU with the BEC on 29 July 2007, in which the formal responsibilities of the EWG and BEC were spelled out. The EWG's awareness-raising activities were primarily donor funded, with some member organizations supplementing available resources with modest counterpart investments. The Asia Foundation managed financial and technical support to the EWG on behalf of several bilateral agencies and diplomatic missions.
- UNDP mobilized and managed the enormous donor contribution to the voter registration effort, in addition to contributing approximately USD 1 million of its own funds to the initiative. It worked closely with the PERP office as part of its project assurance role and ensured close coordination with a wide range of donors. UNDP facilitated the timely procurement of equipment when requested by the BEC, as well as the recruitment of project staff. UNDP experts and staff provided valuable assistance for the design and planning of the technical aspects of electronic registration and provided inputs on managing

the electronic database of voters. UNDP administered funds pooled by donors, including preparing donor reports and ensuring effective communication with funding partners. UNDP also commissioned a nationwide evaluation of the accuracy of the electoral rolls. In addition, UNDP prepared numerous communication and advocacy materials to document the project and help to share information on the process with national and international stakeholders.³⁷¹

- International donors provided funds for voter registration and parallel activities, including the EWG's work. International donors, including the European Commission, the United Kingdom, the Netherlands, Norway, Sweden, Switzerland, Denmark, Korea and UNDP contributed USD 53 million of the USD 82 million project budget of the PERP project, in addition to funding for the EWG and other election-related projects.³⁷²
- Eight private companies (Warid Telecom, Grameen Phone, Dutch Bangla Bank, City Cell, Bangla Link, UCBL, Aktel and Prime Bank) donated 1,050 laptop computers to allow voter registration to begin before supplies procured through the PERP project had arrived in Bangladesh.

6.2.6 National identity cards

The creation and issuance of NIDs was integral to the voter registration process, although technically and legally it remained a separate exercise. The data for the electoral rolls and NIDs was collected through the same process and housed in the same database. Voters made a powerful association between the NIDs and voter registration. The BEC initially promoted the NID cards, advertising that they would be required for 22 services, and that NIDs would be particularly beneficial for poor and marginalized people.³⁷³ The 22 services advertised by the BEC, and also promoted by the EWG's awareness building activities, included opening a bank account, being issued a passport, buying or selling land, and lodging a court case.³⁷⁴

As mentioned above, receiving a NID served as a major incentive for Bangladeshis to register to vote. A public perception survey conducted by the EWG in January 2008 found that 39 per cent of ordinary citizens registered to vote to "get the National ID card and to enjoy

various facilities and benefits as a citizen."³⁷⁵ A domestic observer organization, JANIPOP, also noted high levels of enthusiasm by voters for the NID during voter registration.³⁷⁶

The association between the NIDs and voter registration, however, resulted in public confusion about whether the NID was also a voter ID card. The BEC tried to clarify that the NID was not required for voting, but the message was never fully understood by the public, or even by some election administrators. Public opinion research conducted by IRI found that the public believed that the primary function of NIDs was for casting a ballot³⁷⁷ and that almost the entire population believed that NIDs were needed on election day.³⁷⁸

The President signed an ordinance establishing a National Identities Registration Authority (NIRA) on 13 May 2008, almost a year after production of NIDs had been incorporated into the electoral rolls strategy and long after production had begun. NIRA was established on 3 July 2008, and staffed from other government agencies. NIRA's activities and responsibilities under the ordinance included supplying NIDs, gathering information on national identities, and coordinating with other government agencies regarding national identities. Since NIRA was established at the end of the voter registration process, it did not become involved with the gathering of information for NIDs. The ordinance also established a list of 17 services (closely resembling the 22-point list advertised during voter registration) for which the cards were needed. In the end, however, the elected Parliament, acting on the advice of the BEC to let NIRA fade away, did not ratify the enabling ordinance. NIRA now no longer exists, and the legal status of the NIDs has yet to be determined. However, according to election officials, the Parliament is likely to consider a bill that would establish the BEC as the agency responsible for managing NIDs.³⁷⁹

6.2.7 Timeline and resources for registration

The registration of over 81 million Bangladeshis in just under 12 months required mobilization of resources on a massive scale. Voter registration officially began in Rajshahi on 11 August 2007, just two days after the President had promulgated the 2007 Electoral Rolls Ordinance, and continued through July 2008. Initially registration was targeted especially at

city corporations where the BEC was planning local elections for early 2008, including Barisal and Khulna. In November 2007 the registration effort was significantly ramped up, as the tendering processes had been completed and much of the required technical equipment was deployed.³⁸⁰

Almost all necessary information technology equipment was procured and was in-country by November 2007.³⁸¹ At this point some 217,000 voters were being registered each day, just under the target figure needed to complete nationwide registration within 12 months. Technical equipment deployed for voter registration, and later used for maintaining the accuracy of the electoral rolls included:

- 10,050 laptop computers;
- 12,000 fingerprint scanners;
- 3,290 generators;
- 634 printers;
- 9,004 web cameras; and
- 590 server desktop computers.

Human resources deployed for voter registration included:

- 15,000 members of the Armed Forces;
- 2,500 BEC staff;
- 482,880 enumerators;
- 104,025 data entry operators, proof readers and supervisors.

Other resources included:

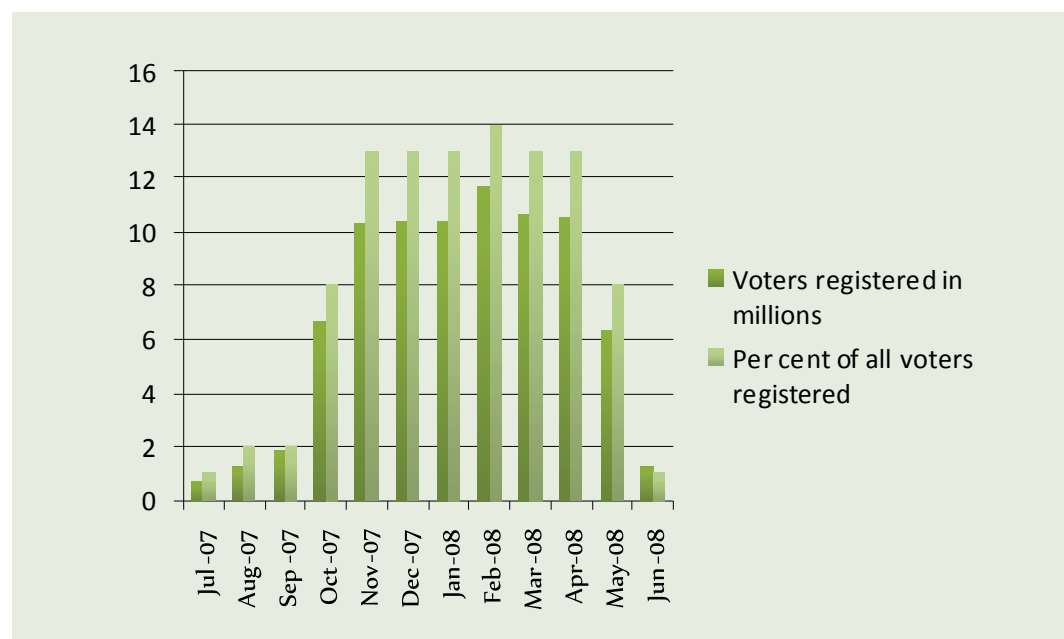
- 700 helicopter flying hours;
- 24 million sheets of paper in 2.2 million bound books for the final electoral rolls.

6.2.8 Voter registration progress per month

The voter registration process peaked in March 2008, when approximately 14 million voters were registered (or just over 450,000 voters registered per day). The bulk of voter registration was accomplished between November 2007 and June 2008, in approximately eight months (see table below).³⁸²

6.2.9 Accuracy of the electoral rolls

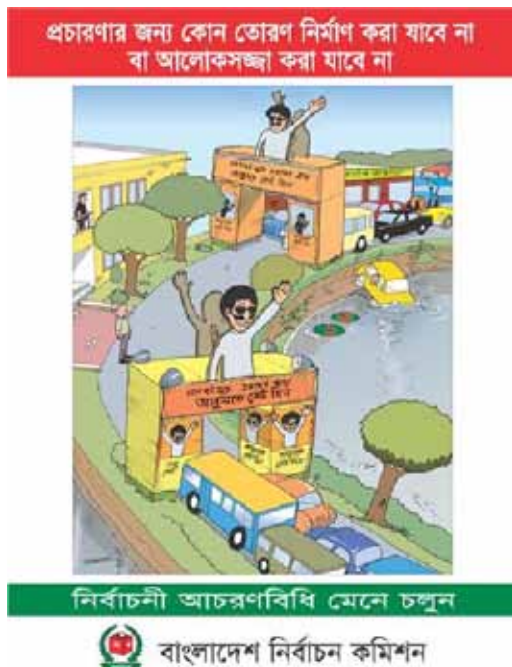
A statistical evaluation of the electoral rolls, commissioned by UNDP and carried out by IFES, an international elections support NGO, in July 2008, confirmed the overall accuracy of the rolls. The study drew samples from voters on the rolls to confirm the data that appeared in the rolls, and also drew samples of eligible voters from the population at large to verify that eligible voters were included in the rolls. The IFES report found that the rolls were accurate more than 95 per cent of the time, with mistakes generally limited to minor spelling errors. The study reported that 99 per cent of eligible voters were found to be on the rolls and 98 per cent of the voters on the rolls were found to be living at their recorded addresses. The study was conducted by implementing two separate surveys in July 2008. In the first survey, 8,000 voters' names were randomly drawn from electoral rolls in 160 upazilas. The survey team then identified the voters, and verified that their information was recorded correctly on the electoral rolls. In the second survey 3,200 households were randomly se-



lected in 160 upazilas. The research team then verified if the adults in the sampled households were found on the electoral rolls for the area.³⁸³

6.3 Implementation of voter registration

The implementation of voter registration relied on the successful cooperation of the main project stakeholders, strong leadership by the BEC and the Armed Forces, and the general will of all levels of society to create new electoral rolls. The implementers of the voter registration process faced significant logistical, administrative, political, environmental, and social challenges. One senior Armed Forces official stated that the national need for the successful implementation of the project was felt at every level of society, that all Bangladeshis were eager to participate, and that the successful cooperation of the diverse project stakeholders was only made possible by strong government leadership, starting with the BEC but also including the CTG and the Army.³⁸⁴



Over 100,000 data entry operators, proof readers and supervisors worked behind the scenes to complete the voter registration process. Photo courtesy of UNDP.

The challenges overcome by the partners implementing the project included initial skepticism by some political parties, difficulties in conducting registration in remote and

hard-to-reach areas, the monsoon season and flooding, complications in the procurement of the needed technical equipment, human resource issues, supply chain management issues, the huge population size and a variety of social challenges. Details of some of the challenges included:

- **Skepticism on the part of political parties:** The BEC managed to overcome skepticism on the part of the political parties at the onset of the project. Although most parties generally favored in principle the creation of electoral rolls with photographs, they had reservations about the process, and in some cases believed that it was being conducted to delay elections. In particular, many parties were unhappy that an extended registration process would delay the election date far beyond their preferred timeframe. Moreover, some insisted at the start of the debates on voter registration methodology that house-to-house enumeration be conducted.³⁸⁵ After finalizing the methodology, the BEC closed its discussion on voter registration with the parties, in order to ensure that the process was begun and completed according to its established timeline.³⁸⁶ In the end, all political parties expressed their satisfaction with how the process was conducted.
- **Registering voters in Dhaka City Corporation:** The BEC and the Armed Forces anticipated difficulties in conducting voter registration in Dhaka due to the large number of migrants, the large number of homeless people, and because residents of Dhaka were expected to react differently to the awareness building campaigns. In order to conduct voter registration in Dhaka, the BEC and the Armed Forces planned to begin registration in the suburbs, and implemented a website on which Dhaka's voters could view and verify their registration information. For Dhaka, the Armed Forces drew on officers and students from the Military Institute of Science and Technology, and rescheduled the Institute's program to facilitate student participation in the registration process. Some 2,000 laptop computers were allocated to conduct voter registration in Dhaka from December 2007 to March 2008.³⁸⁷



Large parts of the country were under water following a major natural disaster, Cyclone Sidr, which struck Bangladesh during voter registration in 2007. Photo courtesy of UNDP.

- Procurement issues:** The BEC insisted that all project procurement should go through standard government procurement processes to ensure maximum transparency, and in line with the CTG's emphasis on combating corruption. However, the Bangladesh government's public procurement regulations are stringent, which made the timely procurement of very specific technical equipment under the tight deadlines difficult. Additionally, much of the equipment needed was not available off the shelf in Bangladesh, resulting in an even longer procurement timeline. The project required the highest quality equipment, which meant that the BEC had to reissue tenders in some cases. Adding to the complications, the PERP Project Document was not signed until August 2007, delaying tendering until September.

The minimum time needed to award a contract was about 10-12 weeks and included the following steps: advertisement, pre-bid meetings, receipt and evaluation of tenders, finalization of selection, approval by the BEC, award notification and agreement, opening of a letter of credit, and pre-shipment inspection. The BEC offered 38 tender packages for all equipment needed (paper, laminating machines, laptop computers, etc.), and requested UNDP to assist with the procurement of some equipment.³⁸⁸ Considering that UNDP had procured 500 laptop computers, fingerprint scanners and other equipment during the June pilot project in Sreepur, it was in a position to

rapidly procure the additional equipment required under its long term agreements and previous competitive process.³⁸⁹

- Social challenges:** At the onset of the registration process the BEC was particularly concerned that social barriers would hinder or slow the voter registration process. One concern was that women might not be willing, or be prevented from, going to voter registration centers to be photographed. In order to address this particular issue the BEC worked with Imams to encourage women to register to vote.³⁹⁰ Additionally, the BEC had to contend with the challenge of providing information on the registration process to illiterate people – who make up almost half the population.³⁹¹
- Supply chain management:** A large quantity of very valuable inventory was received and needed to be quickly transferred to the field. This inventory had to be warehoused, guarded and tracked, and the delivery and transfer of equipment needed to match the ramped up registration schedule. An Asset Manager was hired by the PERP project to ensure that all equipment was accounted for and that it was properly maintained. Since the Armed Forces were responsible for the transportation and management of the equipment at the field level, they maintained close communication with the PERP project team.³⁹²
- Human resources issues:** Due to the lack of technical capacity of data entry operators in some areas, the target rate of 60

registrations per day per laptop was not achieved. Female data entry operators were crucial to the registration process, but proved difficult to recruit. The most qualified students were not always willing to work for the salary that was offered.

- **Equipment problems:** Ensuring that 10,050 laptops remained operational at any given time was a significant challenge for the CCC, and required the establishment of central and district troubleshooting cells, as well as constant maintenance of the software through electronic updates.
- **Registration in hard-to-reach areas and environmental issues:** The Armed Forces and BEC prioritized where voter registration would occur in order to address region-specific environmental difficulties appropriately. Navy boats were used to conduct registration in the chars (sand bars that are subject to severe erosion) and coastal belts. In the Chittagong Hill Tracts (CHT) the Air Force assisted by using helicopters to transport supplies and personnel.
- **Managing records:** The hardcopies of over 80 million enumeration forms had to be stored and organized for later reference. Given the sheer number of paper forms, this was a significant challenge.
- **Capturing fingerprints:** The Armed Forces and the BEC experienced particular difficulties in capturing the fingerprints of some laborers as their fingerprints had begun to rub off due to their intense manual labor.

Further complicating the already gargantuan task of voter registration, a major natural disaster struck Bangladesh in late 2007, threatening to delay or derail the process. Cyclone Sidr made landfall in November 2007, at the time when full-scale registration was just beginning. The cyclone was one of Bangladesh's worst natural disasters in years. By some estimates, the storm killed approximately 3,500 people, injured tens of thousands and displaced 2 million. Overall, some 8.5 million people were affected by the storm.³⁹³ The Armed Forces had to divert resources to cyclone relief, but managed to keep registration on track by reducing

the lag time between voter areas and upazilas.

6.4 Political party registration

The requirement for political party registration was one of the most important electoral reforms undertaken by the BEC and CTG. Previously, political party registration had been voluntary, open to any party willing "to avail itself of the privileges provided...on payment of such fee as may be prescribed."³⁹⁴ Parties choosing to register with the BEC were required to provide basic information about the party and its constitution. In return, the party received some benefits, including being able to purchase a copy of the electoral rolls at half price, being granted broadcasting facilities in the state-owned media during parliamentary elections, and being entitled to be consulted by the BEC on election issues that might arise. In practice, very few political parties took the trouble to register. Neither the AL nor the BNP was registered. Amendments to the RPO in 2008 made registration with the BEC mandatory for any party planning to participate in an election.³⁹⁵

The requirement for political parties to register sought to address structural weaknesses in Bangladesh's political party system, which were regarded as a primary cause of the political crisis of 2006-2007. As described earlier in this study, the unbridled operation of political parties had developed into a culture of confrontation, characterized by Black money, muscle, corruption, and alarming levels of violence. The internal operations of political parties were hierarchical, autocratic and opaque, tending to reinforce these negative patterns and reduce the likelihood of internally-generated change. One study, for example, stated that in Bangladesh, "parties, which are characterized by centralized power at the top, often [lack] institutional means to voice dissent," and that the "central party exercises direct control over the way party units at sub-national levels...carry out their activities."³⁹⁶ Another analysis asserted that Bangladeshi political parties are characterized by "absence of intra-party democracy, highly centralized decision-making and personalization of internal... structures," which has had a "negative impact on the political governance of the country."³⁹⁷ Parties often relied on patron-client networks to reward members and build support at the grass roots level, and mobilized their members – often through affiliated bodies, such as stu-

dent wings – for violent actions.

The requirements for political party registration – and to a lesser degree, for candidate registration – were intended to begin to break this destructive cycle through a number of measures, including:

- Requiring parties to adopt practices of internal democracy, such as elections of party leadership and more grass roots power over candidate nomination;
- Mandating that parties adhere to certain basic principles such as non-discrimination;
- Instituting more stringent financial controls;
- Requiring greater transparency in party operations;
- Prohibiting the types of affiliated party bodies that had been responsible for violence in the past; and
- Forcing parties to include women more systematically in their leadership ranks.

6.4.1 Preconditions for party registration

The provisions of Article 90B of the amended RPO require that a party must meet one of the following characteristics in order to qualify for registration:

- Have won at least one seat in Parliament in any of the elections held since independence; or
- Secured at least 5 per cent of the vote in the constituencies in which it contested in any election since independence; or
- Have established a functional central office, and have offices in at least ten districts and fifty upazilas or thanas.

In addition to meeting one of the requirements above, parties are required to include the following specific provisions in their constitutions:

- Selecting all party committee members, including members of the central committee, through party elections;
- Filling at least 33 per cent of all committee seats, including the central committee, with women by 2020; and
- Prohibiting the formation of affiliated bodies in educational, financial or industrial institutions.

Article 90C states that parties would not be qualified for registration if any of the following applied to them:

- The objectives described in the party's constitution are contrary to those in the Constitution of Bangladesh;
- The party's constitution is discriminatory in regard to religion, race, caste, language or sex;
- The party's name, flag, symbol or any other activity threaten to destroy the communal harmony or territorial integrity of Bangladesh; or
- The party has provided for an office, branch, or committee outside of Bangladesh.

Additionally, registered political parties are restricted from receiving funds from foreign people or organizations (Article 90F, Clause 2).

Under Article 90E, the BEC has the final decision on party registration. According to the amended RPO, a party is issued a registration certificate, which is published in the Government Gazette once the party has been approved for registration by the BEC. Article 90F spells out the specific entitlements parties may receive after registration with the BEC. They include:

- The party may receive donations or grants, subject to restrictions on party financing;
- A party symbol according to its preference;
- The electoral rolls in electronic format;
- Broadcasting in the state-owned media during elections according to BEC guidelines; and
- Consultations with the BEC on matters related to elections.

The BEC has the right to cancel a political party's registration under Article 90H of the RPO. Political parties may appeal the BEC's decision on registration or cancellation of registration to the HC under Article 90I. Causes for cancellation of registration include:

- Dissolution of the party;
- The party being banned by the government;
- The party failing to provide the required information to the BEC for three consecutive years;
- The party violating its own constitutional requirements related to registration;
- The party not contesting elections for two consecutive parliamentary terms.

6.4.2 Party registration before the 2008 elections

On 26 August 2008 the BEC invited the political parties to apply for registration by 15 October 2008, stating: "If there is a problem regarding registration by October 15, we can discuss it with political parties and reach a solution."³⁹⁸

The procedures for registration were spelled out in the "Political Party Registration Rules."³⁹⁹ According to Clause 3 of the rules, the BEC was required to publish a public announcement inviting applications from the political parties for registration. Parties seeking registration were required to direct their Chairman, Secretary-General or other designated person to submit an application form, a 5,000 taka (approximately USD 72) registration fee, and specific documents, including but not limited to, the party constitution (compliant with the RPO rules), a roll of all central executive committee members and their designations, the party's bank account details, and a description of the party's sources of funding.⁴⁰⁰ With these documents in hand, the BEC would verify the authenticity of the information submitted and, when satisfied, would register the party according to Article 90A of the RPO.

These requirements were made public in August 2008, after the conclusion of the BEC's two rounds of consultations with the political parties. They sparked sharp complaints from a number of parties on several grounds. In addition to substantive objections, the parties pointed out that they could not legally adopt changes to their constitutions by the registration deadline, since under the continuing State of Emergency they were prohibited from convening the party councils necessary to adopt changes. The BEC accepted this argument, leading to a further amendment to the RPO, promulgated on 6 October 2008, which allowed parties to be registered by submitting a "provisional constitution" and agreeing to submit a fully ratified constitution within six months after the first sitting of the newly elected parliament.

6.4.3 Effects of party registration

The announcement of the decision to require political party registration came late in the electoral reform process, just a few months before the elections. By this time, the CTG had abandoned any hopes it had of engineering a major transformation of the country's political landscape through such policies as encourag-

ing the emergence of new parties, fomenting divisions in the existing major parties, or the "minus two" formula.⁴⁰¹ It was clear that the two major parties were likely to continue to dominate national politics, and to do so under their existing leaders.

Nonetheless, political party registration and the new requirements it entailed represented important reforms, which, if implemented in good faith, had the potential of transforming politics over the longer term. In particular, the new requirements for internal party democracy could translate over time into a stronger democratic culture for the country as a whole, strengthening the role of individual citizens in governance and easing the emergence of new ideas, programs and leaders.

It was therefore significant that the major parties submitted to registration and agreed to the new requirements. The changes did have some immediate impact, for example, forcing some parties to change their constitutions in significant ways and formalizing a process through which local branches of some parties had greater influence on candidate selection. The non-discrimination requirement of the new law limited the power of religion-based parties to restrict membership. The new requirements also made it more difficult for new or small parties to register, as a result of the requirement that parties have offices in many upazilas. This provision was intended to prevent "signboard only" parties, but it also had a potential adverse effect on minority or locally-based parties. Overall, while the impact of the changes on the parties' operations for the 2008 elections may have been limited, the changes represented a potentially important first step.

6.5 Nomination of candidates

In addition to political party registration, the amended RPO included substantial changes to the system of candidate nomination. These changes were broadly similar to the conditions for party registration. In particular, the nomination reforms aimed at promoting the emergence of "clean" candidates and curtailing the influence of "Black money" and "muscle power" in politics. A principal concept behind the reform was that requiring candidates to disclose personal and financial information about themselves would make the public aware of any shady background, criminal record or dubious funding sources. Voters would then be

able to make more informed and responsible decisions about which candidates to support, presumably rejecting corrupt candidates in favor of honest ones.

Disclosure of personal and financial information by the candidates was thus the central element of the new candidate nomination process. In general, the new rules were very similar to the disclosure requirements upheld by the HC in 2005, which were subsequently stayed by the Appellate Division of the Supreme Court shortly before the failed 2007 elections. These disclosure requirements had been strongly advocated by many civil society groups, notably the NGO Shujan.

The changes to the candidate nomination procedures were included in the first RPO amendments, promulgated in early August 2008. Under the changes, candidates seeking nomination are required to submit a range of information, to be made available to the public, including:

- Certificates of educational qualifications;
- Statements of whether they were accused of any crimes;
- Information on their criminal history;
- A professional profile;
- A list of sources of income;
- A statement on the their dependents' incomes;
- A list of the promises they had made before previous elections and whether these were implemented; and
- A disclosure of any loans received.⁴⁰²

The changed rules also required independent candidates to submit the signatures of one per cent of the voters in their constituency to the effect that they support their candidacies. Candidates nominated by the registered parties are required to submit a certificate from their party in support of their candidature. Under previously existing rules, candidates were also required to submit a 10,000 taka (approximately USD 145) deposit with the nomination paperwork,⁴⁰³ which would be returned if a candidate received more than one-eighth of the votes in a constituency.

As in past elections, all of this information was to be submitted to the RO for the constituency, who would scrutinize every document and decide which candidates would be registered. Under Article 14, Clause 3 of the RPO,

the RO could reject nomination papers if the candidate did not meet the constitutional requirements to be elected,⁴⁰⁴ had violated the requirements for nomination set out in the RPO, or if the person proposing or seconding the nomination was unqualified to file the nomination paper or had submitted a false signature. The RPO was amended to allow a candidate "aggrieved by the decision of the Returning Officer" to "appeal to the Commission."⁴⁰⁵ Although the BEC's decision was supposed to be final, in many instances rejected candidates took their cases to court and succeeded in being reinstated.

Parties were allowed to nominate multiple candidates in the same constituency, provided that they settled on one candidate prior to the scrutiny of nomination papers by the RO.⁴⁰⁶ Additionally, the revised RPO reduced the number of constituencies a candidate could contest from five to three.⁴⁰⁷

6.5.1 Revised qualification requirements

The amended RPO also made significant changes to the existing qualification requirements.⁴⁰⁸ Under the amended law, a candidate is required to be a registered voter and he or she must be nominated by a registered political party if not contesting as an independent candidate. If being nominated by a party, the candidate was required to have been a member of that party for at least three years. Officials belonging to the government, autonomous, semi-autonomous or statutory bodies are debarred from contesting election unless three years have elapsed since their resignation or retirement. In case such people are dismissed, removed or compulsorily retired, the bar extends to five years since their dismissal, removal or compulsory retirement. For the first time, people who are in default on gas, electricity or water bill payments or any other bill of any service provided by a government organization fifteen days prior to the filing of nomination papers are also not eligible to contest parliamentary polls. In addition, no person would be eligible as a candidate who had been convicted of war crimes by a national or international court or tribunal.

Affidavits completed by the candidate constitute an integral part of the nomination process. In their affidavits candidates are required to attest to their sources of income, their highest educational qualification (by includ-

ing copies of certificates), and information on criminal history.⁴⁰⁹ Any inconsistency in any part of the affidavits, or between the affidavits and other documents submitted, could constitute a reason for disqualification of the candidate. In addition, only affidavits attested by a notary public or magistrate are accepted by the BEC. Once submitted, the affidavits cannot be modified or changed. The rigorous nomination requirements and regulations, as well as the careful scrutiny of the candidates' nomination papers and affidavits, may have contributed to the self-exclusion or elimination of many controversial candidates.

In total, 2,452 nominations were filed. Of these, 557 were rejected by the ROs. Eventually, 127 candidates were cleared by BEC after the appeals process, and an additional ten candidates were cleared to run by the HC after the candidates successfully appealed the BEC's negative rulings.⁴¹⁰

6.5.2 Article 91E and the power to cancel candidacies

One of the more controversial additions to the RPO gave the BEC broad powers to cancel a contesting candidate's candidature at any point in the process. Under Article 91E, the BEC, upon receiving information "from any source or any verbal or written report that, any contesting candidate or his agent or any other person on his behalf, by his order or under his direct or indirect consent engages or attempts to engage in any serious illegal activity or violates or attempts to violate any provision of [the RPO] or rules or Code of Conduct for which he may be disqualified to be elected as a member, the Commission may pass an order for the investigation of the matter giving the contesting candidate a reasonable opportunity of being heard."⁴¹¹ After receiving the investigative report and hearing the contesting candidate, if the Commission is satisfied that the report was true, it may, by a written order, with appropriate reasons assigned, cancel the candidature of such candidate. This article was much debated before the 2008 elections, with some political parties even threatening to boycott the elections if the article was not removed. The BEC, however, insisted that the article remain in the RPO and its opinion prevailed.

Even international observers were divided on the appropriateness of this provision of law.

The Commonwealth observers commented that it is "an extremely far-reaching power."⁴¹² The NDI observation mission noted that there was no requirement for a pre-cancellation hearing in which the candidate could contest the allegations, or for an appeal against the BEC's findings, which was a serious matter since Articles 92 and 93 of the RPO specifically prohibited litigation questioning the legality of any action taken in good faith by the BEC.⁴¹³ The EU observers, however, stated that the "provisions of Article 91E of the RPO do not deviate from international standards per se and it should therefore be retained."⁴¹⁴ During the controversy, the BEC contended that recourse to this provision would be extremely rare and would only be taken after proper enquiry of the allegations and defense by the accused candidate before the full Commission. Following the 2008 election, three defeated candidates requested that Article 91E be invoked against three elected MPs.⁴¹⁵ However, Article 91E is applicable during the election process only and not after the results have been declared.

6.5.3 Implementation of the nomination process

The nomination process is handled according to a schedule established by the BEC. The schedule includes a final date for submitting nominations, a period for scrutiny of the nomination papers, and a final day for withdrawal of candidacy. Election schedules once declared by the CEC are not normally changed. However, as described above, in 2008 the schedule was changed four times in order to ensure the participation of all political parties. The BEC revised the nominations schedule three times before setting 23 November as the last day to submit nominations forms, 25-26 November as the scrutiny period, and 1 December as the last day to withdraw nominations.⁴¹⁶ Parties took advantage of the period between the deadline for submission and withdrawal of nominations to finalize their intra-coalition negotiations on which alliance partners would contest in specific constituencies on behalf of the coalition.

Another rule affecting the nomination process was the new requirement that political parties start the practice of internal democracy by nominating candidates based on the inputs of their grassroots level committees.⁴¹⁷ This rule appears to have been implemented with

mixed success. While some political parties did seek the input of local committees, the final decision on selection rested with the central committee. Some candidates were required to withdraw their nominations according to the outcome of intra-alliance negotiations. In addition, there were some reports that a majority of candidates continued to “purchase” their nominations through contributions to the political parties.⁴¹⁸

The CTG was widely understood to have drawn up and delivered to the political parties two separate lists of potential candidates. One was reported to be a list of corrupt individuals who should not be nominated to run for Parliament, while the other was a list of individuals that the CTG suggested that the parties nominate. The political parties were said to have engaged in negotiations with the government over these “positive” and “negative” lists.⁴¹⁹ The validity of the widespread rumors on this issue were never confirmed, although, if true, it would be at odds with normal democratic practices for the outgoing government to seek to dictate the choice of political party candidates. Interestingly, this reported procedure did not seem to have alarmed the public, which continued to support the idea of removing corrupt persons from the political arena.

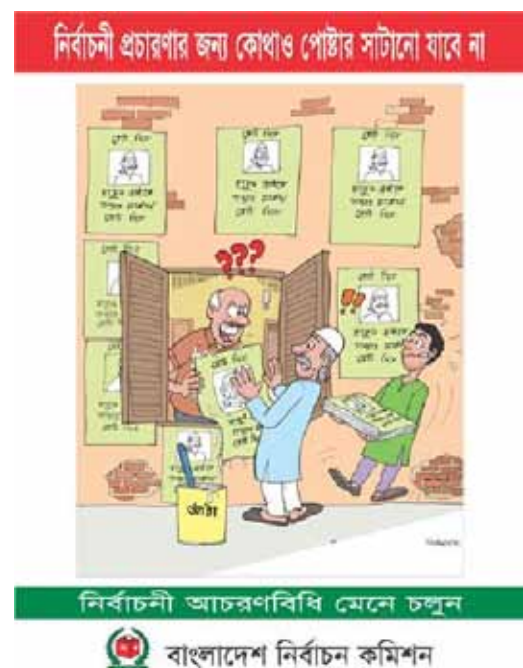
The BEC reported that 1,576 candidates from 38 parties contested the election. Of these 141 were independent candidates. Among the major political parties, the AL nominated 259 candidates, the BNP 256, the JP 46 and the JI 39 candidates. The number of candidates contesting the 2008 election was significantly smaller than in previous elections. For example, 2,574 candidates had contested the parliamentary elections in 1996 and 1,939 candidates had contested the 2001 polls.⁴²⁰

A similar downward trend was observed in the number of candidates who failed to achieve the one-eighth of the vote in a constituency required to have their deposit refunded. The total of such candidates in 2008 was 941, compared with 1,259 in 2001 and 1,730 in 1996.⁴²¹ This downward trend in both the number of candidates and the number of deposits lost was due in part to the growing prevalence of party coalitions that put forward a single candidate in a constituency. However, the new RPO requirements on disclosure may also explain the smaller number of candidates.

In accordance with changes to the laws, the BEC undertook measures to make candidate information available to the voters by printing informational flyers about candidates and publishing candidate information in local newspapers before the elections.⁴²² In addition, the BEC made candidates’ information available on its website.⁴²³ Despite the initiative to increase transparency, however, the voters elected a substantial number of candidates with dubious backgrounds.⁴²⁴

6.6 Campaign reform

The BEC also introduced new rules for political campaigning aimed at curbing some of the problems identified in previous campaigns, in particular problems that became clear during the 2006-2007 election period. Some of these rules were designed to ensure a level playing field and equal treatment for all candidates. Others were targeted at reducing the costs of campaigns and curbing financial abuses. Still other important rules were designed to reduce political confrontation and to try to ensure that political campaigning was not disruptive to other elements of public life. The new rules were incorporated into a new Code of Conduct, which was introduced by the BEC on 18 September 2008. The Code of Conduct set out a broad range of rules, which included both old and new provisions. Some of the



The BEC produced a series of posters that highlighted the newly introduced Code of Conduct. Images courtesy of the BEC.

new regulations, intended to ensure that the campaign process was both less costly and less disruptive, included restrictions on the sizes of electoral posters, erections of arches or gateways, setting up large electoral tents, and operating camps on election day.⁴²⁵

6.6.1 Violations of the Code of Conduct

Under the RPO, any violations of the Code of Conduct were treated as pre-election irregularities. Allegations could be referred for investigation to Electoral Enquiry Committees (EECs) established by the BEC for the purpose of resolving conflicts. The EECs, consisting of judicial magistrates, could mediate a solution or refer the violations to the BEC for remedial action. Aggrieved people or registered political parties had the right to file complaints with the BEC if they were affected by a violation of the Code.⁴²⁶ People violating the Code of Conduct could be fined up to 50,000 taka (approximately USD 720), be jailed up to six months, or both. In addition, the BEC could, under Article 91E, cancel a candidacy for violating the Code of Conduct.

The Code of Conduct was also used as a benchmark against which domestic and international election observers could gauge the pre-election activities of the political parties and candidates. The domestic election observer organization JANIPOP, in its long-term observation report, provided specific details on violations of the Code of Conduct. In its observation report, JANIPOP listed various violations of the Code of Conduct, including vote-buying, using vehicles in electoral processions, and setting up multiple electoral camps in a ward.⁴²⁷

6.7 Campaign financing

Campaign expenditure had traditionally been a controversial issue in Bangladesh's electoral process. The use of "Black money" in politics was widely recognized as one of the major abuses undermining Bangladesh's political process.⁴²⁸ The Parliament of Bangladesh has often been described as a "Club of Multimillionaires," as many parliamentary candidates belong to the wealthiest segment of the population.⁴²⁹ One indicator of the large amounts of money needed to run for office has been the significant proportion of businessmen seeking nominations over the years.⁴³⁰ In a recent study, TIB noted that the adverse effects of the high cost of political campaigns had a

direct effect on corruption and stated that:

In the last few elections the trend of winning elections by nominating candidates with monetary and muscle power became more and more prominent. Now the political parties give nominations to people who are owners of Black money, terrorists, and industrialists. These candidates often take extra-legal steps violating the electoral laws and rules in order to win in elections by any means. Such violations include violating the electoral code of conduct, vote rigging, influencing vote counting, creating environment for vote rigging, and exploiting administrative set up.⁴³¹

The BEC sought to address the issues surrounding campaign financing as part of its broader reform process, and introduced a rule that required candidates to submit an account of their electoral funding sources as one of the pre-requisites for the approval of nomination papers.

Chapter IIIA of the RPO, entitled "Election Expenses," provided the framework for campaign financing rules. Because this chapter had already been robust, and included provisions for both party and candidate campaign financing and accounting, it changed relatively little with the RPO amendments of 2008. The most significant change was arguably the BEC's power to cancel the registration of a political party if it failed to submit accounts of their electoral expenses.⁴³² Other significant amendments included:

- Raising the campaign expenditure limit for a candidates from 500,000 taka (approximately USD 7,200) to 1.5 million taka (approximately USD 22,000) (Article 44B, Clause 3);
- Prohibiting spending campaign funds on gates, arches, or barricades, or on operating electoral camps on polling day (Article 44B, Clause 3A);
- Allowing 30 days for candidates to file their campaign expense reports, rather than 15 days (Article 44C);
- Raising the campaign expenditure limits for parties (based on the number of contesting candidates) to a maximum of 45 million taka (approximately USD 651,000) (Article 44CC, Clause 3); and
- Raising the maximum allowable cash do-

nation to a party to 20,000 taka (approximately USD 290) from 1,000 taka (approximately USD 15) (Article 44CC, Clause 4).

The previous campaign expenditure limits had been so low that candidates considered them unreasonable and inadequate for running even a minimal campaign. As a result, the limits were largely ignored and openly flouted. In reforming the campaign finance rules and increasing the allowable expenditures, the BEC sought to establish spending limits that would be sufficient to run a reasonable campaign, but were still sufficiently low not to preclude candidacies of moderate means. However, members of political parties found that the permissible campaign expenditures were still unreasonably low, and that standard electoral campaigns would generally exceed the new limits set by the RPO amendments.

Contesting candidates were required to present to the RO, at the time of submitting their nomination papers, a statement of the probable sources of funds to meet their election expenses, showing:

- The sum to be provided through the candidate's income and the sources of such income;
- The sum to be borrowed, or received as voluntary contribution, from his/her relations (spouse, parents, sons, daughters, brothers and sisters) and the sources of their income;
- The sum to be borrowed, or received as voluntary contribution, from any other person;
- The sum to be received as voluntary contribution, from any political party, organization or association; and
- The sum to be received from any other source.

The statement of projected income was required to be accompanied by a statement of the contesting candidate's assets and liabilities, and his or her annual income and expenditure, as well a copy of the most recently filed income tax return. If the contesting candidate received any additional funds, beyond the sources mentioned in the nomination papers, he or she was required to submit a supplementary statement to the RO within three days after receiving the funds. The election expenses of a contesting candidate, including the expenditure incurred by the political party which nominated him or her as its candidate,

was set at 5 taka (approximately USD 0.07) per voter in a constituency, subject to a maximum of 1.5 million taka (approximately USD 22,000).

Contesting candidates were required to open a separate account with a pre-determined bank to make payments for election expenses, and were required to submit detailed accounts of election expenses using a form provided by the BEC. The accounts and accompanying affidavit was to be submitted to the RO within 30 days, as well as to the BEC by registered post. All candidates (winning, losing, uncontested, and candidates not having spent money) were required to abide by this regulation. While most candidates submitted the required information after the elections, it was generally acknowledged that the BEC did not have the means to verify the information submitted. According to the political parties, candidates thus had little incentive to stay within the prescribed limits and candidates generally exceeded the limits.⁴³³ It was not clear, therefore, that the revised campaign financing regulations were sufficient to control the influence of Black money.

6.7.1 Political party responsibilities

Every political party fielding one or more candidates was required to maintain accounts of income and expenditure from the date of publication of notification of the elections until the completion of elections, in all of the constituencies in which it fielded candidates. Political parties were required to deposit and maintain their funds in pre-selected banks and to submit an expenditure statement to the BEC within 60 days of the completion of the election, giving details regarding the expenses incurred or authorized by the party in connection with the election of its candidates.

In addition, every political party was required to submit a separate statement, certified by the secretary of the party, showing the opening balance of party funds on the date of publication of the notification of elections, the closing balance of the funds on the date of the completion of elections in all constituencies, as well as the total funds received by the party, donations or otherwise, during the election period.

6.8 Constituency delimitation

One of the unresolved deficiencies of previous elections was the very large disparities in the sizes of Bangladesh's 300 single seat con-

stituencies. This problem, understood to have been exacerbated by significant migration from rural to urban areas, was well recognized but received little attention because of the more pressing problems facing the election process.⁴³⁴ Large disparities in constituency population undercut the principle of equal suffrage, which is a key international standard for democratic elections.⁴³⁵ Under Bangladesh's Constitution, it is the BEC's responsibility to delimit constituencies.⁴³⁶ In most countries a delimitation exercise would follow each census, about once every ten years. The delimitation of constituencies is often an especially sensitive political issue, since changes in constituency borders can easily affect political outcomes.

The BEC, to its credit, decided to tackle this long-neglected and difficult problem as part of the electoral reform process, significantly improving the equality of the vote as a result. When the BEC released the Electoral Roadmap on 15 July 2007, it provided a list of the ten largest and ten smallest parliamentary constituencies (as measured by the number of voters in 2001). The size in constituencies ranged from 119,242 (Dhaka-1) to 633,435 (Dhaka-5) voters. This was a disparity of more than 500 per cent. According to the roadmap, the process of delimitation would occur from January to June 2008.

The BEC conducted delimitation according to the Delimitation of Constituencies Ordinance, 1976.⁴³⁷ The Ordinance empowered the BEC to divide Bangladesh into constituencies, having regard to administrative convenience so that "each constituency is a compact area and, in doing so due regard shall be had, as far as practicable, to the distribution of population as given in the latest census report."⁴³⁸ According to the delimitation rules, the BEC was required to publish a draft of the redrawn constituencies, make an invitation for suggestions and objections, and publish the final constituency boundaries after hearing public objections.⁴³⁹

The BEC released a roll of 133 redrawn constituencies on 29 April 2008, and invited public comments by 1 June 2008.⁴⁴⁰ Delimitation was conducted using data from the 2001 census, which was not released until 2007. UNDP assisted in the delimitation by contracting a Geographical Information Systems (GIS) firm, as well as an international delimitation ex-

pert.⁴⁴¹ The reaction of political parties to the delimitation exercise was almost universally negative,⁴⁴² but appeared to be based on their political interests, rather than on specific problems with how the delimitation process was conducted.⁴⁴³ As official objections began to reach the BEC, a former BNP MP filed a case with the HC, claiming that delimitation was unlawful for having occurred after voter registration, thus depriving voters of the choice in which constituency to register.⁴⁴⁴

By 6 June 2008 the BEC had received approximately 3,000 objections and announced that it would conduct public hearings between 12 and 29 June 2008. Public participation in the delimitation process is recognized as a good electoral practice, since it promotes transparency and is more likely to produce an end result that is perceived as fair.⁴⁴⁵ The hearings took place in each of the country's six divisions and in Comilla district headquarters due to the large number of objections filed with regard to the constituencies belonging to that district.⁴⁴⁶ After completing its hearings, the BEC readjusted the boundaries of 84 of the 133 constituencies originally delimited, and published the final list on 10 July 2008. In the final roll, the number of constituencies in Dhaka District increased from 13 to 20.⁴⁴⁷

On 7 August 2008, a day after hearing the challenge filed by the former BNP MP, the HC issued a stay on the BEC's final list of constituencies. Many more writs followed. Court hearings continued until 2 November 2008, shortly before the deadline for candidates to file their nomination, when the HC finally ruled against the challenges to the delimitation exercise.⁴⁴⁸ The ruling cleared the way for the BEC to announce the schedule for the ninth parliamentary elections and to organize the electoral rolls according to constituencies, two crucial activities the BEC had been unable to undertake until this late stage.

The final delimitation resulted in constituencies that differed from standard size by no more than 25 per cent, a radical improvement over the previous situation. Nevertheless, this level of difference could be seen as not fully in line with the principle that the vote of one elector should be equal to the vote of another.⁴⁴⁹ Some international organizations suggest that best electoral practice is for differences in districts not to exceed ten per cent,

and never to exceed 15 per cent.⁴⁵⁰ However, the Delimitation of Constituencies Ordinance 1976 does not make any specific provisions on the degree to which the populations of constituencies are to be equalized. The final deviations in constituency population from the standard size relate to a number of factors, such as attempts to ensure that upazilas were not divided among constituencies, as far as practicable.

6.9 Reform of the election administration

According to Article 118 of the Constitution of Bangladesh, “the Election Commission shall be independent in the exercise of its functions.” Until the promulgation of the Election Commission Secretariat Ordinance on 9 March 2008, the ECS and its field offices had fallen organizationally under the control of the Prime Minister’s Office. In practice, the ECS staff asserted that they reported to the BEC and had little or no contact with the government. However, under some circumstances, as in the 2006-2007 pre-election period, a public perception emerged – whether accurate or not – that having the ECS under the Prime Minister’s Office was contributing to a lack of impartiality in election preparation.

6.9.1 Election Commission Secretariat Ordinance, 2008

With the promulgation of the Election Commission Secretariat Ordinance, 2008, the ECS was formally delinked from the Prime Minister’s Office. The Ordinance stated that the ECS “shall not be under the control of any Ministry, Division or office of the government.” According to one analysis, the ordinance

placed the EC Secretariat under the Commission. As per the [final] Act, the Secretary is the head of the EC Secretariat and s/he will report to the Chief Election Commissioner. The Secretariat is the executive agency for the Commission and it will control all field offices, human resources, and budget, as well as address disciplinary matters. The Commission will formulate its own rules and organogram. The Commission will appoint its own staff who will be subject to the Election Commission (Officers and Staff) Rules (1979). However, these rules do not apply to the officers on deputation.⁴⁵¹

The BEC had first proposed a formal separation of the ECS from the executive in June 2007. The BEC’s proposal was accepted by the CTG the same month, at which point the Law Ministry was instructed to draft an ordinance that would separate the ECS.⁴⁵² While there was debate on the early drafts of the ordinance, especially on whether the ECS would be accountable to the CEC or the body of the BEC,⁴⁵³ the BEC was, for the most part, satisfied with the final law. The formal separation of the ECS from the Prime Minister’s Office had significant symbolic significance by reinforcing the public perception of the BEC’s independence. Officials in the ECS, however, noted that the formal separation of the secretariat from the executive had little effect on the day-to-day operations of the secretariat, and may have even made it more difficult for some urgent tasks to be completed quickly by reducing the secretariat’s access to government officials.⁴⁵⁴

According to one senior BEC official, there are a number of senior officers of the Bangladesh Civil Service seconded to the BEC from other government bodies,⁴⁵⁵ which, according to a study conducted by the Institute for Governance Studies, “may leave room for significant government influence.”⁴⁵⁶ However, it would be too simplistic to assume that officers belonging to the civil service are subject to government influence while the BEC’s own staff is immune from it, as there have been instances of partisanship by the BEC’s own staff in the past. In addition, the Election Commission Secretariat Ordinance did not address the fact that field level administrators, directly under government control, are generally appointed as ROs and AROs during the election period, opening another possible avenue for government influence.⁴⁵⁷ In the final analysis, therefore, as long as the civil service in Bangladesh remains subject to political pressures, the possibility and suspicions of political influence over the administration of elections will remain.

6.9.2 Changes in election administration

Beyond the well publicized issue of the formal status of the ECS, the BEC undertook a broader reorganization of election administration prior to the 2008 elections, which was aimed at improving the staff’s impartiality, professionalism and commitment. This was accomplished through a variety of means, including testing, recruitment, training and developing a better career track for permanent personnel.⁴⁵⁸

The BEC faces special challenges in personnel management because in addition to permanent staff, enormous numbers of personnel – including very senior officials – come under its direction during election periods. According to the BEC, election administration can be broadly divided into poll management and BEC systems management. While the first activity might be described as a “seasonal activity,” systems management is a continuous process that involves activities ranging from policy reforms to micro-level administration of the BEC’s permanent network of staff across Bangladesh.

The “seasonal” poll management is a comprehensive activity undertaken by the BEC in a short time span. It requires massive resource mobilization, involving more than one million temporary staff brought under the BEC’s umbrella from other organizations. The large temporary staff (over 500,000 electoral staff and over 500,000 security personnel) requires training and mobilization in a short time frame, and in an efficient and professional manner. Generally, law enforcement agencies are brought under BEC control for 10 to 15 days, while the tenure of staff from other agencies can range between a number of days and a few months, depending on the nature of their work (enumerators, ROs, polling officials, and other staff).

The training of polling staff is organized by the Electoral Training Institute (ETI). The ETI organizes day-long trainings at the *upazila* level using local election officials as trainers. From 2 to 27 December 2008, local election officials trained 667,239 polling officials for the upcoming parliamentary and *upazila* elections. In addition, the ETI organized a one-day training session for the 64 ROs, and a two-day training for AROs in November 2008 using senior ECS officials as trainers.⁴⁵⁹ In regard to the day-long training of polling staff, the BEC emphasized that many of the same people are recruited repeatedly to administer elections, including teachers and bank officials, making them familiar with electoral laws, regulations, codes and procedures.

The BEC currently has approximately 2,500 permanent staff members, of which approximately 90 per cent are local level personnel. Apart from ECS staff, the central BEC office employs a number of senior policy level staff

(at the Joint Secretary level or above), including the Election Commission Secretary, on secondment from other government offices and agencies. Three Deputy Secretaries are the highest level of permanent ECS staff at the central office.⁴⁶⁰

6.9.3 BEC field level reorganization

According to the BEC’s electoral roadmap, internal reorganization of the ECS was supposed to take place over the course of 2007. In addition to separating the ECS from the Prime Minister’s Office, this included reforming the ECS internal recruitment and appointment rules, and making a decision on whether to retain local BEC staff appointed in late 2006.⁴⁶¹

The 300 local officials in question were recruited by the former BEC shortly before the collapse of the January 2007 election process.⁴⁶² The appointment of these officials had been perceived as undermining the independence of the BEC, as there were public allegations that the 300 had been appointed on the basis of their support for the governing party.⁴⁶³ To defuse these allegations, the BEC conducted examinations for 304 local election officials on 18 May 2008 in order to establish if they were qualified for the posts to which they had been appointed.⁴⁶⁴ Of the officials taking the test, 85 failed and were dismissed.⁴⁶⁵

In addition, the BEC revised its own service rules. Recruitment and promotion of ECS staff is regulated by the 1979 Election Commission Rules. These rules were said to have provided “highly discriminatory promotion rules in favor of Secretariat officials.”⁴⁶⁶ The 1979 rules had been the subject of previous reform efforts, as a three-member committee made recommendations for their amendment in 1998. While the reform proposal had gained some traction, the government terminated it in 2002.⁴⁶⁷ The BEC was, however, able to revise the rules in 2007, integrating the field and secretariat staffs’ career tracks, and making posting between the secretariat and the field offices interchangeable.⁴⁶⁸

These changes in the election administration, although little noted publicly, helped lay the basis for a more effective and impartial administration of all aspects of the elections, increasing public confidence in, and satisfaction with, the process. Further changes may lie ahead. For example, inconsistent implementation of

required procedures by some polling officials on election day suggest that the ETI capacity should be strengthened. At present, the ETI does not even have permanent premises. In addition, as the ECS takes on the day-to-day management and updating of the photographic electoral rolls, this will present new challenges for the existing personnel structure.

6.9.4 Introduction of technology to the election process

While photographic voter registration was the most significant technological process introduced for the 2008 elections, the BEC made other information technology advances. Among these was the development and expansion of the BEC's website, where the public was able to access election results, candidate nomination papers and electoral laws, among other resources.⁴⁶⁹ According to one estimate, there were in excess of one million hits on the BEC's website over the election period, especially regarding election results and nomination papers.⁴⁷⁰ In addition, the BEC developed an intranet system that allowed the field offices to transmit election results electronically. These results were unofficial, and transmitted in parallel to other reporting mechanisms.⁴⁷¹

In partnership with a local telecom operator, the BEC also piloted the use of mobile phones to send voters information on where to vote (polling center and booth information); the process involved a voter sending his/her pin number through an SMS (text message) and receiving a return SMS with his/her voter number, serial number, name of the voter and name of the polling center. The pilot represented an attempt to explore ways to limit the reliance of voters on political parties for this information – the general practice has been for voters to collect this information from party camps before going to the polling center on election day.

6.10 Domestic observer guidelines

Political parties in Bangladesh have long been distrustful of domestic election observers, alleging that a large proportion of the groups represent partisan interests. As a result, the major parties favored sharply restricting or eliminating the role of domestic observers. The AL's electoral reform program, for example, advocated that domestic observers should not be allowed to enter polling centers. The BEC

entered office with a degree of apprehension regarding domestic observer groups. However, intensive collaboration between domestic observer groups and the BEC during the pre-election period, and in particular during voter registration, helped to alleviate this distrust.⁴⁷² Observer groups also reached out to political parties prior to the 2008 elections,⁴⁷³ but were not able to dispel entirely the parties' suspicions regarding their neutrality. However, as the parliamentary elections approached and their attention was drawn to more urgent matters, parties began to register less concern about domestic observers.

6.10.1 Revision of observer guidelines

In order to address the issue of distrust of domestic election observers, and to ensure the groups' neutrality, the BEC revised its existing "Guidelines for Domestic Election Observation" in late 2008. The revised guidelines were developed through a consultative process with domestic observer groups and with the international community, the latter taking a significant interest in the guidelines since donors provided the bulk of funding for domestic observation. The BEC circulated draft guidelines for observers in August 2008, and invited feedback from key stakeholders prior to finalizing the document.

The initial draft guidelines were strikingly prescriptive. For example, they included a provision for an "All Party Working Group" composed of registered political parties that would be tasked with reviewing accreditation applications and an "Observer Coordinating Group," which would have been responsible for screening and monitoring observers. Other proposed restrictions included a requirement that observer groups deploy all their observers according to a deployment plan filed with the BEC, that observers could not be deployed within their home sub-district, and that individual observers be at least 25 years of age and have completed the higher secondary certificate level of education. The draft guidelines demonstrated the BEC's initial suspicion that domestic observers could interfere with an otherwise well-organized election. The proposed restrictions were also in line with political party views that observers should be regulated stringently.⁴⁷⁴

The release of the draft guidelines prompted detailed responses from both domestic ob-

server groups and the international community. The EWG, for example, responded with a set of recommendations in a document entitled "Review of Revised BEC Guidelines for Domestic Election Observers,"⁴⁷⁵ which it sent to the BEC on 10 September 2008. The international community, through a coordinating group, also provided inputs on the draft guidelines.⁴⁷⁶ In response to these proposals, the initial guidelines were significantly revised and made less restrictive. The provisions for an "All Party Working Group" and "Observer Coordinating Group" were removed, and the educational requirement for observers was revised from a requirement for a higher secondary certificate to a secondary school certificate.⁴⁷⁷ The BEC, however, did not agree to lower the minimum age of observers from 25 to 21, as requested by the EWG, and did not completely remove the geographic deployment restrictions.

In addition to the Observer Guidelines, the BEC issued a Code of Conduct for Observers, which was an integral part of the observer rules. The Code required observers to maintain strict neutrality, to refrain from displaying any material that could indicate their support to any party or candidate and to refrain from accepting gifts from political parties or candidates. These provisions were in line with normal international practices in regard to observers.

Under the guidelines, it was also mandatory for domestic observer organizations and individual observers to make reports to the BEC on the BEC's forms, which were made available on the BEC's webpage. Information to be collected included the appropriateness of polling centers, the management of the polling centers, vote counting procedures, and consolidation of results.⁴⁷⁸ While observer organizations were free to define the other matters on which they would observe and report, the BEC condition had the effect of creating a dual reporting system. In best international practice, it is unusual, if not irregular, for election commissions to require election observation groups to collect and submit specific kinds of information and forms.

6.10.2 Domestic observer accreditation

The final observer guidelines,⁴⁷⁹ issued in November 2008, took into consideration both the process for accrediting observer organizations, and procedures for issuing accreditation

to individual observers. The guidelines also contained a definition of the purpose of election observation, procedures for revoking observer accreditation, a description of observer group qualifications, a Code of Conduct for observers and reporting requirements.

Domestic observers were required to be citizens of Bangladesh, at least 25 years old, have passed secondary school examinations, be qualified to be a voter, be nominated by an accredited observer organization, and to have signed an election observer pledge. ROs were responsible for accrediting and providing accreditation cards to observers in their areas of responsibility.⁴⁸⁰ Prior to accreditation, ROs were required to post a list of people who had applied to monitor results consolidation. If a candidate voiced an objection against a proposed observer, the RO could request the replacement of that individual.⁴⁸¹

Because the final guidelines included no reference to geographic deployment conditions, the EWG and other observer organizations made plans to deploy observers in their home unions (unions are smaller administrative divisions within upazilas), consistent with past practice. A few weeks prior to the election, however, EWG members raised the issue for clarification with the BEC after some ROs suggested that deployment conditions applied. At that point, the BEC reported that an upazila-level prohibition was inadvertently omitted from the revised guidelines, but that it would apply. This condition made it very difficult for observer groups to secure commitments from those who wished to vote in their home polling centers to serve as observers. EWG also pointed out that the condition would make it especially difficult for women to serve as observers when overnight travel would be required to deploy in an adjacent upazila. EWG and other observer organizations urged the BEC to revoke the prohibition. A few days prior to the election, the BEC yielded and withdrew the condition that observers could not be deployed in their home upazilas, but stipulated instead that observers could not be deployed in their home unions. This requirement was an improvement on the previous restrictions, but it nevertheless meant that observers could not be deployed in their home areas. This complicated procedures for domestic observer deployment and resulted in most observers not being able to cast ballots on election day.⁴⁸²

Based on this change, the EWG decided to proceed with its observation plans, but ultimately faced a serious challenge in meeting its original observer deployment targets as many individuals refused to fulfill their commitment when the condition would deprive them of their right to vote.⁴⁸³

In regard to accreditation of domestic observer organizations, the guidelines set out procedures for the scrutiny by the BEC of all observer group applications, hearing objections filed against applicant organizations, and granting accreditation. The guidelines allowed the BEC to refuse an application if any leaders in the applicant organization were found to be involved in politics or to have had affiliations to any political party.⁴⁸⁴ According to Section 4 of the guidelines, an observation organization's accreditation could be revoked if the BEC received credible evidence that the observer group had violated the Code of Conduct.

After receiving applications and conducting its internal review, the BEC preliminarily approved 120 domestic NGOs to monitor elections. The BEC then allowed political parties to raise objections to the list of preliminarily accredited groups. Both major political parties raised objections, after which the BEC conducted public hearings.⁴⁸⁵ Of the 39 organizations against which the political parties raised objections, 38 were eventually accredited by the BEC. The only organization not to receive accreditation was the Fair Election Monitoring Alliance (FEMA), whose president was alleged to have had a close affiliation with one of the political parties in the recent past. FEMA strongly objected to its denial of accreditation. Although both the BNP and the AL eventually lifted their objections to FEMA, the BEC refused to accredit the organization.⁴⁸⁶

While the BEC's efforts to make the accreditation proc-

ess transparent may have helped to allay suspicions regarding domestic election observation, the rules made it more difficult for observer groups to mobilize monitors. The age restriction complicated recruiting efforts by observer groups, since a substantial proportion of people volunteering to serve as election observers are often students, many of whom could not qualify in Bangladesh because of the age restrictions. The geographic deployment restrictions raised costs for observer groups and resulted in the disenfranchisement of many observers, who could not cast ballots since the postal voting system had not been implemented. Despite these restrictions, some 155,000 domestic observers were reportedly deployed for the elections by the EWG.

6.11 Participation of minorities

While in past elections minority populations had been subject to targeted violence and exclusion, the ninth parliamentary elections were characterized by high levels of participation by all segments of Bangladesh's population, including ethnic and religious minorities. Many circumstances combined to create a more favorable environment for minority participation, including public awareness programs, the impartial conduct of the electoral process, large numbers of domestic and international election observers and, especially, reduced levels of electoral violence. These



Many monks in the Chittagong Hill Tracts were registered as voters for the first time. Photo courtesy of UNDP.



Special measures were taken by the Bangladesh Election Commission and the PERP project to reach and register ethnic minority groups in the Chittagong Hill Tracts. Photo courtesy of UNDP.

conditions created a high level of confidence in the electoral process among ethnic and religious minorities. In addition, the introduction of accurate voters rolls with photographs and the improved organization of electoral procedures at the local level facilitated minority participation.

The improved security environment and curtailment of violence were key factors in increased minority participation. To the extent that electoral violence did occur, it consisted mainly of inter-party clashes that did not target minority groups.⁴⁸⁷ Surveys conducted by the EWG before the elections found that respondents around the country expressed a high level of confidence in the law and order situation, with 86 per cent of respondents stating that the security environment was conducive to free and fair elections.⁴⁸⁸ The EWG, among other groups, found increased confidence in members of ethnic and religious minority communities that they could cast their votes without fear, intimidation or pressure.⁴⁸⁹ ANFREL noted in its final election report that, “the 2008 election featured the enfranchisement of a number of groups that have traditionally been marginalized in Bangladesh. These included ethnic minorities...sexual minorities... and the homeless.”⁴⁹⁰ Additionally, a survey conducted by IFES on the accuracy of the electoral rolls found no evidence of any “exclusion of specific groups of voters.”⁴⁹¹

6.11.1 Minorities in the CHT

The situation for voters in the CHT, an area with a high concentration of ethnic minori-

ties along the Bangladesh-Myanmar border that had been the site of an insurgency, was an issue of special challenges and concerns. The BEC and the Armed Forces undertook extra efforts to conduct voter registration in the CHT, including the deployment of helicopters to reach remote hill villages.

There are three separate parliamentary constituencies in the CHT. Although the population of at least one of these constituencies is lower than others in the country, the BEC decided not to alter the boundaries of CHT constituencies during the delimitation exercise, given their special status as minority areas.⁴⁹² Such special measures to ensure minority representation are not contrary to international standards and can, in fact, be seen as a good practice.⁴⁹³

Overall, voter turnout in the CHT was slightly lower than the national average, but still very substantial, representing another important success for the election process. The statistics showed a voter turnout of 79 per cent in Rangamati, 80 per cent in Banderban and 84 per cent in Khagrachhari.⁴⁹⁴ ANFREL, however, noted that there was still a significant degree of militarization in the CHT which, according to its report, “intimidated local groups and suppressed political activity.”⁴⁹⁵

The two indigenous political parties in CHT, the Jana Sanghiti Samity and the United Peoples’ Democratic Front failed to receive accreditation from the BEC. This was because the amended RPO disadvantaged small or lo-

calized parties through requirements that parties be organized in a minimum of ten districts. The parties did, however, field independent candidates. In addition, “both AL and BNP nominated indigenous candidates, and for the first time 14 out of the total 18 candidates were tribal people. All three winning candidates in the three CHT constituencies were from a tribal group and contesting the elections for AL.”⁴⁹⁶

6.12 Women’s participation

Since independence in 1971, Bangladesh has made progress in ensuring women’s participation in the political and socio-economic arena. For almost 20 years, since 1991, the office of the Prime Minister has alternated between two women. Nevertheless, women remain severely underrepresented in positions of influence and power in the political process, the government and the civil service. The 2008 parliamentary elections saw some reforms aimed at empowering women. These may pay important dividends in the years ahead but they had only a limited impact on the 2008 elections.

Women comprised 51 per cent of the electorate. In a post-election survey conducted by the EWG in January 2009, 85 per cent of respondents believed that women were more free from male interference to make their

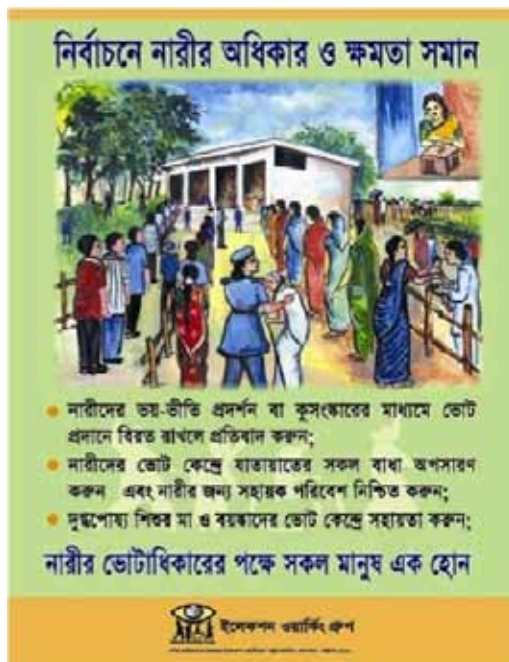
own choices in the 2008 poll than in previous elections. In December 2008, 77 per cent of respondents to an EWG survey said that they would like to see more women serve in Parliament, though resistance to this idea was strong in Barisal and Tangail, where 50 per cent and 67 per cent of respondents said that they would not like to see more women members of Parliament.⁴⁹⁷

In general – with the very notable exception of the leaders of the two major parties – women tend to be underrepresented in the political process. Women hold few positions of power and are often marginalized in political party hierarchies. The electoral reforms introduced with the amendment of the RPO sought to redress this issue by requiring political parties, in order to be registered, to include in their constitutions a provision that they will fill at least 33 per cent of all party committee seats, including the central committee, with women by 2020. The RPO also denies registration to any party with a constitution discriminatory to women.⁴⁹⁸ Some political parties expressed concerns about what they considered to be an unreasonably short timeframe for elevating so many women, considering the very small numbers of women currently holding positions on party committees.⁴⁹⁹

6.12.1 Continued under-representation in Parliament

In the 2008 elections, more women participated as candidates than at any other previous time (four per cent of candidates) and more women won seats in Parliament (18 seats, or six per cent of popularly elected members) than in any past election in Bangladesh.⁵⁰⁰ In the 2001 elections, only 2.54 per cent of candidates were women. While this represents welcome progress, it also underscores the huge deficit that remains to be covered. One study on women’s participation in the 2008 elections found that political parties were not supportive of female candidates.⁵⁰¹

Bangladesh does have a system of reserved seats for women in Parliament. Under Article 65 of the Constitution, 45 seats in Parliament are reserved for women, beyond the 300 single member constituencies where candidates are elected through popular vote. The reserved seats are filled proportionally by candidates sponsored by different political parties on the basis of the number of seats they won in the



The EWG encouraged women to participate in the election process through its voter education programs. Image courtesy of EWG.

popular vote. The 2008 elections were the first time this provision of 45 reserved seats was implemented, since the provision was introduced through a constitutional amendment in 2004. Previously, there had been 30 reserved seats for women. While the new system has increased the total number of seats allocated to women and is supported by the major political parties, it does not enjoy broad support of women's groups in Bangladesh. According to a study on women's participation in the elections, the current system of reserved seats in Parliament does not promote gender equality, but rather serves as a space where women are isolated from participating in serious political debate.⁵⁰² This conclusion is consistent with other international studies of this type of reserved seats.⁵⁰³

6.12.2 Women in the election administration

Women were not well represented in the election administration. No Election Commissioner has ever been a woman. Only one woman held a management position in the ECS. There were no women among the nine Deputy Election Commissioners who head the BEC's regional offices or the 83 District Election Officers who head the BEC's district offices.⁵⁰⁴ The officers of the BEC are recruited through the Bangladesh Public Service Commission, and historically, women's representation in public service in Bangladesh has been extremely low. To remedy the situation, the government has introduced a quota system for women, but very few women apply for BEC jobs and often the quota remains unfulfilled.⁵⁰⁵

The disparity of women in positions of authority on the BEC staff was paralleled by the paucity of women in temporary positions with election responsibilities. For example, just three per cent of ROs and six per cent of AROs were women.⁵⁰⁶ The number of women serving as Presiding Officers at polling centers and polling booths was strikingly low, with international observer groups reporting that between zero and two per cent of Presiding Officers were women.⁵⁰⁷

A study on women's participation in the 2008 election, found that "the absence of substantial numbers of female elections officials [contributed] to gender biases."⁵⁰⁸ The authors of the study were particularly critical that the BEC did not deploy significant numbers of female

Presiding Officers for the elections and commented on the BEC's lack of gender sensitivity in the enforcement of its rules.

The BEC is of the view that criticisms on gender disparity in election management are not based on facts and have degenerated into clichés that do not help to ameliorate the situation.⁵⁰⁹ The BEC acknowledges that despite its best efforts, it fails to attract a sufficient number of women to take up election duties, particularly those of Presiding Officers. The reasons for this, the BEC has explained, are that the task is very arduous and sometimes hazardous since Presiding Officers have to report for duty a day before the designated polls day, collect all the election materials and stay the night at the polling center along with law enforcement and other polling staff, often under unenviable circumstances. Moreover, Presiding Officers have to stay long hours after the close of the polls to count and dispatch the result sheets to the Returning Officers. This has discouraged many women from seeking the positions, given their responsibilities at home and the conservative nature of Bangladesh society.⁵¹⁰ Women's groups have not been impressed with these arguments.⁵¹¹

6.13 Voter education

Voter education is a necessary element for enabling large numbers of citizens to become effectively involved in the electoral process. In Bangladesh, where around half of the population is illiterate,⁵¹² half lives below the poverty line,⁵¹³ and the annual per capita income is only slightly above USD 500,⁵¹⁴ a large part of the population has often remained unaware of governance issues, including the electoral process and their rights and obligations as citizens and as voters. Under these circumstances, the initiatives undertaken by the BEC and civil society organizations to conduct civic and voter education campaigns in the context of the 2008 elections were particularly important.

When the BEC began to prepare the electronic electoral rolls with photographs, it found that it did not have adequate capacity to communicate with more than 81 million voters across the country, or to conduct a comprehensive voter education and information campaign. Following discussions with civil society organizations, the BEC organized a meeting in June 2007 where it sought civil society's support

in raising awareness and motivating voters to register. The EWG, the largest civil society coalition involved in election activities, agreed to assist, after determining that supporting the registration process would not result in a conflict of interest with observing elections.

In addition to the work of the EWG, the BEC conducted its own voter education and voter information campaign. These activities were primarily conducted through electronic media.⁵¹⁵ The BEC paid particular attention to creating awareness on the new Code of Conduct, emphasizing what candidates and parties could or could not do.⁵¹⁶

6.13.1 The Election Working Group and voter registration

On 29 July 2007 the BEC and EWG signed an MOU to support the registration process, with an emphasis on historically excluded populations, such as ethnic and religious minorities, disabled people, and residents of geographically remote areas.⁵¹⁷ EWG support for the voter registration process was coordinated through a national network that linked the EWG secretariat in Dhaka to 64 district coordinators, and an upazila network of thana and union coordinators. The EWG secretariat was responsible for coordinating EWG support for the registration process, including liaising with the BEC and other agencies. The EWG focused on broad awareness raising activities that provided eligible voters with information on the registration process through, for instance, mobile "miking" (dissemination of electoral messages through loud speakers), posters, and leaflets. These materials and messages were developed in cooperation with the BEC. The EWG, in cooperation with the BEC, also produced public service announcements for television and radio broadcast.⁵¹⁸

The EWG's voter awareness program was initiated on 30 June 2007, even before the EWG's agreement with the BEC, and continued for 14 months. During this period the EWG conducted a total of 110,029 "miking" days, 9,792 rallies at the union and upazila levels, 6,282 special meetings with emphasis on vulnerable groups, women and people from hard to reach areas, displayed 12,836 banners across Bangladesh, distributed 1,772,444 leaflets with messages relevant for all segments of population (a special focus was given to women and first-time voters, ethnic and religious minorities, the disabled, anti-violence and account-

ability issues), and produced and aired public service announcements for four months via all national television channels. Over 5,000 union coordinators, 500 thana and upazila coordinators, 64 district coordinators, and a group of professionals at the secretariat in Dhaka were mobilized and trained for the voter education and voter information campaign. International donors provided funding for the voter awareness program under the National Elections Program.

6.13.2 Election information

After the completion of the voter registration process, the EWG, as well as the NGOs Shujan and Brotee, initiated a voter education program targeting the local government elections held in August 2008, the parliamentary elections of December 2008 and upazila parishad elections of January 2009. The EWG undertook a comprehensive program for disseminating election information, including the formation of citizen groups in each district, Citizen Alliances for Promoting Transparency and Accountability. These Alliances provided citizen platforms for organizing dialogue among representatives from various segments of the population, including workers, teachers, social and religious leaders, media representatives, NGO representatives, women, youth representatives, and the candidates.

Prior to the local government elections in August 2008, the EWG prepared and disseminated approximately 100,000 voter guides, which were informed by the surveys conducted in four cities. The city corporation voter guides included candidate profiles as well as other information. For the parliamentary elections, the EWG produced 1.2 million voter guides, which targeted women and youth, and provided summaries of the main political parties' election manifestos. The EWG also produced a series of public service announcements for television and radio broadcast, which focused on women and youth participation in elections and candidate integrity and accountability. In the CHT, the EWG member organization Green Hill organized a series of town hall meetings with local administration, the Armed Forces, local BEC officials and traditional tribal leaders. The tribal leaders acted as trainers and helped to spread information in their respective communities. The EWG took a similar initiative to target voters in coastal belts and river islands or Char areas.⁵¹⁹

6.14 Complaints and appeals process

The complaints and appeals process for challenging election results is outlined in Chapter V of the RPO. None of the provisions of the chapter were, however, revised under the 2008 electoral reforms initiated by the BEC, and the complaints and appeals process was not a topic attracting significant discussion before the 2008 parliamentary elections.

Under the terms of the RPO, only contesting candidates can appeal election results, and must do so by filing a petition with the HC.⁵²⁰ The RPO sets out the procedures by which an appeal may be filed and the method and time-frame in which the HC can hear the case. The HC can dismiss the petition, declare the election of the winning candidate void, declare another candidate to have been elected, or declare the entire election to be void.⁵²¹ The decision of the HC may be appealed.⁵²²

Although there were no formal challenges to the BEC's declared election results, the extremely slow pace at which electoral complaints were handled by the courts in the past – despite a target time limit of six months that was long-established in the RPO⁵²³ – remained a matter of concern. TIB reported that a “total of 31 cases were filed with the HC after 2001 election, of which 18 cases have either been dismissed or resolved” by 2005, four years later.⁵²⁴ Members of political parties who stated that the 2008 election was flawed, cited poor past precedent in resolving cases by the HC as one reason why they did not formally challenge election results.⁵²⁵ The contention that delays in the disposal of complaints by the HC dissuaded some contesting candidates from filing cases may be true but might also be a rationalization for electoral defeat.

Election complaints regarding matters other than results were handled in different ways, depending on the nature of the complaint. For example, individual complaints regarding voter registration were to be addressed to the ROs. Appeals against the rejection or acceptance of a candidate's nomination were to be directed to the BEC and from there on appeal to the higher courts. A number of cases were filed against candidates who were alleged to have violated electoral rules and, at the time this study was written, one such case resulted in an elected MP being disqualified from holding his seat.

Complaints about campaign malpractices were handled by the EECs, which generally sought to resolve the problems informally and locally, but which could recommend punitive action by the BEC. The EECs were reinforced and reportedly worked well, where they had been ineffective in previous elections.⁵²⁶ Under the RPO, the BEC was empowered to order a party or candidate found to have committed a pre-election violation to take remedial action, and could impose fines if the candidate or party failed to comply.⁵²⁷

Generally, the process for resolving electoral complaints and appeals appeared to have worked reasonably well. The apparent general satisfaction with the appeals process stands in stark contrast to some previous elections, in which the complaints process drew sharp criticism as being unduly long and ineffective.⁵²⁸ However, this may be a result of better-run elections in 2008 in which fewer complaints were lodged, rather than the result of specific improvements in how complaints were handled. International observer groups left Bangladesh too soon after the 2008 elections to assess the effectiveness of the post-elections complaints process, and no independent assessments by academic or civil society groups were available at the time this study was prepared.

Another important reform instituted by the CTG was to make the judiciary independent from the executive branch of government. This should improve the performance of the courts over time, including the hearing of election cases.

6.15 Effects of the electoral system

The composition of the new Parliament elected in December 2008 was substantially disproportionate to the percentage of popular votes received by various political parties. The AL won more than three quarters of the 300 contested seats in Parliament (230 seats), although it won just 48 per cent of the popular vote. The BNP, in contrast, won just ten per cent of the seats in Parliament (30 seats), despite receiving over 32 per cent of the popular vote. This large disproportion in seats to total votes may serve to further sideline the opposition in Parliament, which may exacerbate the already strong partisan confrontations.

The disparities between votes received and seats won were even more vivid in regard to some of the smaller parties. The JP, with just over seven per cent of the popular vote, won 27 seats, almost as many as the BNP, which garnered more than four times as many popular votes. Jatiya Samajtantrik Dal, with less than one per cent of the popular vote, won three seats, while JI, with six times as many popular votes, won just two seats.

This disproportionate outcome is linked to the single member constituency and the first-past-the-post electoral system. The differences have been magnified during the past two elections due to multi-party electoral alliances, in which only one candidate of the alliance contests in each constituency. Another contributing factor is the popularity of some parties in particular regions, most strongly evidenced in the 2008 elections by the success of the JP in some of Bangladesh's northwestern constituencies.

One effect of alliance politics is that it may undermine the emergence of interest-based

programmatic parties. It also deprives some voters of the opportunity of voting for their preferred party. During the 2008 parliamentary elections, intra-alliance negotiations even led to violent clashes between supporters of aligned parties, as negotiations continued well into the nomination process.

The disparities in outcome have led some Bangladeshi civil society groups to advocate a change to a system of proportional representation, in which the distribution of seats in Parliament would be aligned much more closely with the percentage of votes received by each party.⁵²⁹ In addition, proportional representation often leads to the election of more women. A change to proportional representation, however, might have other unintended consequences, such as further reinforcing the strength of political party leaders, diminishing the ties between MPs and their constituents, or encouraging the proliferation of mini-parties. All these factors, and others, should be taken into account when considering a possible change in a country's electoral system.

Ninth parliamentary elections – Results by party

Party	Coalition member ⁵³⁰	Constituencies contested ⁵³¹	Per cent vote	Seats won	Per cent seats in Parliament
Awami League	Grand Alliance	264	48.04%	230	76.67%
Jatiya Party	Grand Alliance	49	7.04%	27	9%
Jatiya Samajtantrik Dal	Grand Alliance	7	0.72%	3	0.72%
Bangladesh Workers Party	Grand Alliance	5	0.37%	2	0.67%
Bangladesh Nationalist Party	4 Party Alliance	260	32.50%	30	10%
Jamaat-e-Islami	4 Party Alliance	39	4.70%	2	0.67%
Bangladesh Jatiya Party	4 Party Alliance	12	0.26%	1	0.33%
Liberal Democratic Party	None	18	0.27%	1	0.33%
Independents	None	151	2.94%	4	1.33%

Bangladesh Election Commission website, 2009

7

International

**Assistance to the
Election Process**

International Assistance to the Election Process

The 2008 Bangladesh election process benefited from significant international technical and financial support. The bulk of the international support was provided through two funds, one for the Preparation of Electoral Rolls with Photographs (PERP) project, administered by UNDP, and the other for the National Elections Program (NEP), coordinated by the Asia Foundation. However, there were also other support projects, including the procurement of translucent ballot boxes and technical assistance to the BEC, and political party reform. In addition, international partners and donors met frequently with the CTG and the BEC and provided recommendations for improving aspects of the electoral process, many of which were implemented.

7.1 The Preparation of Electoral Rolls with Photographs Project

The PERP project was administered by UNDP to support the voter registration process through technical and material assistance. The project was launched on 1 July 2007, and is planned to continue to 30 June 2010. International donors, including the European Commission, the United Kingdom, the Netherlands, Norway, Sweden, Switzerland, Denmark, Korea, and UNDP contributed USD 53 million of the USD 82 million project budget. The Bangladesh Government contributed the remaining USD 29 million. The PERP project provided administrative and technical support to the voter registration process and allowed for the purchase of technical equipment, including 12,000 laptop computers, web cameras and finger-print scanners; payment of staff salaries, remuneration to enumerators, computer operators, and project managers, and other costs relating to administrative and technical support to the voter registration process.

The objectives of the PERP project were to establish technical requirements, develop infrastructure, and build capacity to enable the Government of Bangladesh to prepare credible electoral rolls for the 2008 elections, and to be able to maintain and update the rolls thereafter. Activities under the project included developing the required software to complete voter registration, establishing the technical infrastructure to register voters around

the country, and training workers to conduct voter registration and collect and integrate voters' data.⁵³²

7.2 Construction of Server Stations

The Construction of Server Stations for the Electoral Database project is also a UNDP administered program which began shortly before the elections on 1 November 2008. It complements the work of the PERP project and ensures its sustainability by providing the physical infrastructure for voter registration equipment. Under the USD 47.28 million project, 407 sub-district server stations, 53 district and 9 regional offices are planned for construction by 30 June 2012. The United Kingdom and the Netherlands governments are supporting the project by providing approximately 30 per cent of its funding, with the remainder provided by the Government of Bangladesh.⁵³³

7.3 The National Elections Program

The Asia Foundation's NEP program was initiated in June 2006 with financial support from nine donors, including the Canadian International Development Agency, the United Kingdom Department for International Development, the Australian Agency for International Development, the Swedish International Development Agency, the Swiss Agency for Development and Cooperation, the United States Department of State, and the Embassies of Denmark, Norway and the Netherlands. The project's budget over three years was more than USD 9.3 million. The NEP was primarily a civil society assistance program, initially to support domestic election monitoring, but later branched out to include many other activities, such as public awareness for voter registration and other voter education campaigns. The program was implemented in collaboration with the EWG.

The NEP was delivered through a flexible network of civil society organizations that linked the EWG secretariat in Dhaka with 64 district coordinators, and an upazila network of thana and union coordinators. During voter registration, the upazila network was activated on a rolling basis, prior to the launch of the electoral activities in a particular area. Under the NEP,

the EWG reportedly deployed approximately 155,000 domestic observers for the 2008 elections. The EWG also produced 23 national perception studies from February 2007 through January 2009. The studies examined public perceptions of government performance and public confidence in electoral reforms, as well as other issues.

7.4 The Support to the Electoral Process in Bangladesh Project

The Support to the Electoral Process in Bangladesh (SEPB) project is a five-year UNDP funded program designed to strengthen the capacity of the BEC and its Secretariat. In 2008, the SEPB project budget was approximately USD 1.7 million. This project supported the constituency delimitation process through technical advice and funding for the required GIS equipment and software as well as assistance to establish a nationwide candidate declaration system, a nomination and results system, and the completion of an organizational restructuring exercise to improve institutional effectiveness.⁵³⁴ Under the SEPB project, technical advice was also furnished to the BEC on voter registration, which included the provision of short-term experts, information technology specialists, and a technical adviser.⁵³⁵ The project also supported national and regional post-election review workshops, election trainings and review of procedural documentation.

7.5 The Translucent Ballot Boxes Project

UNDP purchased 240,000 translucent ballot boxes for the BEC under the Translucent Ballot Boxes project just before the 2008 parliamentary elections. The total budget of the project was approximately USD 6.2 million, which was almost exclusively funded by the Canadian Government through a grant. The BEC was responsible for deploying the ballot boxes to the field in time for elections.⁵³⁶

7.6 Other donor initiatives

The United States Agency for International Development provided funding for election programs carried out by NDI and IRI. Before the 2008 elections, NDI organized a series of multi-party dialogues, including dialogues between the BEC and political parties, which culminated in three issue-based conferences. NDI also conducted and published a survey on the accuracy of the electoral rolls in 2006, which was highly influential in the pre-election period of 2006 and 2007.⁵³⁷ IRI conducted public opinion surveys, including two exit polls, implemented women's and youth leadership programs and supported domestic long-term election monitoring.⁵³⁸ In addition, the United Kingdom's Department for International Development provided funding for the BBC's Shanglap program,⁵³⁹ which aired mayoral debates for the 2008 local elections, as well as multiple special elections programs prior to the 2008 parliamentary elections.



The inclusion of the Translucent Ballot Boxes in the election ensured transparency in the electoral process and helped to build confidence in the Bangladesh Election Commission's ability to hold credible election. The Boxes were a demand of political parties. Photo courtesy of EWG.

8

Evaluation of the 2008 Elections

Evaluation of the 2008 Elections

The ninth parliamentary elections were conducted broadly in accordance with international standards for democratic elections.⁵⁴⁰ Several major international and regional organizations sent observers to monitor and evaluate the elections, including the EU, the Commonwealth, NDI, IRI and ANFREL. Several of these organizations conducted long-term observation as well as election day monitoring. The United Nations sent a three-person High Level Panel that visited Bangladesh briefly twice, including a visit on election day. In all, some 278 international observers were deployed for the elections. In addition, more than 155,000 non-party election observers were accredited by domestic organizations.

These groups, while registering some concerns and making a number of recommendations, generally had high praise for the election process. This represented 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. The EU Election Observation Mission (EOM), for example, assessed the 2008 elections as being “in line with international standards and best practice for democratic elections,”⁵⁴¹ and observer reports indicated that most of the major problems identified from the failed 2007 elections were successfully resolved by the time of the 2008 elections.

This part of the study draws primarily on international observer reports to evaluate the 29 December 2008 elections and the extent to which they adhered to international standards. The discussion of the ninth parliamentary elections is divided into sections examining the elections’ legal framework, the effectiveness of the election administration, voter registration, political party registration, candidate nomination, the political campaign, the media, electoral violence, domestic observation, voting, vote counting, tabulation, release of results, and the complaints and appeals process.

8.1 Legal framework

The legal framework for the ninth parliamen-

tary elections included the 1972 Constitution, the RPO, the 2008 Code of Conduct for the Political Parties and the Candidates, the 1974 Delimitation of Constituencies Ordinance, the 2008 Electoral Rolls Ordinance, the Electoral Rolls Rules, Conduct of Election Rules, and the Political Party Registration Rules.⁵⁴² This set of legal instruments, taken together, provided the basis for the conduct of democratic elections in Bangladesh. The IRI EOM, for example, noted that the reformed RPO provided a “sound and workable framework” for the electoral process in Bangladesh, while the EU EOM noted in its final report that the Constitution and the 2008 RPO met international requirements.⁵⁴³

At the same time, however, many of the rights and freedoms necessary for a democratic election were suspended under the State of Emergency until shortly before the elections. This was undoubtedly the most controversial aspect of the legal framework in the pre-election period and the one with the greatest potential for undercutting the democratic nature of the elections. The emergency regulations placed sharp legal limits on freedom of expression, association and assembly, and prohibited many kinds of political activity. The State of Emergency was not officially relaxed until 3 November 2008, and not finally lifted completely until 17 December 2008⁵⁴⁴ just 12 days prior to the elections. A segment of the public favored a continuation of the State of Emergency through the election period, welcoming the enhanced security and order it had established, and fearing that lifting it could lead to disruptive street agitation and a return to the old politics of “muscle.”⁵⁴⁵ The majority of politicians, however, including especially the country’s largest political parties, and much of the media, were of the view that it would not be possible to hold free elections under the stringent conditions of the State of Emergency, even if these were “relaxed” or not strictly enforced. The very late relaxation and repeal of the State of Emergency did certainly interfere with the ability of parties and candidates to organize and campaign freely and effectively. Although all parties faced the same legal constraints, the negative effect was probably greater on new parties and candi-

dates, which did not have established organizations that could be mobilized quickly when the State of Emergency was lifted.

Another problem with the legal framework was the late adoption of some changes to the law. The final revisions were not in place until October 2008, which, according to one observer group, "limited the ability of political actors to educate themselves, plan accordingly and comply with the law."⁵⁴⁶ Under normal conditions, good practice in electoral law reform is for electoral laws not to be changed within one year of an election,⁵⁴⁷ in order that all participants can be fully informed and prepared. The late adoption of the legal provisions for the ninth parliamentary elections also resulted in some provisions not being fully implemented by political parties or enforced by the BEC. In the special circumstances facing Bangladesh at the time, however, there was broad agreement among the principal stakeholders that the elections should go forward before the end of 2008, whatever the status of the legislation.

Observers also noted that the many new rules may have reached beyond the BEC's capacity to enforce. The EU EOM, for example, stated in its final report:

The BEC discharged most of its responsibilities in a transparent and responsible manner and in general the planning and execution of most electoral activities was timely and well-conducted. However, efficiency was hampered by overreaching and the BEC appears to have regulated beyond its practical capacity to implement, which overwhelmed the system. The BEC became overwhelmed by candidate nomination, scrutiny and the hundreds of resulting appeals, the adjudication of which by the courts ran past the deadline of 11 December.⁵⁴⁸

In the end, the highest body of appeal for election related issues was the HC, which heard cases regarding delimitation of constituencies and candidate nominations. In some cases, the HC's extended timeframe for disposing of the cases caused some difficulty for the BEC in implementing aspects of the 2008 elections. One way to address this issue could be to set a firm timeframe before polling by which time election cases have to be resolved by the

courts, or to extend the nomination period to allow more time for the higher courts to rule on any final appeals. The BEC is considering recommending further revisions to the RPO and other key election laws to remedy this kind of difficulty.⁵⁴⁹

Further comments on other aspects of the legal framework are included below.

8.2 Effectiveness of the election administration

Overall, the BEC was widely praised for the professional and transparent way in which it administered the elections, which contributed to high levels of public confidence in the process. This positive assessment of the BEC and its performance stood in sharp contrast to public views of the previous BEC, which had been a major factor in undermining the planned 2007 elections. The BEC effectively administered the electoral processes through its extensive field structure of nine regional offices headed by Deputy Election Commissioners, 83 District Offices headed by District Election Officers, and 481 upazila and 26 thana level offices headed by upazila/thana Election Officers respectively in rural and urban areas.⁵⁵⁰ The BEC's structure was supported by the appointment of temporary staff, including ROs and AROs at the district level, and Presiding Officers, Assistant Presiding Officers and Polling Officers at the polling center level.

ROs are responsible for key aspects of the elections, including scrutinizing and deciding whether to accept or reject nomination papers filed by candidates; mobilizing election staff and identifying polling centers; and tabulating election results in a constituency.⁵⁵¹ ROs, as in past elections, were drawn from the ranks of the Deputy Commissioners. Thus, as chief government administrative officer in a district, the RO also had significant control over law enforcement agencies. Upazila Nirbahi Officers, who are also government administrative officers, were appointed as AROs. The BEC reported that 66 ROs, 587 AROs, 35,263 Presiding Officers, 177,311 Assistant Presiding Officers, and 354,622 Polling Officers were appointed for the ninth parliamentary elections.⁵⁵² This is a huge number of election administrators, and it is a credit to the BEC's management that they were able to work effectively.

International observers did not note any instances of political bias among election administrators at the field level, whether temporarily appointed government administrators or permanent BEC staff. This was a particularly notable achievement in light of the high levels of suspicion and charges of bias that characterized the previous election process in 2007. The IRI EOM assessed that the “BEC’s efforts to assemble an administrative infrastructure capable of competently and impartially managing the election” were successful and that “the vast majority of deputy commissioners and Upazila Nirbahi Officers executed their electoral duties as ROs and AROs correctly and transparently.”⁵⁵³

The BEC, however, did not meet some of its own deadlines for election preparations, for example, finalizing the electoral law and completing the registration of voters and political parties. This was partly due to the very large workload and to unexpected problems encountered in putting in place new procedures. In some instances, the BEC did not appear to have sufficient resources to handle large tasks with short deadlines, such as the accreditation of observers.⁵⁵⁴ In other cases, the BEC assumed regulatory functions that appeared to exceed its capacities.⁵⁵⁵

International observers reported that women were severely underrepresented in management positions in the election administration.⁵⁵⁶ At lower levels, even female-only polling booths were reported to have some male staff.

8.3 Voter registration

International election observers credited the BEC with having established credible and accurate electoral rolls with photographs of over 81 million voters. As described in earlier parts of this study, the creation of new electoral rolls with photographs was an enormous and groundbreaking operation which involved many actors and which resolved one of the major public complaints about previous election procedures. Observer organizations assessed that the accuracy of the new rolls contributed to a high level confidence in the electoral process from all sectors of society, including religious and ethnic minorities, as well as a high turnout of women voters.⁵⁵⁷ The new electoral rolls remedied several major areas of controversy that had plagued previous elec-

tions, particularly charges that rolls included millions of “ghost voters” used to manipulate the outcome. The high quality of the rolls 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.

Although the electoral rolls drew high praise, observers were somewhat critical of the procedure for posting and verification of the rolls before their completion. The IRI EOM noted that the ROs, who were responsible for posting the electoral rolls publicly 45 days before the election, did not implement the responsibility “uniformly or consistently.” IRI concluded that the “rolls were eventually posted before Election Day in almost all locations; however, many citizens still did not have access to the information. Many citizens who registered to vote were illiterate and, in many cases, did not have the advantage of knowing if their names were or were not on the roll and if they were registered at the correct polling center.”⁵⁵⁸ The NDI EOM commented, similarly, that “although electoral rolls were generally available in local election offices to allow voters to verify their names and registration details, it was unclear whether voters were widely aware of their right to view the roll and it is doubtful that many took advantage of the opportunity.”⁵⁵⁹

Electronic versions of the electoral rolls without photographs were made available to the political parties before election day. The parties appeared to use these rolls primarily to help voters identify their voter identification number on election day, which helped them find their specific polling booth. The EU EOM pointed out that the “BEC included a Supplementary Voter List...appended to the end of the regular electoral register to which, at the discretion of the BEC, those who were not included in the [final electoral rolls] could be added upon their written request. Awareness of the existence of this supplement was limited and nationwide only 631 voters actually registered on the supplementary roll.”⁵⁶⁰

The ANFREL EOM, while providing high praise for the rolls in general, added that the registration process did not reach everyone and that there were reports of small numbers of otherwise eligible but unregistered voters around the country. Among the reasons given for

these omissions were that unregistered people were sick, pregnant or absent from their constituency during the registration process, and that voters were almost entirely unaware of the possibility of late registration.⁵⁶¹

8.4 Party registration

As described above, political parties were required to register with the BEC for the first time for the ninth parliamentary elections. This requirement, which sparked considerable controversy, was aimed at regulating party procedures that were considered to have had a serious detrimental effect on previous elections and on Bangladesh's political culture in general.

The Political Party Registration Rules determined conditions for registration.⁵⁶² These included provisions stipulating that political parties adopt internal democratic practices, that women hold 33 per cent of party committee posts by 2020, that party constitutions do not contradict any provisions of the Constitution of Bangladesh or make discriminatory provisions based on religion, sex, race or caste and that the parties declare their electoral expenses within 30 days after an election. By the 20 October 2008 deadline set by the BEC, "107 parties applied for registration. The [BEC] registered 39 of these, compared to the 55 which contested the 2001 elections. The [BEC] informed observers that most of those rejected were relatively unknown smaller parties which, upon investigation, were found lacking in organizing the district and upazila offices as claimed."⁵⁶³

The NDI EOM noted that 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.⁵⁶⁴

8.5 Candidate nominations

Candidate nominations were conducted under new provisions of the RPO,⁵⁶⁵ which involved a significantly higher level of disclosure and scrutiny than in previous elections. The new provisions required each prospective candidate to submit extensive personal information. These requirements were aimed at increasing transparency and ensuring that

voters could have access to basic information about candidates to assist them in making well-informed decisions. They were also intended as a safeguard against corruption and criminalization of politics by mandating greater disclosure and clarity on candidate financing.⁵⁶⁶ To a significant extent, the requirements were in line with the HC's ruling of 2005 on candidate disclosure, which had been stayed by the Supreme Court shortly before the failed election of 2007.

As noted in earlier, ROs rejected many candidates based on the new nomination procedures. Of these, many challenged their disqualifications, a number of them successfully. The NDI EOM reported that ROs "scrutinized a total of 2,460 nomination papers filed by candidates. A total of 557 candidates were rejected, at least 76 as loan defaulters. Nearly half of the candidates rejected...filed appeals to the BEC."⁵⁶⁷ The EU EOM noted that the entire 3-member BEC was present for the hearing of appeals, and assessed that "hearings were held in a transparent way and the decisions seem to be made in an unbiased manner."⁵⁶⁸

Of the prospective candidates whose appeals were not upheld by the BEC, ten were eventually reinstated after appeals to the HC. This required the BEC to re-print millions of ballots immediately before election day, which was a significant logistical challenge. The belated court decisions on candidacies also contributes to the challenge of postal voting, since by the time the court cases are completed there is no time to mail ballots and have them returned by mail.

Observers also noted that the nomination process was characterized by significant intra-coalition conflict, as partner political parties negotiated their constituency allocations even during the nomination period. This led to some confusion on candidacies, since negotiations among coalition partners regarding which party's candidate would contest elections in a particular constituency continued until late in the nomination process. The IRI EOM commented that "competition during the nomination process occurred both between and within parties," and that some conflicts "resulted from the bartering of constituencies among parties that formed electoral alliances."⁵⁶⁹ In addition, the AL and the BNP, perhaps in order to avoid being left without a

candidate if a nominee was disqualified during scrutiny, nominated multiple candidates in 30-40 constituencies,⁵⁷⁰ resulting in further confusion.

The RPO provisions requiring political parties to nominate candidates from the grassroots level of constituencies was reported by observers not to have been implemented fully by political parties. The IRI EOM indicated that it appeared that the “final selection of candidates within both the AL and BNP was done at the highest levels of the parties in Dhaka,” although the AL’s nomination procedure appeared to be more in line with the intent of the RPO provision.⁵⁷¹ The EU EOM stated in its report that “among the main parties, AL seemed to be the most ambitious in terms of seeking to reflect the preferences of its local members, although the party overruled the latter’s choices in a few constituencies, causing sharp protest. It appeared that BNP disregarded the provision altogether.”⁵⁷² According to observer reports, the BEC had indicated that the conditions for the registration of political parties requiring them to nominate candidates on the basis of recommendations of grassroots committees would not be strictly enforced for this election.

The Commonwealth EOM noted that the BEC had distributed a list of approximately 80 people who were deemed unqualified for nominations, and “urged” the parties not to nominate individuals from the list. The Commonwealth EOM termed this a “highly unusual act for an Election Commission to undertake.”⁵⁷³ The Commonwealth comment recalls reports that were rife in Dhaka prior to the election that the CTG had distributed “positive” and “negative” lists of prospective candidates to the major parties prior to the election period, with a view towards encouraging the nomination of “clean” candidates and discour-

aging the nomination of politicians perceived to be corrupt. However, the BEC firmly denied having distributed any list to any political party. As described previously, accounts and rumors were rife in Dhaka prior to the elections of “positive” and “negative” lists of potential candidates; almost all reports, however, attributed the distribution of the lists to the the CTG, not the BEC.

8.6 The electoral campaign

The campaign period began on 12 December 2008 and continued through midnight on 27 December 2008. International observers noted that generally the campaign period was free of violence and conflict, and that political parties and candidates were generally able to express themselves freely, despite having to conduct their campaigns under a limited State of Emergency until 17 December. There were no complaints by parties or candidates of impediments to holding meetings or rallies.⁵⁷⁴ Candidates and parties had only ten days to



Despite a reduced campaign period, held partially under Emergency Rules, the campaign period was active. During the campaign candidates and parties made use of posters, as seen here, in Comilla. Photos courtesy of Renata Kuras.

campaign unfettered by the State of Emergency.

Typical campaign activities included rallies, playing campaign messages over loudspeakers, meetings and speeches. Local campaigns tended to be candidate-driven and focused on local development issues. Party leaders, most notably Sheikh Hasina and Begum Khaleda Zia, toured the country, presenting their parties’ manifestos. The EU EOM noted that the

AL and BNP's manifestos were strikingly similar, and that both parties promised to reach out to the opposition in Parliament after the election (including promises of committee chairmanships to the opposition, as well as the appointment of a Deputy Speaker from the opposition).⁵⁷⁵

The Commonwealth EOM typified the international observers' findings on the campaign period, stating that "there was public consensus that the campaign was much more peaceful, less disruptive to the public and less vitriolic than in previous elections."⁵⁷⁶ A newly introduced Code of Conduct required candidates to comply with a range of rules during the campaign period, including obtaining permission to hold rallies, banning the use of vehicles in processions, and limiting the design and type of posters that parties could display.⁵⁷⁷ This appeared to have been generally abided by, even though it was not strictly enforced by the BEC and some observer groups recorded violations by contesting candidates and political parties. For example, the leaders of the two major parties, Sheikh Hasina and Khaleda Zia, held large rallies before the formal campaign period began but no action was taken.⁵⁷⁸

The NDI EOM commented that while the BEC had tripled the campaign expenses ceiling of a candidate to 1.5 million taka (approximately USD 22,000) in the Code of Conduct, candidates appeared to exceed this amount significantly. According to TIB, approximately 87 per cent of candidates exceeded the campaign limits by a factor of three.⁵⁷⁹

8.7 The media

While media coverage of politics had been constrained by the State of Emergency, the media was able to cover the electoral process without restriction after the emergency provisions were lifted by the CTG on 17 December 2008. In fact, after 17 December there was no legal framework regulating media reporting on the electoral process and political campaigns, since the BEC's efforts to introduce a Media Code of Conduct were unsuccessful. While the media covered the elections actively, international observers reported that press coverage suffered from low professional capacity. This was particularly significant at the local level, where the political bias of newspapers was also stronger. The IRI EOM, for instance, commented that:

The typical political article would likely reflect only one side of the story, for example reporting on the words or actions of a single candidate or political party without providing a broader context or seeking comment from opponents, third party experts or even voters. The reliability of these types of stories is suspect not just for their journalistic shortcomings but because many journalists privately relayed to IRI observers experiences of threats and intimidation from locally powerful political and business figures to obtain favorable coverage.⁵⁸⁰

The EU EOM had a similar analysis, which noted that, "the readership and influence of the written press is more limited than for electronic media" and that "numerous media interlocutors" informed the EOM that the media "is organized on partisan lines and is divided and biased."⁵⁸¹ The allegations of threats and intimidation against journalists suggest that the problem of "muscle" was not entirely contained during the elections.

The Ministry of Information issued guidelines to state television and radio stations that all parties and alliances with 30 or more candidates should enjoy "equitable air time." The Commonwealth EOM found these guidelines "were a useful method to ensure fair representation across the political spectrum and were followed/adhered to by Bangladesh Television and Bangladesh Radio."⁵⁸² The EU EOM conducted an extensive analysis of the media's coverage of the elections, including the tone of coverage and airtime allocated to the various parties and to the CTG. The EU EOM found that the AL and BNP were indeed given extensive and fairly equitable coverage in print, radio and television media, and that the tone of the coverage was mostly neutral. However, the analysis found that the CTG received wider coverage in state-owned media (BTV and Bangladesh Betar) than did the political parties.⁵⁸³

The BEC signed a memorandum of understanding with BTV and the BBC World Service Trust to produce and air mayoral candidate debates for the August 2008 city corporation elections. The twelve mayoral debates were extremely well received, and were watched by between 18 and 21 million Bangladeshis of voting age.⁵⁸⁴ The BEC attempted to replicate

this effort for parliamentary elections, but was unable to secure the commitment of the leading party candidates and as a result there were no televised debates before the 2008 parliamentary elections.⁵⁸⁵

8.8 Electoral violence

International observers described the security environment during the polling process as generally appropriate and confidence inspiring. The Commonwealth EOM noted that the deployment of some 550,000 security personnel, including the police, the Armed Forces, Ansar, and the RAB, provided "order and confidence to voters."⁵⁸⁶ The IRI EOM echoed these findings, stating that its observers reported that "incidents of violence were extremely rare and did not interrupt the polling process significantly," and that the CTG's extensive deployment of security forces was appropriate.⁵⁸⁷ The ANFREL EOM reported that there were concerns raised about the high levels of security and the potential for the military to influence the polling process but, in the end, security forces were not observed interfering with the process.⁵⁸⁸

Overall, the election period was far calmer and more peaceful than previous national elections. Although there were disagreements on the seriousness or extent of election-related violence, one report stated that 15 people had been killed and 270 injured during the election period, compared to 400 killed and 17,000 injured during the 2001 elections.⁵⁸⁹ Another count was provided by Odhikar, a domestic human rights NGO that monitored electoral violence during the two weeks prior to the election in 40 districts of Bangladesh. Using a methodology developed by IFES, Odhikar reported 110 incidents of violence in which 336 people were injured. It found "the supporters/activists of the AL and BNP [to be] the most active participants in the violence that took place." While it did not draw comparisons with the levels of violence it reported in the 2007 pre-election period, Odhikar stated that "that police behavior had been improved and [police] responded better while maintaining [the] law and order situation during this reporting period."⁵⁹⁰

Although the levels of violence reported were still high, they represented a dramatic drop from previous election periods. Commentators attributed the reduction in violence in

large part to the continuation of the State of Emergency until shortly before the elections, which constrained the ability of political parties to organize the large demonstrations and street agitation that characterized previous elections. Some politicians and analysts had even urged maintaining the State of Emergency throughout the election period in order to forestall a return to violence.⁵⁹¹ The short campaign period also limited the time available for tensions and traditional enmities to get out of hand. The heavy, if restrained, presence of security forces, together with the short timeframe, also curtailed the use of "muscle" or intimidation as a campaign tool. All in all, the generally calm and peaceful environment for the campaign and election day marked a radical improvement which helped set the 2008 elections on a higher plane than most previous elections in Bangladesh.

There were also, unfortunately, some reports of post-election violence. The ANFREL EOM, for example, cited reports of a number of isolated violent incidents in which at least seven people were killed and over 265 injured in the wake of the elections.⁵⁹²

8.9 Voting

The parliamentary elections were conducted on 29 December 2008 in 35,263 polling centers and 177,311 polling booths. More than half a million polling staff supported the casting of 70,648,485 ballots.⁵⁹³ Voter turnout was reported to be 86.3 per cent, a very high number even by the traditionally large turnout standards in Bangladesh.

The Commonwealth EOM captured the positive tone of international observer reports in regard to election day, stating:

On election day, Commonwealth Observers reported that voters turned out in significant numbers in a largely peaceful environment. Frequently, long queues had already formed prior to the opening and the majority of people had voted by mid-day. The security presence was highly visible in most areas, but found to be helpful. Polling staff worked extremely hard and diligently to properly administer the process, and the necessary materials were all in place. Polling Agents and domestic observers were present in most of the Polling Centers visited.⁵⁹⁴

The polling process was conducted according



Over 70 million voters turned out on election day. The high turnout was manifested by long lines of voters at polling stations on election day. Photo courtesy of UNDP.

to the following procedures, which were designed to safeguard the integrity of the electoral process:

- Polling was open from 8:00 a.m. to 4:00 p.m.;
- People had to be on the electoral rolls in order to be allowed to vote;
- The identity of voters was checked against their photograph on the roll;
- No official ID was required to vote;
- Voters were checked for indelible ink to guard against double voting;
- Voters were marked with indelible ink on their thumb;
- The name and number of voters was made known to polling agents;
- The ballot counterfoil was stamped and the voter signed or made a thumbprint as proof of receiving the ballot;
- The ballot paper was officially stamped on the back;
- Each voter had to vote in secret.⁵⁹⁵

Voters deposited their ballots in translucent ballot boxes, which were also an innovation of the 2008 election. Translucent boxes provide a safeguard against ballot box stuffing or switching ballot boxes. The use of translucent boxes had been among the proposed election reforms advocated by a number of groups be-

fore the failed 2007 elections

The most consistent criticisms of voting day – which were expressed by all international election observation missions – concerned the organization of the electoral rolls and the presence of party “camps” at polling centers, where voters were able to obtain their voter ID (VID) number before entering the polling booths. The electoral rolls were arranged in sequence of VID, not name, address or NID number, which caused considerable confusion for voters. Because voters in most cases did not know their VID numbers, it was standard practice to stop first at a political party “camp,” or table where a party worker would help them find their VID number and identify their polling booth. The BEC had contemplated prohibiting the “camps” but decided in the end that they served a useful function, since without their presence lines would move far more slowly, and since the BEC did not have the personnel to establish such “camps” or “help tables” itself. According to observer groups, the parties took advantage of this situation to distribute campaign materials to voters, which was littered inside the polling centers. This could have been regarded as a violation of the prohibition against campaigning on election day. The need for voters to select which political party table to visit for assistance as well as pre-

senting their VID numbers to election officials on slips of paper carrying candidate names or party symbols could be seen as diminishing the secrecy of the vote.⁵⁹⁶

Observer groups also noted confusion over the use of NID cards, which many voters – and some election officials – thought were required in order to be able to vote. Many voters brought their NID cards to the polls, but these were not helpful in locating their names on the electoral rolls, since the NID number is not the same as the VID number. One observer group stated:

Ultimately, there was confusion at polling centers because neither the BEC nor the Home Ministry adequately communicated to the public that the ID cards were not, in fact, voter ID cards and, furthermore, that the ID numbers on the cards did not correlate with the voter sequence numbers on the electoral rolls. Further adding to confusion,

in addition to the voter ID number and the national ID number, each voter is also assigned a serial number during the registration process; many election officials searched the electoral rolls by serial number, while others searched by voter ID number. With several systems in place for identifying voters, but no consistency in implementation, the result was confusion among polling officials and the voters themselves.⁵⁹⁷

8.10 Postal voting

Postal voting was not implemented for the 2008 parliamentary elections due to the compressed electoral timeline, and the various legal issues regarding the cancellation of candidates' nominations, which required millions of ballots to be reprinted. According to election officials, postal voting will remain impos-

sible until the timeframe for printing ballots becomes more predictable.⁵⁹⁸ For future elections, the BEC plans to attempt to extend the election timeline in order to make postal voting feasible.⁵⁹⁹ Postal voting will remain problematic, however, unless there are changes in the timeline for resolving disputes over cancelled nominations in the HC, a bottleneck for electoral preparations.

8.11 Counting and tabulation

The counting and tabulation of electoral results was conducted transparently, and was generally assessed by observers as being in



Ballots were counted at polling stations. Results were tabulated at the district level by Returning Officers and released by the BEC on an ongoing basis. Photo courtesy of Renata Kuras. photo courtesy of UNDP

line with the BEC's prescribed procedures, which were summed up by one observer group as follows:

- Ballot boxes were opened and ballot papers taken out;
- Ballots were sorted and counted for each contesting candidate;
- During the sorting and counting, invalid ballots were separated;
- Valid ballots for each contesting candidate were put into separate packets;
- Invalid ballots were put into a separate packet.⁶⁰⁰

While observer groups noted some inconsistencies in how the vote count was conducted at polling center level, the overall consensus was that the final vote count reflected the result of the elections. One observer group concluded:

The count at the Polling Centers was generally well conducted and transparent. In the instances we observed, agents were able to receive a copy of the certified result and the result was posted at the Center. Observers noted some inconsistencies in the counting process, notably during the reconciliation process. In some Centers ballots were mixed from different boxes prior to the count while in others they were processed individually. Although in each observed case there was an attempt to do the best job possible, it was clear that there was a different understanding of what was required, possibly reflecting variances or deficits in the training.⁶⁰¹

While observer groups offered a positive overall assessment of the tabulation process at constituency level, some procedural irregularities were observed in preparing the final election results. The EU EOM, for example, reported unfortunate lapses in results reporting procedures. In its report the EU EOM noted:

[The] consolidation process, although transparent overall, was marred by a significant number of procedural and technical irregularities.... The official consolidation process was supposed to be performed exclusively by the ROs. At the same time the AROs were engaged in a parallel exercise of collecting unofficial results to be transmitted to the ROs and to the BEC HQ for the declaration of preliminary results, [which] was not supposed to interfere with the official consolidation process, conducted on official forms and exclusively the responsibility of the 66 ROs. [However,] both the informative network and the official consolidation process became entangled in a disorderly manner.⁶⁰²

8.12 Domestic observers

While the BEC accredited 96 domestic observer groups, the largest number of domestic observers was deployed through the EWG, a coalition of 32 local NGOs, which accredited approximately 155,000 observers for election day. Domestic observers faced restrictions in their deployment and accreditation, which the NDI EOM described as “regulations that over-regulated monitors in a manner that did not comply with international standards.”⁶⁰³ Despite difficulties in deployment, the EU EOM noted that it witnessed domestic observers

in approximately 64 per cent of the polling booths it visited.⁶⁰⁴ According to international observers, their domestic counterparts conducted themselves generally professionally and worked in coordination with international observer missions, although the IRI EOM noted some exceptions to the good standard set by most observers.⁶⁰⁵ Candidate and party agents, who are an important part of the election process, appeared to have been deployed in even larger numbers, as the EU EOM noted that agents were seen in almost all the polling booths visited by its observers.⁶⁰⁶ International observers did not report any significant problems regarding party or candidate agents.

8.13 Announcement and publication of results

The BEC announced preliminary election results through the night of 29 December 2008. The BEC’s announcements were broadcast live over the radio, television and the Internet. By the day following the elections, 30 December 2009, the BEC had published unofficial election results for all 299 constituencies where elections were held.⁶⁰⁷ It published official election results on 1 January 2009.⁶⁰⁸ The EU EOM noted that the BEC’s official results did not consolidate the numbers of votes cast for each candidate, and that final, consolidated election results had not been published by the time of its departure.⁶⁰⁹

In Bangladesh, official results are published, within a week from the polling day, in the Government Gazette. They include only the name of the candidate and the constituency in which he or she has won. Beginning with the ninth parliamentary elections, the BEC began to publish constituency results on its website.⁶¹⁰ In addition, after every election, the BEC publishes a consolidated election report titled “Statistical Election Reports” containing such information as the total number of parties participating in the elections, total number of candidates and their party affiliation, turnout, and total number of votes received by each party. The “Statistical Election Report” for the 2008 parliamentary elections was under preparation at the time of this study.⁶¹¹ While these reports provide more details on election results, they do not include results from polling centers. The information that was most rapidly and most easily available to the public were results on the BEC website, which included only

the totals received by each party/candidate in a specific constituency.⁶¹² Detailed constituency results are said to be available from ROs (although the study team could not verify how these were presented), and were published on the BEC's website months later. A consolidated election report, including information such as the total number of votes cast, turnout, and number of votes received by each party, was made available directly to the study team by the BEC, but did not appear to have yet been made available to the public at large.

In a fully transparent system, electoral stakeholders, including observers, should be able to track and verify electoral results promptly from the polling center level through all stages of the tabulation process to the final results. Ideally, these results should be publicly posted in detail, by polling center, at every level of tabulation, as well as on the Internet, as they are received by election administrators on election night. Providing this level of transparency can greatly increase confidence in election results, can serve as an important safeguard against manipulation, and can offer crucial evidence if any post-election controversies should arise.

8.14 Effectiveness of the complaints and appeals process

Complaints during the campaign period were addressed by 83 EECs. The EU EOM noted that:

The BEC claims to only have acted on approximately 30 received cases and all were resolved through negotiations without any legal action. EU EOM observers reported that the EECs indeed had an overall policy to resolve the matter through negotiations

and mediation and very few cases were actually filed. Alleged offenders were asked to rectify their action and were told that a second instance of misconduct would be punished. The observers also reported that the establishment of the EECs and their flexible approach to the offenders had a positive effect on the campaign period.⁶¹³

To deal with more serious violations, including fraud and bribery, the BEC appointed 286 judicial magistrates to adjudicate election offences. The EU EOM noted that one party activist was sentenced to 7 years imprisonment for serious violations of the Code of Conduct,⁶¹⁴ and the IRI EOM noted one instance where a challenge was made to an RO regarding constituency electoral results.⁶¹⁵ Overall, however, the observation missions noted no significant problems with the complaints and appeals process, and stakeholders seemed to be generally satisfied with the way electoral complaints were resolved. International observer groups left Bangladesh shortly after election day and were not present to report on any complaints subsequent to their departures. The resolution of electoral disputes between candidates continued to be dealt with by the courts for many months after the 2008 elections.

Although some political parties claimed that substantial numbers of election day irregularities occurred, they generally did not file official complaints, suggesting either that the complaints were not as serious as publicly claimed and that there was no material evidence to pursue such allegations, or possibly that the parties lacked confidence in the courts or other official adjudicating bodies to deal effectively with their complaints.⁶¹⁶

8.15 Chronology of events following the 2008 elections

6 January 2009	Sheikh Hasina sworn in as Prime Minister.
22 January 2009	Sub-district (upazila parishad) elections conducted for the first time since 1990 under the Upazila Parishad Ordinance promulgated in 2008. These elections see a lower turnout and increased incidents of violence as compared to the ninth parliamentary elections.
25 January 2009	First session of Parliament sees the initial participation of the BNP, but the party walks out prior to the opening speech by President Ijauddin Ahmed.
February 2009	RPO reforms, Election Commission Secretariat Act, and Voter Rolls Act adopted by Parliament in its first session.
11 February 2009	Awami League Member of Parliament, Zillur Rahman, sworn in as President.
25 February 2009	Mutiny of the Bangladesh Rifles inside the BDR HQs, in which 57 Army officers are murdered.
2 April 2009	Chairman of the Anti-Corruption Commission resigns; new Chairman appointed on 24 June 2009.
2 April 2009	By-elections conducted for 6 parliamentary constituencies using Election Commission staff as Returning Officers.
6 April 2009	Upazila Parishad Act passed by Parliament with changes from the original ordinance, including the provision that locally elected bodies act according to the advice of the local Member of Parliament.
25 June 2009	Law Minister discloses plan to charge 1,522 people with war crimes for acts committed during the War of Independence.
14 September 2009	Government approves an amendment to the RPO extending the deadline for parties to submit their ratified constitutions for party registration to January 2010.

9

The Post-election Scenario: Political Issues

The Post-election Scenario: Political Issues

The Grand Alliance, led by the AL, won a landslide victory in the December 2008 elections, capturing 262 (87 per cent) of the 300 contested seats. Moreover, the alliance secured an additional forty of the forty-five seats reserved for women. Following the elections, Sheikh Hasina was sworn in as Prime Minister on 6 January 2009. As President Iajuddin Ahmed summoned Parliament to its first session on 25 January 2009, the AL-led alliance stood to dominate the BNP and its partner JI, which collectively won only 37 seats in Parliament (including seats reserved for women).

9.1 The new government

Sheikh Hasina's government included a considerable number of comparatively young and new faces among its appointees, many of whom had not held any high position in national or AL party politics. This was consistent with the overall composition of Parliament, as 163 of the elected MPs had not served in Parliament before.⁶¹⁷ While commentators welcomed the inclusion of newer and younger elected members, it was also noted that the government appointments appeared to reflect the intra-AL dynamics of the CTG period, as so-called "reformist" party members were excluded from government appointments, while party members who had shown strong loyalty to Sheikh Hasina during her period of detention were apparently rewarded with ministerial appointments.⁶¹⁸ In January 2009, the AL nominated one of its veteran leaders, Zillur Rahman, as the next President. Zillur was elected without contest by Parliament on 10 February 2009 and sworn in the following day.⁶¹⁹

9.2 The Ninth Parliament

The BNP-led opposition's participation in the first session of Parliament on 25 January 2009 was widely received as a positive step. However, the opposition walked out of Parliament even before the outgoing President delivered his opening address on the first day of the first session. After the walk-out, the BNP stated that it had left the Parliament because President Iajuddin's actions had violated the Constitution and caused the two-year interruption in democratic rule.⁶²⁰ The BNP and its allies were subsequently absent from 17 of the 39 working days of the first session of Parliament,⁶²¹ which ran from 25 January 2009 to 7

April 2009. The second session, which ran from 4 June 2009 to 9 July 2009, was completely boycotted by the opposition. The BNP's stated reasons for boycotting Parliament were that the AL had allocated too few of the front row seats in the Parliament chamber to it (the BNP had demanded eight, but was only allocated five seats). The BNP was also upset over a notice received by Khaleda Zia from the Ministry of Housing and Public Works and from the Cantonment Board, asking her to vacate her residence in the Cantonment.⁶²² The BNP and its allies, however, were not alone in missing sessions of Parliament; at some stages the government – despite its huge majority – was unable to assemble the required quorum of 60 members to conduct business.⁶²³

The third session of the Parliament began on 7 September 2009 without the participation of the opposition. The BNP demanded that, as a precondition for its participation in Parliament, the seats in the front row of Parliament be re-organized, that security for the Leader of the Opposition Begum Zia be strengthened, and that discussions on specific matters, including the construction of the Tipaimukh Dam and the Asian Highway, be held. The AL suggested, in turn, that the opposition join the parliamentary session and put forward its proposals for consideration during the session. While the BNP's allies, JI and the BJP did not put forward any conditions for rejoining Parliament, they followed the BNP's lead in not participating in the parliamentary sessions.

The decision by the major opposition parties to boycott many of the early sessions of the new Parliament marked a return to the politics of boycott and rejection that had plagued previous Parliaments, hardly an auspicious sign

that the reforms adopted over the previous two years had changed the country's political culture.

9.3 Ratification of ordinances

One of the first tasks of the new government and the new Parliament was to deal with the 122 ordinances promulgated under the CTG. These would lapse if not confirmed by the Parliament within 30 days.⁶²⁴ Among the ordinances were many of the key election reforms of the past two years, including the amendments to the RPO, the Electoral Rolls Ordinance, the Election Commission Secretariat Ordinance, and the Upazila Parishad Ordinance. The ordinance establishing NIRA, which was to take charge of NIDs, was also before Parliament, together with a host of other reform issues.

While the Parliament did not adopt all of the CTG's ordinances, it did adopt laws enacting the main electoral reforms. In its first session, the Ninth Parliament adopted 32 acts, including the RPO Amendments, the Election Commission Secretariat Act and the Electoral Rolls Act.⁶²⁵ Although the ordinances were passed with some amendments, including the removal of the "no" vote option, these changes did not significantly compromise the reform initiatives of the BEC. According to the BEC, the government has been largely supportive of it, and did not attempt to influence preparations for the upazila or by-elections conducted after it took office.

In regard to the broader governance reforms initiated by the CTG, the picture was more mixed. While the Ninth Parliament did adopt the Upazila Parishad Act on 6 April 2009, the final Act contained significant revisions, including a change under which the elected members of the upazila parishad would have to act according to the advice of their MP. Although the introduction of the upazila system was designed to strengthen local governance, the move to reduce the autonomy of the elected upazila parishad leaders undercut the intention of devolving authority to the local level and was widely seen as a step in the wrong direction.⁶²⁶

The government also carried forward the Human Rights Commission,⁶²⁷ which was established by the CTG in December 2008. While some internal reorganization of the Human

Rights Commission occurred under the elected government, it remained at work and visible. However, the Human Rights Commission also came under fire by rights groups for "having no teeth,"⁶²⁸ and there were some indications that some people appointed to the Commission were likely to put political considerations above vigorous support for human rights.⁶²⁹

In another positive move, the government adopted the Right to Information Act, which increases the transparency of government undertakings. Although the act includes a significant number of exemptions, it was welcomed by civil society as an important step forward, provided it is implemented in good faith.⁶³⁰ Government appointments to the Public Service Commission, on the other hand, were reported by civil society groups to be less promising, as some of the individuals appointed were said to be partisan.⁶³¹

9.4 Continuity of anti-corruption drive

Under the CTG, the reconstituted ACC was a high profile and proactive body. However, the ACC's role in the anti-corruption campaign left its members with powerful enemies and lingering questions regarding whether political motivations may have influenced some of its targeting of corruption suspects. The Chairman of the ACC, Hasan Mashuud Chowdhury, resigned on 2 April 2009, following attacks by the chairman of the Parliamentary Standing Committee. Additionally, on 13 April 2009 a parliamentary panel leveled contempt charges against top officials of the ACC, including the former Chairman, for non-compliance with a legislative summons.

When the newly appointed Chairman of the ACC, Golam Rahman, assumed office on 24 June 2009, the Prime Minister made assurances that the ACC would continue to work as an independent organization and would address all corruption cases with professionalism. Nonetheless, the Parliament's rapid confrontation with the ACC did not appear to bode well for a robust continuation of the CTG's anti-corruption campaign.

Comprehensive data on the status of the anti-corruption cases filed against politicians during the State of Emergency had not yet been collected at the time this study was prepared.

However, according to some political observers, the cases against many politicians were being withdrawn. Some observers noted that it appeared that this was particularly true of the cases filed against AL politicians.⁶³² One BNP politician echoed this view, noting that in one instance, charges were filed against both Khaleda Zia and Sheikh Hasina in the same case but that charges were dropped only against the AL leader.⁶³³ In April 2009, the state prosecutor dropped two charges against Sheikh Hasina, stating that they had been filed for “political reasons.” The prosecutor also dropped 50 other cases, and continued to review approximately 800 cases filed during the CTG period.⁶³⁴ By 1 June 2009, the State Minister for Law, Justice and Parliamentary Affairs had received 2,781 applications to drop charges against prominent politicians in cases filed for “political motives.” Among those filing to have cases dropped were Sheikh Hasina and Khaleda Zia, as well as several government ministers. A single AL politician filed an application to have 85 cases dropped against him.⁶³⁵

9.5 Upazila and parliamentary by-elections

The Upazila Parishad elections in 481 upazilas, which parties had insisted should be delayed until after parliamentary elections, were held on 22 January 2009. The elections were conducted by the BEC under the Upazila Parishad Ordinance, which at the time had not yet been modified by Parliament. The BEC had drafted rules and a Code of Conduct, which specifically barred MPs from interfering in the elections.⁶³⁶ For the upazila elections, voter turnout was 68 per cent,⁶³⁷ down substantially from the parliamentary elections held less than a month before. The EWG, which was the only monitoring group to deploy a significant number of observers for the elections, assessed the elections as “acceptable,” despite noting a number of serious concerns.⁶³⁸

The upazila elections witnessed higher levels of electoral violence as compared to the parliamentary elections, although the government deployed the same number of security personnel – over 500,000 – across the country. On election day the BEC suspended polling in five upazilas and 50 polling centers due to violence.⁶³⁹ Police reported that at least two people were killed and dozens injured in separate

incidents of violence around the country during and after the upazila elections.⁶⁴⁰ Elections were cancelled in two upazilas before election day and in four upazilas on election day on account of violence.⁶⁴¹ On 5 February 2009, the BEC began to publish official election results of 431 sub-districts out of the 481. However, it withheld the results of others following allegations of irregularities. The number of upazilas where the BEC withheld election results steadily increased after election day, beginning with the suspension of election results in seven upazilas on 27 January 2009,⁶⁴² and increasing to thirty upazilas in which election results were withheld by 1 February 2009.⁶⁴³

The interference in the upazila elections by political party members caused the BEC to file at least two cases against elected MPs, including one State Minister, for violating the Upazila Code of Conduct and interfering with the elections.⁶⁴⁴ However, as none of the witnesses, including one local election official, appeared in court to give testimony, the cases against the elected politicians were dropped.⁶⁴⁵ The episode highlights the dependence of the BEC on the court system to enforce its rules, and demonstrates that the BEC’s powers extend only as far as permitted by the realities of the judicial system.

By-elections for six parliamentary constituencies were held on 2 April 2009 to fill seats vacated by the newly elected President and not claimed by other MPs who had won more than one seat. Sheikh Hasina and Begum Khaleda Zia had won elections in three constituencies each, while former President Ershad had won in two constituencies. In the by-elections, the AL won three seats, while the BNP won two seats, and the JP one seat. Although the voter turnout was lower than in the December 2008 elections, the by-elections were generally held in a peaceful manner. While some minor clashes between the supporters of the rival candidates took place, this did not affect the overall integrity of the process.⁶⁴⁶ Importantly, the BEC deployed its own officers to serve as ROs, rather than relying on the government’s administrative staff, demonstrating an increasing capacity to operate independently of other departments of government.

9.6 The Bangladesh Rifles crisis

On 25 February 2009 Bangladesh was shocked by a mutiny of the Bangladesh Rifles (BDR), a

paramilitary force charged with protecting the country's borders.⁶⁴⁷ The mutiny took place over a period of two days, and resulted in the killing of 57 army officers at its headquarters in Pikhana, in the heart of Dhaka. Additionally, at least six civilians, including a boy, died in the exchange of gunfire.⁶⁴⁸ The mutineers also murdered family members of the army officers who were residing on the BDR compound. By the second day unrest began to spread to twelve other towns and cities.⁶⁴⁹

The government's ability to react quickly was constrained by a lack of information on the scale of the massacre inside the BDR headquarters, and concerns that launching a military operation against the mutineers could endanger the safety of army officers and their families inside the cantonment, as well as the safety of the civilian population residing in the neighborhood of Pikhana.⁶⁵⁰ The government opted to negotiate a settlement with the mutineers, despite being under intense pressure from the Army to authorize military action. Fears that the mutiny could spread to other parts of the country resulted in a temporary shut-down of mobile phone networks. In the end, following negotiations with the government, the mutineers surrendered.⁶⁵¹

In response to the mutiny, comments by the government and opposition spokespersons raised the political stakes of the crisis. On 14 March 2009 a government minister stated that the motive for the BDR mutiny was to destabilize the country and hinder its progress under a democratic government. The minister observed that the plotters thought the military would counter-attack in response to the BDR murders, and that the situation would lead to a civil war-like situation. The minister even claimed that the government had evidence that several militant organizations had links to the mutiny.⁶⁵² On the other hand, the opposition blamed the government for not taking timely action to stop the mutiny, which, they asserted, resulted in the unnecessary loss of human lives. Khaleda Zia, the former Prime Minister, said that announcing the general amnesty while army personnel and their family members were confined in the BDR headquarters was "a strategic mistake." She said that the number of casualties rose due to a delay in giving permission to launch the operation for rescuing the army officers and their family members, and that time "was wasted in

the name of negotiations...."⁶⁵³

Immediately after the mutiny, the government formed several investigative committees, including one led by the military.⁶⁵⁴ In addition, the government invited international agencies, including the United States' Federal Bureau of Investigation and the United Kingdom's Scotland Yard, to assist its investigations. In the days and weeks following the incident, approximately 1,700 BDR members were arrested. The army investigation was completed by May 2009, but the Criminal Investigation Division had not yet concluded its investigation by the time this study was completed.⁶⁵⁵ In the meantime, the President sent a request to the Supreme Court asking for its opinion whether the trial of the mutineers could be held under military law. The Court sought the opinion of 10 prominent lawyers as *amicus curiae*, of which seven opined that it would not be possible to try the BDR personnel under military law.⁶⁵⁶

Human rights groups urged the government not to violate the rights of detained BDR members. In April 2009, the Human Rights Watch issued a statement urging the government to ensure a fair trial of the BDR members, and to transfer BDR members from military to civilian custody.⁶⁵⁷ Amnesty International also expressed its concern over the deaths of four detained BDR men. Amnesty called on the government to form an independent, impartial and competent body to investigate the deaths.⁶⁵⁸ The BDR crisis, occurring very early in the newly elected government's term, highlighted the fragility of politics in Bangladesh, and showed that the democratic government could be subject to severe challenges from unexpected quarters.

9.7 Political party councils

Only seven of the 39 political parties that were registered with the BEC under the CTG had submitted permanent constitutions in accordance with the RPO; the rest had to register by submitting their provisional constitutions. For these parties, ratified constitutions were due within six months of the first sitting of Parliament.⁶⁵⁹ Accordingly, the deadline for political parties to submit their permanent constitutions was 25 July 2009. However, as the deadline approached, ten political parties, including the BNP, requested that the BEC extend the deadline for submitting ratified constitutions.

The BEC subsequently requested that the government amend the RPO and accordingly the deadline for party registration was extended till 25 January 2010. However, 34 of the 39 registered parties submitted their ratified constitutions to the BEC by the original deadline, including the AL, which held its convention on 24 January 2009.⁶⁶⁰

A participant in the AL's council meeting suggested that the meeting was organized at the last minute and that the party's internal rules for selecting delegates from the grassroots may have been bypassed.⁶⁶¹ A BNP member stated that his party had asked for an extension in order to select delegates properly from the grassroots. He admitted, however, that this process appeared to have stalled and that the BNP would also have to organize its council hurriedly. It remains unclear to what extent the manner in which the party councils were conducted reflected the internal democratic practices that the BEC and CTG had hoped to instill through the RPO amendments.

9.8 Cases against violation of election laws

According to one prominent civil society leader, the BEC could have filed numerous cases against candidates for violations to the Code of Conduct for Parliamentary Elections.⁶⁶² The BEC, however, decided to pursue electoral violations with a light touch. According to the CEC, the BEC filed no cases against candidates for violations during the 2008 parliamentary elections, and did not invoke Article 91E of the RPO, which was intended primarily as a deterrent.⁶⁶³

However, according to election officials there were at least ten cases filed by outside parties against winning candidates, including a well-publicized case against BNP MP Salauddin Quader Chowdhury, who reportedly did not submit his educational qualification certificates during the nominations process. Another case was filed against a JP MP. While the BEC had attempted to resolve the Chowdhury case by requesting the MP to submit his qualifications after the election, he did not comply with the BEC's request.⁶⁶⁴ The BEC subsequently requested the Secretary of the Parliament to cancel the membership of the two MPs for having violated electoral laws.⁶⁶⁵ The cases were pending resolution with a special HC tri-

bunal for parliamentary affairs at the time this study was prepared.⁶⁶⁶

In another case, the Appellate Division of the HC made a final ruling on 18 October 2009, under which an elected AL member, Major (retired) Jasmin Uddin, was required to vacate his parliamentary seat for having violated the RPO's nomination requirements. A senior BNP politician had challenged Jasmin Uddin's nomination before the 2008 elections on the grounds that five years had not elapsed since his compulsory retirement from the Army.⁶⁶⁷ Despite this challenge, the BEC had allowed the AL politician to contest the election on the advice of the Judge Adjutant General of the Bangladesh Army. The HC, in its final ruling, overruled the BEC's decision to allow the AL politician to compete in the elections; this was upheld by the Appellate Division of the Supreme Court.⁶⁶⁸

9.9 Trials for war crimes

The AL's election manifesto included a promise that war criminals from the 1971 War of Independence would be brought to justice.⁶⁶⁹ From the very beginning of its tenure, the government expressed its strong determination to fulfill this commitment. Even before the formation of the new government, the Prime Minister-elect, Sheikh Hasina, sought help from the United Nations to conduct the war crimes trials, and continued to ask for United Nations support after assuming office. The Foreign Minister also sought help from the United Kingdom.⁶⁷⁰ In meetings earlier in Dhaka, the Foreign Minister had stated publicly that the government would seek to have war criminals extradited from foreign countries, and that the government wanted to establish Bangladesh as a secular country with a Muslim majority, rather than as a "moderate Muslim country."⁶⁷¹

In order to initiate war criminal trials, the government had to undertake a number of preparatory tasks, including making amendments to the existing "International War Crime (Tribunals) Act 1973," seeking international assistance and making preparations for a transparent trial process. In addition, the government had to stand up to domestic and international pressure against holding the trials, including from Pakistan and some Middle Eastern countries.⁶⁷²

On 29 January 2009, the Parliament, while

opposition law makers were absent, unani- mously approved a resolution seeking speedy prosecution of 1971 war criminals. Taking part in the discussions, the Prime Minister said that her government was gathering international experts' opinions on the issue. The most important and comprehensive feedback came from Human Rights Watch, which submitted its comments on the 1973 Act on 8 July 2009. In a letter to the Prime Minister, Human Rights Watch suggested a number of amend- ments to the Act, including amendments to the provision on the definition of the crimes being tried, the composition of the tribunals, ensuring the rights of the accused and setting up a defense office.⁶⁷³ The EU expressed its positive stance on the issue in May 2009, but urged the authorities to be sure to maintain international standards while conducting the trial process.⁶⁷⁴ On the other hand, a senior US diplomat reportedly cautioned that the Bang- ladesh Government should not politicize the issue of bringing war criminals to trial.⁶⁷⁵

On 6 April 2009, the government formally re- quested the United Nations to help it to probe the crimes committed in 1971 by the Pakistani Army and its local collaborators. The Law Min- istry, in a letter to the United Nations, sought its assistance to ensure that the investigation and prosecution of war criminals took place in conformity to international standards. In re- ply, the United Nations office offered to send experts to Bangladesh to assist in the process and help ensure that the trials meet interna- tional standards.⁶⁷⁶

With a view to prevent alleged war criminals from leaving the country, the Home Ministry on 30 January 2009 issued instructions to bar their departure from Bangladesh. Meanwhile, the government continued to focus on review- ing the International Crimes (Tribunal) Act 1973, and instructed the Law Commission to review and make proposals for amendments

to the Act. The Law Commission submitted its recommendations to the Ministry of Law, Justice and Parliamentary Affairs on 24 June 2009, recommending five major changes in the law.⁶⁷⁷ The five recommendations encom- passed excluding the Army from sitting on tribunals, holding proceedings in both English and Bangla, allowing for individuals other than members of the Army or auxiliary forces to be tried, ensuring the complete independence of the tribunals, and allowing for government appeal.

The Law Minister disclosed in Parliament on 25 June 2009 that 1,522 people, including a number of top leaders of JI, would be charged for allegedly committing crimes against hu- manity during the Liberation War.⁶⁷⁸ On 6 July 2009, after reviewing the Law Commission proposals, the Cabinet approved the Interna- tional Crimes Tribunal (Amendment) Bill 2009. One member of the AL suggested that the war crimes issue is being pursued with vigor by the government now because JI emerged as a powerful and influential force following the 2001 parliamentary elections. According to the party member, the war crimes trials are in part being supported by the public as a meas- ure to weaken that political party.⁶⁷⁹

Although there can be little doubt that there are legal merits and moral imperatives to pursuing charges against war criminals, the manner in which this matter was brought to the fore (as a political issue during an election campaign), together with the belated timing (almost 40 years after the events in question and after the issue was not seriously pursued the last time that the AL held power), have left the opposition with the impression that the planned prosecutions are politically motivat- ed.⁶⁸⁰ As such, the charges could contribute to a return to the politics of enmity among the major political parties.

10

**The Post-election
Scenario:
Structural Issues**

The Post-election Scenario: Structural Issues

10.1 The Representation of the People Order (Amendment) Act, 2009

The Representation of the People (Amendment) Ordinance 2008, was adopted as law by the Parliament on 24 February 2009, and approved by the President the same day.⁶⁸¹ With the adoption of this law, the bulk of the BEC's and CTG's electoral reforms were secured, including the changes to the political party registration requirements, candidate nomination requirements and campaign financing. The controversial Article 91E, which gave the BEC the power to cancel candidatures, was retained in its entirety.

When adopting the Act, the government made only a few changes from the original ordinance. The changes it made included removing the option of a "no vote," taking out "armed forces" from the definition of "law enforcing agencies," and adding the requirement that party constitutions could not reflect "the objectives of maintaining and nourishing party-less or one-party systems."⁶⁸² The government also added a provision under which Bangladeshi citizens living abroad would be entitled to a postal ballot.⁶⁸³ A few other small changes were also included. The government's changes did not significantly alter the spirit of the RPO amendments, especially since only a tiny percentage of the population opted for the "no vote" option in the 2008 parliamentary elections. Given that the postal voting system was not effectively implemented in the 2008 elections, the provision to allow Bangladeshis living abroad to request a postal ballot will present a significant implementation challenge for the future for the BEC.

Some changes in the law raised concerns by some observers that the government had deliberately attempted to change the law in order to weaken the BEC. The BEC, however, noted these changes as minor.⁶⁸⁴ The CEC acknowledged that the experience of the 2008 election showed that some loopholes in the law remain to be fixed in order to further improve election management. The BEC is reviewing these laws and will propose further amendments to the government.⁶⁸⁵

10.2 Election Commission Secretariat Act, 2009

The Election Commission Secretariat Act, 2009 was adopted by Parliament on 23 February 2009, and signed by the President on the following day. The Act was based on the ordinance promulgated under the CTG that formally separated the ECS from the Prime Minister's Office. The separation of the ECS from the executive was in line with Article 118 of the Constitution, which requires that the "Election Commission shall be independent in the exercise of its functions and subject only to this Constitution and any other law." Prominent features of the Act include the following:

- Independence of the ECS: The ECS will not be under the administration of any ministry, division or office; the Ministry of Law, Justice and Parliamentary Affairs will perform activities related to the formulation of laws on behalf of the BEC;
- Duties of the ECS: The ECS will perform all secretarial functions of the BEC, as well as any other function as directed by the BEC.
- Control of the ECS: The overall control of the ECS will lie with the CEC. The Secretary will be the administrative head of the ECS, which will work under his direct supervision. The CEC may give specific responsibility relating to the operation of the ECS to any other Commissioner or to any other official of the ECS through a notification or order.
- Financial autonomy of the ECS: The government will allocate funds to the BEC according to proposals submitted by the BEC and the BEC will not need any prior government approval for spending funds.
- Appointment of personnel: The ECS personnel will be appointed in accordance with the prescribed rules.
- Allocation of other manpower: The President will provide, in accordance with Article 120 of the Constitution, needed personnel as requested by the BEC.
- Expenditure: The BEC's decisions on expenditures will be treated as final.
- Administrative structure: An Operations and Management Committee will be formed to review and modify the administrative structure of the ECS. The com-

mittee will include the CEC as chairperson and all Election Commissioners, a senior representative from the Finance Division, a senior representative from the Establishment Ministry, and the Election Commission Secretary as members as members. The government will finalize the ECS's structure upon receipt of the recommendations of this Committee.

The Election Commission Secretariat Act, 2009 ensures that the BEC's decisions can be implemented without government interference, and gives the BEC formal authority to recruit and manage its own staff. This should allow the BEC to avoid charges that its staff has been appointed for political reasons, as were leveled, rightly or wrongly, against the BEC prior to the cancelled January 2007 elections. Much of BEC's senior staff continues to come from other government agencies on secondment. Although this is inevitable, in light of the large numbers of staff that are also put under the direction of the BEC during election periods, it could lead to allegations or perceptions of politicization, at least until Bangladesh can successfully depoliticize its civil service.

10.3 Updating the electoral rolls

The Electoral Rolls Act 2009 was signed by the President on 24 February 2009, having been only slightly modified from the 2008 Electoral Rolls Ordinance. According to Article 11 of the Act, electoral rolls must be updated annually between 2 and 31 January to include the names of eligible voters who turned eighteen and to remove the names of voters who became ineligible since the last update, as well as to correct the entries of people having changed their places of residence.

The BEC began to update the electoral rolls in March 2009 by testing its update methodology with a pilot project in Manikganj District. On 15 June 2009 the BEC implemented its update methodology, which is similar to initial voter registration procedures, as it included both an enumeration and a registration camp process. The updates would be likely to add an estimated 3.5 million voters to the rolls (approximately 3-4 per cent of the total roll) each year. For 2009, the BEC opted to conduct the updating process in phases, similar to the rolling process used for registration in 2007/2008. The planning at the time this study was prepared was to conduct the update in

four phases:

- Phase 1 would include 154 upazilas;
- Phase 2 would include 161 upazilas, 1 thana and 17 unions of Dhaka;
- Phase 3 would include 166 upazilas; and
- Phase 4 would include 6 city corporations.⁶⁸⁶

In the 2009 update process, the BEC registered both those voters who turned 18 in the year, as well of those voters who will turn 18 in 2010. Subsequently, it will not update the electoral rolls in 2010.⁶⁸⁷ The BEC is not concerned that its deviation from the letter of the voter registration law will lead to court cases similar to those that were lodged before the scheduled 2007 parliamentary elections. However, the BEC will seek to update the Electoral Rolls Act to make it consistent with procedure.⁶⁸⁸

Importantly, the BEC is updating the electoral rolls without the technical or logistical assistance of the Armed Forces. This major shift has required the BEC to train its own officials in the use of the requisite computer systems and technology, and to develop the capacity to implement the logistical aspects of electronic registration. The BEC will be further challenged since it lacks the special resources, such as helicopters and navy boats, which were deployed by the Armed Forces for voter registration. The BEC project began a skills transfer program in March 2009. Under this program, the Armed Forces conducted training for selected upazila Election Officers, who would then train their colleagues.

Electoral rolls updating, which has now become a core activity of the BEC, requires a cadre of ECS staff with the necessary technical skills to operate the required computer equipment and software, to maintain equipment at the local level, and to train and supervise temporary staff during the annual update process. To facilitate the creation of a physical infrastructure capable of making the voter registration and updating process sustainable, UNDP signed the Construction of Server Stations for the Electoral Database Project Document with the Elections Commission and Government of Bangladesh on 19 February 2009. Under a revised version of the project, 409 upazila server stations, 53 district server stations and 9 regional offices would be constructed by 2012 at a cost of USD 47.28 million.⁶⁸⁹

While the BEC is making provisions to increase the technical capacity of its staff to operate voter registration equipment and software, and is putting in place the physical infrastructure required to maintain computer equipment at the local level, the annual enumeration of the entire country is certain to be an expensive and time-consuming process. Accordingly, conversations have begun on shifting the voter registration to an entirely voter-initiated process, under which voters turning 18, or migrating, would present themselves at the local upazila election office to be added to the roll, rather than be captured through an enumeration process. The BEC has also discussed the possibility of registering citizens below the age of 18 in order to reduce the workload for subsequent years. The computerized system would allow such voters to be included in the database before reaching age 18, while not actually appearing on the electoral rolls until they have reached the required age.⁶⁹⁰

The NIDs will continue to play an important role in the voter registration process. They will remain an asset to the process by offering voters an incentive to come to registration centers or upazila election offices. The first session of the Ninth Parliament did not ratify the National Identities Registration Authority (NIRA) Ordinance, at the request of the BEC in as much as it wanted to retain control over its administration. A National Identities Registration Act drafted by the BEC was adopted by the Parliament in September 2009 that vested the management of identity cards with the BEC.

10.4 Changes in election administration

The BEC plans to professionalize its administration through integration, upgrading, and decentralization.⁶⁹¹ Unlike previous practices, the BEC plans to integrate field offices with the central office in Dhaka, which will be done in order to establish greater discipline in the overall ECS structure. At the same time, the integration process is intended to lead to the enhancement of the BEC's professional capacity at the local level⁶⁹² and to attract more qualified people to join the BEC.

The initiatives taken during the tenure of the CTG to upgrade the BEC, especially in terms of its constitutional autonomy and the abil-

ity to deliver services more effectively, will require it to develop its organizational capacity, especially in terms of sustaining the accuracy of the electronic voter database, in developing the capacity to update the rolls efficiently, and in establishing an upgraded service delivery mechanism at the local level. To this end, initiatives have been undertaken for the recruitment of skilled staff. The role of ETI in providing the BEC with capable personnel will increase. However, the ETI needs to be upgraded in order to fulfill this role effectively.

One of the BEC's planned initiatives is the construction of a permanent BEC office complex, where the central database station and training facilities will be located. The government has already allocated 83 decimals of land and the necessary resources for construction and relocation.

The appointment of BEC staff as ROs during the by-elections held on 2 April 2009 was one of the most important initiatives undertaken by the BEC since the parliamentary elections. This served as a "test case" to examine the feasibility of appointing BEC staff as ROs in future elections, rather than relying on other civil servants to fill these key electoral positions. While the BEC was pleased with the results of this test for the by-elections, it does not currently foresee being able to utilize its staff as ROs for national level elections, when far larger numbers of officers must be deployed.

10.5 Political party finance reporting

The RPO required both parties and candidates to submit accounts of their electoral expenses to the BEC and the ROs after the parliamentary elections. According to Article 44C of the RPO, candidates were required to submit income and expense statements to the BEC within 30 days of the declaration of election results. Article 44C required parties to submit expense statements within "ninety days of the completion of elections in all constituencies." Both candidate and party expenses were required to be reported in a format prescribed by the BEC. According to Article 74 of the RPO, non-compliance with the provisions of Article 44C is an "illegal practice," punishable by a prison sentence and fine. Political parties risked cancellation of registration for non-compliance with required finance reporting.⁶⁹³

While the BEC requested additional documentation from some political parties, including the BNP, it received all political party electoral expenses reports by the deadline of 31 March 2009. All but 140 of the 1,567 parliamentary candidates submitted their forms by the deadline of 31 January 2009. According to an election official, local electoral personnel were instructed to file court cases against the candidates who did not submit the required financial disclosures.⁶⁹⁴ Under the format prescribed by the BEC, parties were required to report on the amount donated to specific candidates, the amount spent on campaign activities, transportation, meetings, staff, residence, administration and “miscellaneous” items.⁶⁹⁵ Candidates were required to submit information on their expenses relating to campaigns, meetings, electoral camps, transport, administration and polling agents.⁶⁹⁶

According to their statements, all political parties spent less than their maximum expenditure limit, which was determined according to the number of contesting candidates. Additionally, all candidates reported that they spent less than their maximum allowable limit. TIB, on the other hand, assessed that candidates spent approximately three times the allowable limit. It is acknowledged by the BEC and political parties alike that the BEC does not currently have the resources or systems in place to verify or investigate the expenditure filings. The expense reports are, however, available to the public, and according to election officials, the media and public interest groups have been able to avail themselves of the candidate and party filings. The BEC plans to use the submissions it received to establish benchmarks for specific expenses that can be used in future elections to verify actual expenses.⁶⁹⁷

Reported campaign expenditures for political parties winning seats in the elections⁶⁹⁸

Party	Constituencies contested	Seats won	Expenditure limit (BDT)	Reported Expenditure	
				BDT	USD (68.4 BDT/ USD)
Bangladesh Nationalist Party	260	30	45,000,000	44,950,000	656,684
Awami League	264	230	45,000,000	36,026,974	526,325
Jamaat-e-Islami	39	2	7,500,000	7,472,408	109,166
Workers Party	5	2	7,500,000	1,475,000	21,549
Jatiya Party	49	27	7,500,000	1,367,000	19,971
Bangladesh Jatiya Party	12	1	7,500,000	924,500	13,506
Liberal Democratic Party	18	1	7,500,000	0	-
Jatiya Samajtantrik Dal	7	3	7,500,000	0	-

11

Conclusions and Lessons Learned

Conclusions and Lessons Learned

11.1 Successful elections

The ninth parliamentary elections, once they were finally held in December 2008, were a success. International observers pronounced the process to have been largely consistent with international standards. The environment was extremely calm and peaceful relative to previous elections in Bangladesh, with only a few incidents of violence and no widespread intimidation reported. After the State of Emergency was lifted, candidates and parties were able to campaign freely and without interference. The highest voter turnout on record, an impressive 86.3 per cent, was testimony to public interest and confidence in the process. The election administration operated efficiently and generally transparently. Tens of thousands of domestic election observers performed their duties without interference and lent further credibility to the elections.

The success of the new electoral rolls with photographs was a striking achievement. The rolls built confidence that all eligible electors would be enfranchised, while preventing the type of fraudulent practices and manipulation that had been associated with the flawed electoral rolls of the past. Political parties and other election stakeholders who had complained bitterly about the poor quality of the rolls two years earlier pronounced themselves fully satisfied.⁶⁹⁹ The BEC's achievement was recognized by counterpart commissions in other countries in the region, which invited the BEC to share its milestone experience internationally.

These were just a few of the achievements of the 29 December 2008 elections; many more have been described in the text of this study. There were, of course, also problems with the election process. Most notably, the State of Emergency did not allow for free campaigning until very shortly before election day. Political parties did not fulfill all of the new requirements on internal democratization and candidates did not adhere to the new campaign spending limits. Nonetheless, the overall process was clearly a success and represented the best elections to be held in Bangladesh since independence.

11.2 Lessons from the collapsed election process

Bangladesh had shown itself capable of conducting generally acceptable elections prior to 2006-2007, for example, the first post-independence elections and the elections of 1991, mid-1996 and 2001.⁷⁰⁰ Moreover, it had devised some unique procedures to ensure that elections were held in an impartial environment with equal conditions for all parties and candidates. The CTG system was designed as the ultimate guarantee that elections in Bangladesh would be conducted by a neutral body on a level playing field.

The first lessons of the collapse of the electoral process in early 2007, therefore, are that no system is foolproof and even the best guarantees of a free and fair process can be circumvented. Protecting and ensuring the success of an electoral process requires more than having good laws and procedures on the books. The crucial factor is that the authorities have the political will to hold free and fair elections, even if it may mean losing power. While opposition parties and other segments of society also have responsibilities to contribute to fair and honest election processes, it is the government that has the obligation to deliver free and fair elections.⁷⁰¹

While the CTG system provided strong protections for a fair election process, the system was not immutable. When the former government began to tinker with the CTG system through the adoption of the 14th amendment to the Constitution, without first seeking consensus with the opposition parties, it sowed the seeds that would grow into one of the major elements of the 2006-2007 political crisis: the question of who would become Chief Adviser of the CTG. Even with the adoption of the 14th amendment, the crisis might still have been avoided, if there had been a successful effort to bridge the gap of distrust between the two major political parties, in order to maintain general confidence in the integrity of the electoral system. The next lessons that can be drawn from the events of 2006, therefore, are the importance of political party buy-in to the election system and the importance of public confidence in the system.

In regard to the first of these, political party buy-in, it is worth recalling that there is no single model of democratic electoral system that is appropriate for all countries. Many types of systems can deliver democratic elections. The key to their success, however, is that the systems chosen are acceptable to all the major players in the electoral process. Electoral laws and procedures – more than other kinds of laws – should be subject to consensus because they set the rules of the game. Adopting electoral laws or procedures over the objections of major political parties, rather than seeking accommodation with them, can lead to serious negative consequences.

On the broader question of confidence in the electoral process, the level of public confidence is one of the primary indicators of the quality of an election.⁷⁰² The events in Bangladesh in 2006 showed how an election process is undermined if major political actors, or the public in general, loses confidence in the integrity of the process. By early 2007, the opposition had lost confidence in the CTG, in the BEC, in the impartiality of the civil service, and in the integrity of the electoral rolls. The election process might have survived one or more of these gaps of confidence, but it was unable to withstand them all.

Another key lesson from 2006-2007 is the extent to which violence is destructive of an election process. The levels of election violence in Bangladesh were alarming. The cycle of violent hartals, blockades and street agitation, combined with the security service response of disproportionate use of force and mass arrests, created an environment in which there was little possibility of a calm and responsible election campaign. The general problem of street violence was compounded by a pattern of deliberate, violent attacks against party activists and journalists, including assassination attempts, as well as the use of “musclemen” to intimidate groups of voters. The 2006-2007 process demonstrated vividly that fair elections require a peaceful environment in which candidates, political parties and citizens can campaign freely, without fear of violence, intimidation or retribution.

In the same vein, the politics of confrontation in Bangladesh in 2006-2007, even without their violent aspects, undercut the prospects for credible, fair and democratic elections. The

major parties tended to view and treat each other as enemies rather than as opponents. The autocratic nature inherent to the party structure in Bangladesh and the ensuing lack of internal democracy within the major political parties closed the door on the emergence of new approaches and left the parties unable to break out of their destructive cycle of confrontation.

The levels of confrontation were reinforced by a system in which the election results are turned into a “winner take all” syndrome leaving little incentive for the defeated parties to show moderation in their quest for victory. A lesson to be drawn from these circumstances is the importance of parties showing restraint in their actions and accepting the basic rules associated with peaceful campaigns. This could also be encouraged by modifications to the winner-take-all system, for example by guaranteeing that the opposition will hold certain positions of influence in the Parliament, and by devolving more genuine authority to the local level.

Although it may seem obvious, another lesson of 2006-2007 is the importance of letting candidates run for office without undue interference. This is a basic right⁷⁰³ that should be implemented and enforced. In 2007, it was the disqualification of former President Ershad as a candidate that finally caused the opposition to withdraw from the election process and drove the crisis to the precipice. Whatever the merits of the legal case against Ershad, disqualifying major candidates, especially on the eve of an election and on years-old charges, is a recipe for dissension and loss of confidence in the electoral process.

The corrupting influence of money on politics is yet another lesson of 2006-2007. As described in the text of this study, the prevalence of “Black money” had a corrosive effect on electoral politics in Bangladesh. Candidates virtually always exceeded the legal expenditure limits for campaigning. The cost of campaigns was becoming so high that only the rich could seriously contemplate running for office. Nominations were said to be for sale to the highest bidder. Vote buying and influence peddling were said to be rampant, and politics began to merge with corruption and criminality.

While many more lessons might be drawn from the collapse of the 2006-2007 election process, this already sizeable list covers many of the key issues that became the center of reform efforts. The list also contains lessons that can be broadly applied to democratic elections in general, whatever the country.

11.3 Lessons of the reform effort

Over a period of just two years, the BEC and the CTG were able to put in place a series of measures that transformed a failed election system into a successful one. The overarching lessons of this period are that reforms are possible, and that reforms can work when the political will exists to enact them and to ensure their implementation.

11.3.1 The benefits of systematic reform

The electoral reform efforts undertaken from 2007-2008 sought to systematically address the deficiencies that led to the failed elections in the past. These deficiencies were well known. The authorities could benefit from many studies, recommendations and reform proposals that had been put forward in the past by civil society, political parties, academics and international development partners. The BEC was successful in no small part because it took a comprehensive rather than a piecemeal approach to electoral reform, with measures aimed at each of the major deficiencies of the past. Some of the most important of these, as detailed in the text of this study, included:

- Political party reform, focusing on internal democratization of the party organization;
- Preparing an accurate electoral roll by adopting an electronic registration system with photographs and fingerprints;
- Reducing violence, including through prohibitions on party affiliate groups that had caused problems in the past, adopting and enforcing a new Code of Conduct for political parties and candidates, and providing a secure and peaceful atmosphere for campaigning;
- Reducing the influence of money in politics, by imposing campaign spending limits and candidate disclosure requirements, as well as a broad anti-corruption campaign;
- Ensuring the impartiality of the election administration through separating the

ECS from the Prime Minister's office and placing it fully under control of the BEC and bringing about many changes in its administrative procedures;

- Building public confidence in the integrity of the election process by ensuring transparency and openness in its operations and by undertaking a process of consultation on important matters with its stakeholders.

11.3.2 The consultative process

The BEC that took office in February 2007 inherited a situation in which confidence in the election administration – and in the election process in general – had eroded beyond measure. Rebuilding this confidence was a key challenge. The manner in which it did this provides crucial lessons for conducting activities in the future in Bangladesh, as well as in other countries. The BEC's success in building confidence was in large part due to its decision to hold an open and transparent consultative process on the question of electoral reform, involving the political parties, civil society and the media.

The process of consultations and the transparency of the dialogue yielded three major benefits for the BEC and the electoral process. First, the process benefited from the input of independent ideas and creative suggestions from a variety of sources, notably civil society organizations and the media that had carefully followed election issues. Obtaining this input resulted in better and broader reforms than would have been likely had the BEC opted to act on its own.

Second, even if the BEC could not implement all of the suggestions put to it during the consultations, the process of seeking and seriously considering the views of stakeholders, and implementing at least some of them, had an enormous impact in rebuilding the shattered public confidence in the electoral process, as well as confidence in the Commission. The consultative process gave stakeholders a sense of ownership that provided a solid foundation for a credible and acceptable electoral process. Including the media in the process of consultations helped ensure that the BEC's messages reached the public and that the Commission was portrayed in a more favorable light.

Third, and also crucial, the process of consulta-

tions contributed to the political parties' buy-in to the reformed electoral process and to the parties' eventual agreement to participate in elections, despite their reservations about some of the reforms. This approach addressed a fundamental deficiency of the 2006-2007 election period, which had failed in large part because one of the major parties ultimately refused to participate. The process of consultations with political parties was sometimes bumpy and did not win party support for all of the reforms enacted. A particular problem was that the initial decision to invite only the "reform" wing of the BNP to participate in the discussions led to a continuing distrust of the Commission by one of the country's two major parties. Overall, however, the Commission showed sufficient openness, flexibility and attention to the parties' concerns to ensure their participation in the elections. Examples of this flexibility included the Commission's agreement to extend the period for parties to amend their constitutions, to delay the final date for party registration, to postpone the upazila elections until after the parliamentary elections and to change the schedule of the parliamentary elections four times.

11.3.3 The electoral rolls

From a technical standpoint, the reform of voter registration and the creation of electoral rolls with photographs was by far the largest and most complex reform undertaken in 2007-2008. It was also one of the riskiest reforms politically, since failure could have meant both a significant delay in holding the elections and a collapse of public confidence in the BEC and CTG, which could have been hard to restore.

The challenges of creating a new voter register in any country can be enormous, even under a well-established system. These challenges include administrative hurdles, design difficulties, the availability of personnel and financial resources, organizational problems and public information issues. In Bangladesh, these problems were compounded by a combination of circumstances. The time available was short. The system chosen was new. The population was huge. The switch to a system that required voters to take the initiative to appear at registration centers posed a danger that many citizens might be left off the rolls. The requirement for photographs had the potential to conflict with cultural norms. The high rate of illiteracy complicated the already difficult problem of educating voters. Parts of

the country were remote and hard to access. As a poor country, finding the required financial resources was especially daunting. Even natural forces seemed to conspire against the effort, as a major cyclone and flooding hit the country just as the process was getting into full swing.

The timely completion of the electoral rolls with photographs provides the lesson that successful reform of voter registers is possible, even under extremely adverse conditions, if the process is properly planned and implemented. This is a lesson with wide applicability, since the poor quality of electoral rolls is a problem in so many countries.

The process undertaken in Bangladesh provides models of a number of good practices, which would benefit Bangladesh to maintain, and might also benefit other countries facing similar challenges with registration. Some of these included:

- Extensive advance planning in selecting systems and procedures, and careful attention to program design;
- Winning the support of political parties and civil society for the planned process;
- Testing the methodology and rolls in a few local elections before going national;
- Providing an incentive for registration, in this case, issuance of NIDs;
- Undertaking an extensive public information and voter education effort;
- Addressing potential cultural obstacles, for example by enrolling local Imams to reassure the population that photographing women was not contrary to religious principles;
- Acting in partnership with government agencies and with civil society to implement registration procedures;
- Developing procedures that were appropriate to the national context and could be implemented by national stakeholders, rather than attempting to superimpose vendor-recommended equipment and procedures that might have been far more expensive and not equally as appropriate;
- Building safeguards, double-checks and a public review period into the registration process;
- Seeking the partnership of international actors, such as UNDP and donor countries.

In Bangladesh, it proved to be a good practice for the Armed Forces to take a leading role in the registration process. This is an approach that may not have broad applicability for other countries, especially where the military may be regarded with suspicion as a part of the security services, or where they may be seen as having political ambitions. In general, voter registration should be a civilian activity, preferably under the full control of the election management body. In Bangladesh, however, only the Armed Forces had the technical skills, personnel resources, and logistical reach to carry out such a massive undertaking in the time available. Moreover, the Armed Forces was one of the most respected institutions in the country and was broadly regarded as politically impartial, reinforcing its acceptability as a partner in voter registration. In the end, a very large share of the success of Bangladesh's voter registration process was due to the effective systems established and implemented by the Armed Forces, and the good relationship established between the Armed Forces and the BEC.

11.3.4 The international role

The process of reform during 2007-2008 was intrinsically Bangladeshi and it is Bangladeshi institutions that deserve credit for its success. Still, international partners made a significant contribution to the process. In particular, development partners provided substantial amounts of financial support, much of it under the auspices of UNDP. The single largest contribution was some USD 53 million from several donors to the PERP project, providing more than half the financial resources needed to bring this key project to fruition. Donors also provided assistance to other important elements of the electoral process, from translucent ballot boxes to public information programs, as detailed in the text of this study. The comprehensive approach adopted by donors to electoral assistance paralleled the comprehensive approach to reform adopted by the BEC, ensuring that sufficient donor resources were available to support all aspects of the BEC's electoral process.

In addition to financial contributions, international donors provided technical advice and assistance. UNDP, for example, made available the services of a number of international experts to assist with the design, testing and implementation of the new electoral rolls. UNDP

and other donors provided recommendations to the BEC and the CTG on reforms to enhance the electoral process, many of which were implemented.

Donor assistance was effective in no small part because it was well coordinated. Nine development partners came together to help fund the preparation of the new voter rolls, pooling funding through UNDP. The Local Consultative Group and its subgroup the Election Coordination Group, ensured that the international community met regularly to exchange information, ensuring coordination at both the policy level and the technical level. The work of these groups avoided competition or duplication among donors and ensured that donors were well informed and remained supportive of the programs.

The international community also played a political role in trying to avert the crisis leading to the failure of the planned 2007 elections. During the difficult period at the end of 2006, international actors worked both behind the scenes and publicly to try help end the crisis. Two United Nations Secretaries General were among those involved, taking such initiatives as sending a personal envoy to Bangladesh, corresponding with political leaders to urge a solution, and making public statements. International actors continued to play a limited political role in the period prior to the 2008 election, offering encouragement and advice behind the scenes and sometimes more publicly through the visits of international envoys. Most notably, United Nations Secretary-General Ban Ki-moon visited Bangladesh in November 2008, a few weeks before the election. While the Secretary-General's visit covered the entire range of the United Nations' extensive relationship with Bangladesh, he used his visit to publicly encourage the political parties to engage constructively with each other and to urge the CTG to ensure that the fundamental rights and freedoms necessary for a free, fair and credible election were guaranteed.⁷⁰⁴ The Secretary-General also dispatched a High Level Panel to assess the elections and report to him.⁷⁰⁵

All of these actions and assistance testify to the important role that donors and the international community can have in supporting electoral reform. They also testify, however, to the limits of this influence. Although do-

nors had supported election commissions and their work in Bangladesh for many years, this did not result in conditions conducive to democratic elections in early 2007. The key lesson here is that while the international community can help bring about positive change when the political leadership is committed to it, its influence is likely to be marginal when sufficient political will does not exist. A clear implication of this is that donors should carefully assess the political context and the political will of key actors before becoming involved in electoral assistance. Providing electoral assistance when the political will to hold democratic elections does not exist may not only waste development funds, but may also associate donors with elections that fall far short of international standards.

A few other lessons for donors also emerge from the Bangladesh experience. First, a strong donor partnership with civil society can have wide-ranging benefits for democratic elections. Many impressive civil society organizations working on elections in Bangladesh were able to do so only because of international donor support. These organizations contributed many of the ideas that eventually became key electoral reforms. They conducted most of the public information campaigns on voter registration. They played a central role in building public support for the reform program. They served as watchdogs, actors and advocates on promoting civil liberties, combating corruption and other important election-related activities. They reached out to women, minority groups and other disadvantaged people to help ensure their full participation in the elections. And, not least, they deployed tens of thousands of observers on election day.

International financial support for civil society work of this kind is typically provided very close to election time, with limited attention to sustainability challenges. In Bangladesh, international donors recognized this challenge. The success of EWG and other civil society initiatives is in part attributable to the readiness of donors to provide resources early in the process. While the international community may not be in a position to invest on this scale in all elections to which it provides support, the Bangladesh experience demonstrates how valuable it can be to strengthen and maintain civil society capacity between elections.

Another lesson is that the presence of international observers – who are generally funded by donors – can also have an important positive impact in building public confidence, encouraging sound electoral practices, deterring fraud, highlighting shortcomings that should be addressed, and making recommendations for further improvements to the electoral process. The strong Bangladeshi reaction to the decision of international observer missions to suspend their activities before the scheduled January 2007 elections demonstrated the impact these groups can sometimes have on political, as well as technical issues.

In the final analysis, therefore, there are many ways in which donors can assist in creating conditions for democratic elections, while recognizing that elections are a national responsibility and that elections will only succeed where adequate political will exists.

11.4 Challenges ahead

There have been a number of positive developments since the return to democratic government in January 2009. The new Parliament, to its credit, adopted almost all of the electoral reform legislation introduced by the CTG, with very few changes. The new government has been supportive of the BEC, providing it with resources, support for its internal reforms and for upgrading its personnel. The process of transferring operational responsibility for the photographic electoral rolls to the BEC has so far proceeded well and the first annual update of the rolls has also been completed successfully. On the political front, all political parties have completed the process of amending their constitutions in line with the reform requirements. All of these trends bode well for the sustainability of the electoral reforms.

At the same time, however, some possible warning signals have emerged that deserve attention. The new government did not enact all the CTG's electoral reforms, for example, diluting the devolution of power to local authorities. It remains to be seen how forcefully and even-handedly the government will act on other election-related issues, such as corruption. The elections held in 2009 following the parliamentary elections – including local elections and parliamentary by-elections – were judged “acceptable” by domestic observers, an assessment well below the plaudits they accorded to the 29 December 2008

elections. An especially troubling aspect of some of these contests was an increase in political violence, sufficiently significant to cause a number of results to be cancelled, raising concerns that political parties are reverting to the negative practices of the past. Within the Parliament, the opposition parties have reverted to traditional politics of boycott. Outside the Parliament, there are some signs of the reemergence of politics of confrontation and retribution. The BDR mutiny raised the specter of possible instability.

At the time this study was prepared, it was still too soon to assess with confidence the extent to which Bangladesh's reform program would be sustainable. Many challenges remain. Some of these are technical, but still formidable, such as updating and maintaining the integrity of the electoral rolls, and designing a

credible process to implement the new legal provision allowing citizens abroad to vote. The more difficult hurdles ahead, however, are political. The challenges of the future will require substantial political will by the political parties, the Parliament and especially the government to ensure that conditions remain in place for free, fair and credible national elections. One crucial test that lies ahead will be ensuring that any newly appointed members of the BEC enjoy the support and confidence of all major political parties and the public at large. Another will be whether the political parties can find ways to cooperate better and to avoid a return to the politics of confrontation that brought the country to a precipice at the beginning of 2007. Bangladesh has shown that it can conduct solid, democratic elections; it is for the political leadership to ensure that it does so.



Notes

- 1 An electoral cycle spans the period from one election to the next and includes eight major components: the legal framework, planning and implementation, training and education, registration and nomination, the electoral campaign, voting and election day activities, verifications and results, and post-election activities. See: Electoral Assistance Guide, UNDP, 2007, p. 21.
- 2 The Constitution of Bangladesh, Articles 94 to 103.
- 3 From 1978 to 2001, there were 30 seats reserved for women, but the 14th Amendment of the Constitution in 2004 increased the number of reserved seats to 45. Plans are currently being formulated to further increase the number of reserved seats for women.
- 4 The CTG System was enacted under the 13th amendment to the constitution.
- 5 Constitution of Bangladesh, Article 58D(2).
- 6 Constitution of Bangladesh, Article 58C.
- 7 Source: Bangladesh Election Commission at www.ecs.gov.bd.
- 8 Constitution of Bangladesh, Article 59 and Article 60.
- 9 "2004 Country Governance Assessment," Asian Development Bank, Bangladesh, p. 48.
- 10 *Ibid*, pp. 48 to 49.
- 11 Bangladesh Election Commission: www.ecs.gov.bd.
- 12 Parliamentary elections were held in 1996 in February and in June, due to a dispute over the February 1996 results.
- 13 AL Constitution, "Fundamental Principles."
- 14 BNP "Party Ideology," from the BNP official website, www.bnnp-bd.com.
- 15 "Confrontation, Competition, Accountability – The State of Governance in Bangladesh," Institute of Governmental Studies, BRAC University, August 2009, Dhaka, p. 14.
- 16 The list of registered political parties may be seen at www.ecs.gov.bd
- 17 The BJP is a splinter-group of the original Jatiya Party. It previously was known as Jatiya Party (Naziur), after the late party chairman Naziur Rahman Manju. The party is registered with the BEC as Bangladesh Jatiya Party-BJP, in order to differentiate it from the JP. It is a member of the BNP's 4 Party Alliance.
- 18 The text of the Constitution of Bangladesh is available at www.pmo.gov.bd/constitution.
- 19 Interview with political party leaders, 16 October 2006.
- 20 An account of the bombings can be found in BBC News, 17 August 2005.
- 21 Information on the attack can be found in: New Age, 3 January 2010.
- 22 UNHCR Refworld.
- 23 See, for example, The Independent, 21 August 2009, Daily Star, 22 April 2006, and State of Governance in Bangladesh 2006, Institute for Governance Studies, BRAC University, p. 11-13.
- 24 See, for example, Report of the National Democratic Institute Pre-Election Delegation to Bangladesh's 2006/2007 Parliamentary Elections, 11 September 2006.
- 25 Matt Rosenstein, "The Political Crisis of Bangladesh's 'Moderate Muslim Democracy,'" The Illinois International Review, 30 January 2007.
- 26 Daily Star, 15 February 2006.
- 27 Daily Star, 22 April 2006.
- 28 Asian Human Rights Commission Report, 9 May 2006.
- 29 HighBeam Research, December 2003.
- 30 People's Daily, 26 October 2006.
- 31 Daily Star, 24 June 2006.
- 32 Interview with official of the Chamber of Commerce and Industry, Dhaka, 27 November 2006.
- 33 Voice of America, 31 March 2006.
- 34 Voice of America, 12 June 2006.
- 35 News from Bangladesh, Daily News Monitoring Service, 14 June 2006.
- 36 "Bangladesh," Country Reports on Human Rights Practices 2006, U.S. Department of State.
- 37 Human Rights Watch World Report 2007 – Bangladesh.
- 38 "Mission Report of the Electoral Needs Assessment Mission, Bangladesh," United Nations Electoral Assistance Division, unpublished public document issued July 2006. See also "Bangladesh Today," Asia Report No. 121, International Crisis Group, 23 October 2006.
- 39 "Mission Report of the Electoral Needs Assessment Mission, Bangladesh," United Nations Electoral Assistance Division, unpublished public document issued July 2006.
- 40 New Age, 17 November 2006.
- 41 "Mission Report of the Electoral Needs Assessment Mission, Bangladesh," United Nations Electoral Assistance Division, unpublished public document issued July 2006. Also interviews with BNP and AL leaders 16 and 19 October 2006.
- 42 Bangladesh Awami League News Post, 2 August 2006.
- 43 People's Daily, 22 September 2006.
- 44 Daily Star, 22 May 2006.
- 45 The list of demands and concerns is drawn from the Awami League Newsletter, Vol. 5, No. 4, 16 July 2006.
- 46 *Ibid*.
- 47 *Ibid*.
- 48 Interview with political party representatives, 19 October 2006.
- 49 At various times, senior leaders of the AL cited each of these demands as the most important. Interviews with AL leaders 16 October 2006, 27 and 29 November 2006.
- 50 Interview with BNP leaders, 30 November 2006.
- 51 *Ibid*.
- 52 "Mission Report of the Electoral Needs Assessment Mission, Bangladesh," United Nations Electoral Assistance Division, unpublished public document issued July 2006.
- 53 Awami League Newsletter, Vol. 5, No. 4, 16 July 2006.
- 54 Daily Star, 22 April 2006.
- 55 Interviews with political party leaders, October 2006.
- 56 Interviews with BNP and AL leaders, October 2006.
- 57 "Bangladesh Today," Asia Report No. 121, International Crisis Group, 23 October 2006.
- 58 BBC News, 31 October 2006.
- 59 For example, Mass-line Media Centre survey by journalists, conducted from January to June 2006, results released 8 November 2006.
- 60 "Second Survey on the Integrity of the Voter List," National Democratic Institute, 2006.
- 61 <http://www.bangladeshgateway.org/voterDilemma.php>.
- 62 New Nation, 12 June 2006.
- 63 Daily Star, 25 May 2006.
- 64 Daily Star, 26 June 2006.
- 65 "Mission Report of the Electoral Needs Assessment Mission, Bangladesh," United Nations Electoral Assistance Division, unpublished public document issued July 2006.
- 66 Election Working Group, Quick Survey released 8 November 2006; FEMA Survey released 10 September 2006; Democracy Watch Voter List Updating Survey released 8 November 2006; JANIPOP Survey released 8 November 2006. Summary of surveys from "Quality Checks: Voter Registration (National Surveys)," internal UNDP document.
- 67 Interviews with political party leaders, October 2006.
- 68 Interview with civil society representatives, 9 October 2006.
- 69 Daily Star, 28 November 2006.
- 70 Constitution of Bangladesh, Article 118.
- 71 Awami League Newsletter, Vol. 5, No. 4, 16 July 2006.
- 72 Interview with international election expert, Dhaka, 15 October 2006.
- 73 See, for example, "Report of the National Democratic Institute Pre-Election Delegation to Bangladesh's 2006/2007 Parliamentary Elections," 11 September 2006.
- 74 Interview with political party leaders, 11 November 2006.
- 75 <http://www.freedomhouse.org/template.cfm?page=140&edition=8&ccrcountry=149§ion=83&ccrpage=37>.
- 76 Mission Report of the Electoral Needs Assessment Mission, Bangladesh," United Nations Electoral Assistance Division, unpublished public document issued July 2006, p. 19
- 77 *Ibid*.
- 78 "Ninth National Parliamentary Election: Ongoing preparatory works," October 2006.
- 79 Interview with senior BEC official, 17 October 2006.
- 80 Interviews with a wide range of election stakeholders, Dhaka, October 2006.
- 81 Daily Star, 28 October 2006.
- 82 Daily Star, 30 October 2006.
- 83 Interview with political party leader, 29 November 2006.
- 84 "Report on Electoral Violence 17 October to 30 October 2006," Prepared by Odhikar and IFES, 13 November 2006.
- 85 Amnesty International Report on Bangladesh, 2007. <http://www.amnesty.org/en/region/bangladesh/report-2007>.
- 86 Report on Electoral Violence 17 October to 30 October 2006," prepared by Odhikar and IFES, 13 November 2006.
- 87 Interviews with political party leaders, November 2006.

- 88 Center for Policy Dialogue, Brief 2006. <http://www.cpd.org.bd/html/Policy%20Brief/sub%20folders/recent%20activities/Nagoric%20Forum.html>; interview with former CTG Adviser, 11 November 2009.
- 89 Interview with former CTG Advisers, 26 November 2006 and 30 November 2006.
- 90 Interview with former CTG Advisers, 26 November 2006 and 30 November 2006.
- 91 Interview with former CTG Adviser, 26 November 2006.
- 92 Article 118 (5) of the Constitution states that "an Election Commissioner shall not be removed from his office except in like manner and on the like manner and on the like grounds as a judge of the Supreme Court."
- 93 Interview with former CTG Adviser, 30 November 2006.
- 94 Amnesty International Report on Bangladesh, 2007.
- 95 Interview with political party leaders, 27 November 2006.
- 96 Forum, Vol. 1, Issue 2, December 2006.
- 97 Ibid.
- 98 Daily Star, 30 November 2006.
- 99 "Bangladesh Today," Asia Report No. 121, International Crisis Group, 23 October 2006.
- 100 European Parliament Resolution on Bangladesh, 16 November 2006, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2006-0502+0+DOC+XML+V0//EN>.
- 101 Daily Star, 20 November 2006.
- 102 "Visiting UN Mission perceives Strengths, Concerns, on Elections," press release of 28 July 2006 on the departure of the United Nations Electoral Needs Assessment Mission from Bangladesh.
- 103 Statement on Bangladesh attributable to the Spokesman for the UN Secretary-General, New York, 30 October 2006.
- 104 Statement on Bangladesh attributable to the Spokesman for the UN Secretary-General, New York, 27 November 2006.
- 105 Press Statement by Craig Jenness, Dhaka, 1 December 2006.
- 106 Ibid.
- 107 "Report of the National Democratic Institute Pre-Election Delegation to Bangladesh's 2006/2007 Parliamentary Elections," 11 September 2006.
- 108 <http://www.cpd.org.bd/html/Policy%20Brief/sub%20folders/recent%20activities/Nagoric%20Forum.html>.
- 109 NDI survey, interview with NDI, Dhaka, 27 November 2006.
- 110 Ibid.
- 111 BangladeshNews.com.bd, 31 December 2006.
- 112 National Democratic Institute Election Watch 31 December 2006.
- 113 Interview with senior BEC official, December 2006.
- 114 Abdul Momen Chowdhury and others vs. Bangladesh.
- 115 "Bangladesh: Integrity Indicators Scorecard," Global Integrity Report.
- 116 New Age, 5 December 2006.
- 117 Daily Star, 13 December 2006.
- 118 Interview with domestic human rights organization, December 2006.
- 119 "Bangladesh," Country Reports on Human Rights Practices 2006, U.S. Department of States.
- 120 <http://www.dawn.com/2006/12/15/top14.htm>.
- 121 Asian Human Rights Commission, 8 January 2007.
- 122 The number of member organizations has fluctuated over the EWG's lifespan. At its inception, in 2006, the coalition had 35 members. The number of partners had been reduced to 33 in January 2007, and before the 2008 elections the EWG had 32 members.
- 123 Daily Star, 9 January 2007.
- 124 Statement on Bangladesh attributable to the Spokesman for the UN Secretary-General, New York, 10 January 2009.
- 125 "European Commission suspends its Election Observation Mission to Bangladesh," European Commission Press Release, 11 January 2007.
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