

# **BANGLADESH PARLIAMENTARY ELECTIONS**

**29 December 2008**

## **REPORT OF THE COMMONWEALTH OBSERVER GROUP**



**Commonwealth Secretariat**

# **Bangladesh Parliamentary Elections 2008**

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# Chapter 1

## Introduction

At the invitation of the Foreign Affairs Adviser of the Caretaker Government and following the full lifting of the State of Emergency on 17 December 2008, the Commonwealth Secretary-General, Kamalesh Sharma, appointed an Observer Group for the People's Republic of Bangladesh Parliamentary Elections scheduled for 29 December. The Group was led by H.E. Mr Cassam Uteem, former President of Mauritius and comprised nine eminent persons. The Observers were supported by a seven-member staff team from the Commonwealth Secretariat. A full list of members is at Annex 1.

### Terms of Reference

*The Group is established by the Commonwealth Secretary-General at the invitation of the Foreign Affairs Adviser of the Caretaker Government of Bangladesh. The Group is to consider the various factors impinging on the credibility of the electoral process as a whole.*

*It will determine in its own judgement whether the elections have been conducted according to the standards of democratic elections to which the country has committed itself, with reference to national election-related legislation and relevant Regional, Commonwealth and other International commitments.*

*The Group is to act impartially and independently. It has no executive role; its function is not to supervise but to observe the process as a whole and to form a judgment accordingly. It would also be free to propose to the authorities concerned such action on institutional, procedural and other matters as would assist the holding of such elections.*

*The Group is to submit its report to the Commonwealth Secretary-General, who will forward it to the Government of Bangladesh, the Election Commission, political parties taking part in the elections and thereafter to all Commonwealth Governments.*

### Activities

The Observer Group arrived in Bangladesh on 22 December. During four days of briefings the Group met with the Bangladesh Election Commission, political party representatives, civil society groups, media, Commonwealth High Commissioners, international organizations, and domestic and international observer missions.

The Commonwealth Observer Group was deployed on 27 December. Two-person teams travelled to each of the country's six divisions- Dhaka, Chittagong, Rajshahi, Barisal, Khulna, and Sylhet. On election day the teams visited a total of 30 constituencies.

During the deployment phase, Commonwealth Observers met with Deputy Election Commissioners, Deputy Commissioners, Returning Officers, District Election Officers, Election Enquiry Committees, police officials, other Observers, regional representatives of political parties, candidates, media, polling agents, polling officers and voters.

On the basis of the Group's finding and observations the Chairperson issued an Interim Statement on 31 December [Annex 3]. The Group's Report was completed in Dhaka prior to departure and transmitted to the Commonwealth Secretary-General on 4 January 2009.

## Chapter 2

### Political Background

The December 2008 elections marked the culmination of an unprecedented two-year period under a Caretaker Government administration.

In late 2006, political disputes over electoral arrangements brought Bangladesh to the brink, prior to the elections scheduled for 22 January 2007. At that time the opposition Awami League (AL) repeatedly demanded the replacement of the Chief Election Commissioner, whom it accused of compiling a ‘fraudulent’ voters’ list. The AL also alleged that the proposed head of the constitutionally mandated Caretaker Government (CTG) that would oversee parliamentary elections (who had been extended in his post as Chief Justice through an alteration to the retirement age for judges), was biased towards the ruling Bangladesh Nationalist Party (BNP).

A highly polarized political culture with a history of assassinations and contested political legitimacy made the resolution of these disputes very difficult. The controversial head of the CTG stood down, only to be replaced, even more contentiously, by the President, Iajuddin Ahmed. An escalation in organized and often violent street protests brought the country to a standstill and brought the army onto the streets to maintain law and order.

On 3 January 2007, the AL announced it would boycott the polls. As it became clear that credible elections could not be held as scheduled, the Chief of Army Staff convinced President Ahmed that he needed to take decisive action. Having considered his options, the President imposed a State of Emergency on 11 January 2007, under Art 141A of the Constitution. Elections were postponed, and a new Caretaker Government under Chief Adviser Fakhruddin Ahmed, was sworn in. This event is commonly referred to in Bangladesh as “1/11”.

Under the State of Emergency and the Emergency Powers Rules (EPRs) enacted by the CTG, fundamental rights relating *inter alia* to the freedom of movement, association, assembly and speech were suspended. Constitutional safeguards against arbitrary arrest and detention were also suspended. The EPRs further banned “provocative statements” against the CTG, and stated that the Rules themselves could not be challenged in the courts.

The State of Emergency remained in place until 17 December 2008 although with varying degrees of implementation and periodic relaxation of some provisions. In the second half of 2008 the EPRs were successfully challenged in the courts.

The CTG set out an ambitious reform agenda focusing on a new voter list, tackling corruption in public life, and reforming political parties. These aims were met with varying degrees of success.

The CTG remained in office well beyond the constitutionally mandated 90 days. In April 2007, it announced that elections would be held by the end of December 2008.

Under the leadership of a new Chief Election Commission, Dr ATM Shamsul Huda, a reconstituted Election Commission embarked on the compilation of a fresh voter list with photographs. With technical help from the army and funding from international donors, the details of more than 81 million eligible voters were electronically documented. At the same

time, voters were issued a National Identity Card capable of storing biometric data. The new voter list, which was first tested during municipal and city corporation elections in August 2008, was regarded as a vast improvement on the previous, inflated list, which had contained around 13 million incorrect entries. All political parties accepted the new voter list.

The CTG's aim to root out corruption among politicians and public officials was initially welcomed. A new Anti-Corruption Commission led by Lt. Gen.(Retd) Hasan Masud Chowdhury initiated investigations and prosecutions of several hundred politicians, former Ministers and public officials. Cases were also brought against Khaleda Zia and Sheikh Hasina, both of whom were jailed in mid-2007. Special fast-track tribunals were set up to try people under the EPRs. Amid growing criticism that the corruption drive had become excessively politicized, and following a debate over jurisdiction, the High Court granted bail to a number of persons convicted by these special courts.

The CTG's most ambitious aim was to reform the political parties by introducing greater accountability, transparency and intra-party democracy, as illustrated by significant amendments to the country's electoral law- the Representation of People Order (RPO), 1972. More contentiously, the administration attempted to bring about a change of leadership in the AL and BNP by attempting to exclude their two party leaders from active politics. This became known as the "Minus Two Formula."

Sheikh Hasina and Khaleda Zia were both placed under detention in houses in the Parliament compound from June 2007 to July 2008 and September 2007 to September 2008, respectively. They were both eventually granted bail on medical grounds. While the party leaders were in detention, the CTG was widely believed to have supported attempts to create "reformist" factions of the AL and BNP under new leadership. The release of the two leaders and the suspension and subsequent withdrawal of the court cases against them represented a CTG concession to the AL and BNP, who refused to participate in elections unless their respective leaders were freed.

In September 2008, the Election Commission set the date for the elections as 18 December. The BNP and AL asserted that credible elections could not be held under the prevailing State of Emergency. The parties further demanded the postponement of local government (*upazila*) polls, scheduled for late December. They also expressed strenuous objections to the amended RPO.

The BNP and its electoral allies further called for the postponement of the election date because they believed that the proposed date favoured the AL. Their threats to boycott the polls, unless the election date was changed and a date set for the lifting of the State of Emergency, eventually resulted in the Election Commission and the CTG agreeing to both BNP conditions. The election date was eventually shifted to 29 December 2008, which was accepted by all parties. On 11 December, the Chief Adviser announced that campaign restrictions (right to assembly, association and speech) would be lifted from 12 December and the State of Emergency would be fully lifted on 17 December.

### **Main Political Parties**

Bangladesh is a politically vibrant country and has a large number of political parties. Mandatory political party registration was introduced for the first time in Bangladesh as per the 2008 Ordinance which amended Representation of People Order, 1972. Of the 107 political parties who applied for registration under the amended Order, only 39 were found eligible to be registered for the elections in December 2008.

Bangladesh politics is characterised by the domination of the two largest parties, the Bangladesh Nationalist Party (BNP) and the Awami League (AL), which have alternated in

power since the return of democratic government to the country in 1991. The BNP was in power from 1991 to 1996 and then from 2001 to 2006, while the AL was in power from 1996 to 2001. Both parties have forged electoral alliances with smaller parties at different points in time. Other parties that have played a significant part in Government in recent years include the Jatiya Party (JP) and the Jamaat-e-Islami (JI). For the 2008 parliamentary elections, the BNP entered the fray leading the same 4-Party Alliance, including the JI, which was in power until 2006. The AL entered the elections leading a Grand Alliance of 14 parties, including the Jatiya Party of former President Ershad.

**Awami League** - The Awami League played a critical role in the establishment of an independent Bangladesh from Pakistan in 1971. Its leader, Sheikh Mujibur Rahman, was the country's first Prime Minister (and later President). He was assassinated in 1975 in a military coup. His daughter, Sheikh Hasina, has led the party since 1984.

The party is considered to be left of centre in its policy orientation although during its term of office from 1996 to 2001 it supported free market policies. The party stresses its secular credentials and has taken a particularly hard line against the JI, which cooperated with the Pakistani forces during the liberation war of 1971. In the build up to the 2008 elections, the AL pushed hard for the removal of the State of Emergency and for certain changes to be made to the provisions of the amended RPO.

**Bangladesh Nationalist Party (BNP)** - The BNP was founded seven years after independence, in 1978, by Ziaur Rahman, former Army Chief and Chief Martial Law Administrator from 1976 to 1978. He had taken over as President of Bangladesh in 1977. Following President Rahman's assassination in 1981, his widow Khaleda Zia took over leadership of the party in 1984 and led the party to election victory in 1991 and again in 2001. In a poll boycotted by the main opposition parties, BNP was declared the winner of the February 1996 election. The Government was forced to resign in March 1996 and fresh elections were held in June 1996, which were won by the Awami League.

BNP is considered to be right of centre in its orientation and is generally more popular among the country's business community. The party stresses that Islam is an integral part of the socio-cultural life of Bangladesh. This political stance is illustrated through its alliance with the JI. The BNP-led alliance was the last democratically-elected government in power in 2006 before the army intervened and a new Caretaker Government installed in January 2007.

**Jamaat-e-Islami (JI)** - The Bangladesh Jamaat-e-Islami (as it is now called) is the most prominent Islamist party in the country. JI in Bangladesh emerged from its parent Pakistani organisation in 1971. Allegations of collusion with the Pakistan army during the 1971 war of liberation led to the banning of JI from 1972 to 1977. Later, it rebuilt its constituency and won 17 seats in the 2001 elections. It subsequently joined its senior alliance partner, the BNP, in the 2001-06 Government.

JI advocates a greater role for Islam in public life and promotes the establishment of an Islamic social order through education, democratic and constitutional means. The leader of the party is Matiur Rahman Nizami.

**Jatiya Party (JP)** - The Jatiya Party was created by President Ershad. A former Army Chief who assumed power in a coup in March 1982, Lt. Gen Ershad declared himself President in 1983. The Jatiya Party won the 1986 parliamentary elections, which were boycotted by the BNP but not by the Awami League. The party subsequently partnered with both the BNP and the AL at varying points in time to form the Government. The party split into different factions in 2000, although the main faction has continued to be the one under former President Ershad.

For the 2008 election, the JP continued its alliance with the Awami League, but there were several complications in the actual seat sharing process.

### **The Election Campaign**

The formal campaigning process for the 2008 elections began on 12 December, one day after the deadline for withdrawal of nominations. Most restrictions of the EPRs, such as the right to hold processions and rallies, were also removed on 12 December. The remaining emergency provisions were removed on 17 December. So, in effect, most of the campaign period was free from the emergency provisions and provided a sound basis for a rigorous and open campaign.

For the first time there was a Code of Conduct in place for the parties that, for example, provided for restrictions on campaign expenditure, the size and type of publicity material and specific timings of public meetings. The Code was largely adhered to by the parties, in spite of their initial resistance. In fact it was the parties that kept a strong watch on their counterparts' adherence to the rules set by the Election Commission.

There were no significant disturbances reported during the campaign period and less inflammatory language was used by candidates as compared to previous elections. The focus of the BNP during the campaign was on the need to protect national sovereignty as well as the position of Islam in the country. The Awami League spoke of rebuilding the country's infrastructure and reducing the prices of food and fuel. They and other groups advocated the need to prevent "war criminals" from participating in the elections, a reference to the JI. In this context, JI filed an official complaint with the Election Commission against a particular news report broadcast by ATN Bangla on 16 December (Victory Day in Bangladesh, the day that Pakistani forces surrendered in 1971.)

There were some reports of threats to the life of Sheikh Hasina, and later some allegations were made that grenades found a few kilometres away from a rally that Khaleda Zia had just addressed, were actually aimed at assassinating her.

The two leaders took different approaches to campaigning. Begum Zia travelled across the country, addressing hundreds of rallies over the two weeks before the elections. Sheikh Hasina addressed fewer rallies in person, but used the technology of video conferencing and conference calls to reach her supporters effectively in different parts of the country.

In the end, there was public consensus that the campaign was much more peaceful, less disruptive to the public and less vitriolic than in previous elections.

### **Results**

Results declared by the Election Commission on 1 January 2009 listed the Awami League with 230 seats out of 299 seats for which elections were held (a by-election to one remaining constituency would be held in early January 2009). In 2001, the party won 62 seats. The BNP this time obtained 29 seats, down from the 193 it won in the 2001 elections. The Jamaat-e-Islami secured 2 seats, down from 17 which it won in 2001. The Jatiya Party secured 27 seats this time, up from the 8 it gained in 2001.

Together with its allies, the AL's Grand Alliance now has a total of 262 seats. The BNP's 4-Party Alliance has 32 seats.

87% of registered voters participated in the 2008 polls, compared to 75.59% in 2001. This represented the highest recorded voter turnout in the country's history. Analysis of vote share



indicated that the AL had gained 49.02% (34.56 million votes) of the popular vote, compared to 40.13% in 2001. The BNP's vote share was 32.74% (23.09 million votes), down from 40.97% in 2001. The Jamaat-e-Islami saw its vote share increase slightly, from 4.28% to 4.55%. The Jatiya Party's vote share was slightly reduced, down from 7.25% to 6.65%.

It was also reported that 0.55% of the voters (383,000) exercised their right to not vote for any of the listed candidates (a "no" vote), introduced for the first time in this election. The highest number of "no" votes (30,000) was recorded in Rangamati constituency in the Chittagong Hill Tracts.

## Chapter 3

### The Legal Framework and Election Administration

#### The Legal Framework

The People's Republic of Bangladesh is a unitary state with a unicameral parliament (known as the House of the Nation - *Jatiya Sangshad*) consisting of 300 directly-elected members from single territorial constituencies. In addition there are 45 "reserved seats" for women, who are elected by the members of Parliament on a proportional representation basis using the system of a single transferable vote.

Directly-elected members are elected on a first-past-the-post basis, i.e. whichever candidate secures the most votes is the winner. There is no requirement for an absolute majority and no turnout requirement. On the ballot, voters have the choice to cast a vote for "none of the above" known as a "no vote". If the "no vote" exceeds 50% of the votes cast then a re-run is required.

Parliament enjoys a mandate for 5 years and is vested with the legislative powers of the Republic. There is a President of Bangladesh, who is elected by members of the Parliament. The President is the Head of State and serves a term of office of 5 years.

The President appoints as Prime Minister the member of Parliament who appears to command the support of the majority of the members of Parliament. The Prime Minister is the Head of Government and also heads the Cabinet.

No less than nine-tenths of the Cabinet shall be appointed from among members of Parliament and no more than one-tenth may be chosen from among persons qualified for election as a Member of Parliament.

A feature of Bangladesh's Constitution is the provision for parliamentary elections to be held under a non-party Caretaker Government (CTG). The CTG consists of a Chief Adviser and ten Advisers. It is appointed by the President upon expiry of the Parliament's term of office. The formal responsibility of the CTG is to be in office for 3 months to provide for the holding of elections. According to the Constitution, it shall not take any policy decisions except in case of necessity. In this instance the CTG was in place for nearly 2 years (though the Advisers changed) and issued over 100 ordinances under the special circumstances of the State of Emergency (the background to this is discussed in Chapter 2).

The key legal instruments for the conduct of the elections are:

- Constitution (1972)
- Representation of People Order (RPO, 1972, Amended 2008)
- Code of Conduct for Political Parties and Candidates (2008)
- Delimitation of Constituencies Ordinance (1976)
- Election Roll Ordinance (2007)
- Election Roll Rules (2008)

The existence of the State of Emergency, from 11 January 2007 to 17 December 2008, meant that certain aspects of the process were conducted under the Emergency Power Regulations (EPR) rather than the regular legal framework. This meant there were limitations during that phase on the freedoms of association, assembly and expression. However, once the

Emergency was lifted these rights and freedoms were provided for as per the Constitution, the RPO and the Code of Conduct.

### **Bangladesh Election Commission**

Article 118 of the Constitution provides for the establishment of an Election Commission (EC). It stipulates that it shall consist of a Chief Election Commissioner (CEC) and “such number of other Election Commissioners as the President may direct from time to time”. The current EC was constituted in 2007 and consists of a CEC and two other Commissioners. Commissioners are appointed by the President (no consultation process is legally required).

The term of office of the EC is five years, and the Commission is to be “independent in the exercise of its functions and subject only to the Constitution and any other law” (Art 118.4). A Commissioner shall not be removed from office except on the ground of gross misconduct, after enquiry of Supreme Judicial Council (as is the case for the process for removing a Supreme Court Judge).

The current CEC is Dr ATM Shamsul Huda. The two other Commissioners are Muhammad Sohul Hossain and Brig. Gen. (Retd.) M Sakhwat Hossain.

Article 119 of the Constitution stipulates the functions of the EC, among other things, as the:

- Holding elections for the members of parliament
- Superintendence, direction and control of the preparation of the election rolls
- Delimitation of Constituencies for the purpose of parliamentary elections

The EC has a permanent Secretariat to administer the electoral process and is represented across Bangladesh. For instance the EC has:

- Nine regional offices across the six Divisions, each headed by a Deputy Election Commissioner
- 83 District Offices across the 64 Districts, each headed by a District Election Officer
- 481 Upazila Election Offices

To handle the nominations, election administration and results process each Constituency has a Returning Officer (RO). The RPO provides that ROs are appointed by the EC. There are also Assistant Returning Officers (ARO) to support the process.

The ROs are drawn from local administrative structures and are invariably Deputy Commissioners of the District. There are 68 ROs in total, with each responsible for more than one Constituency in order to cover all 300. AROs are drawn from Upazila-level administration and tend to be Upazila executive officers.

For the purpose of polling, 35,263 Polling Centres were established, containing 177,107 Polling Booths. Each Centre is headed by a Presiding Officer.

### **Voter Registration and Voter Eligibility**

The Voter List was severely criticised as fraudulent in 2006, with allegations that it contained multiple entries, names of dead persons and fake names. At that time, political parties made it a key demand that the list needed to be cleaned up. Following the State of Emergency it was decided by the Caretaker Government to prepare a fresh Voter List. This was based on a door-to-door enumeration exercise carried out between August 2007 and July 2008.

The Army was heavily involved in providing logistical and technical support to the exercise, which was managed by the EC using locally-recruited data entry personnel. Prospective voters visited registration centres and a digital photo was taken together with relevant details. It was also decided at this time to produce a national ID Card using the same information plus a thumb print for unique identification purposes.

Voter eligibility is defined in Article 122 of the Constitution as persons who are:

- Citizens of Bangladesh
- Not less than 18 years of age
- Not being declared by a competent court as being of unsound mind
- A resident (a person who “ordinarily” resides) in the Constituency in question

As a consequence of the registration a Voter List was produced with 81,130,973 voters, including digital photos. Of these some 51% were female and 49% male. The new list eliminated some 13 million names compared to the previous list and was generally held to be a far more credible register.

Political parties were able to purchase copies of the list for printing, but it did not include the photographs.

### **Registration of Political Parties**

For the first time, political parties wanting to contest the election had to be registered. These provisions were developed as part of the reform process imposed on the political environment during the Emergency, and the effort to require parties to have increased internal democracy. Article 90B(a) of the RPO defined the criteria for eligibility for registration as a party, as a party which fulfils at least one of the following conditions:

- Secured at least one seat with its electoral symbol in any parliamentary election held since the independence of Bangladesh
- Secured five percent of total votes cast in the constituencies in which its candidates took part in any of the aforesaid parliamentary elections
- Established a functional central office, with a central committee and district offices in at least ten administrative districts and offices in at least fifty Upazilas or Metropolitan Thanas

A total of 107 parties applied for registration. The EC registered 39 of these, compared to the 55 which contested the 2001 elections. The EC informed the Group that most of those rejected were relatively unknown smaller parties which, upon investigation, were found not to have the District and Upazila-level offices as claimed.

In addition to the criteria identified in 90B(a), 90B(b) stipulated that parties shall have specific provisions in their constitutions:

- To elect the members of the committees at all levels, including members of the central committee
- To fix the goal of reserving at least 33% of all committee positions for women, including the central committee and successfully achieving this goal by the year 2020
- To prohibit formation of any organisation or body as its affiliated or associated body consisting of the teachers or students of any educational institution or the employees or labourers of any financial, commercial or industrial institution

- To finalize nomination of candidates by central parliamentary board of the party from the panels prepared by members of the Ward, Union, Thana, Upazila or District committee as the case may be of the concerned constituency

Further Article 90C stated that a party would not qualify for registration if:

- The objectives laid down in its constitution are contrary to the Constitution of Bangladesh
- Any discrimination regarding religion, race, caste, language or sex is apparent in its constitution
- By name, flag, symbol or any other activity it threatens to destroy communal harmony or leads the country to territorial disintegration
- There is any provision in its constitution for the establishment or operation of any office, branch or committee outside the territory of Bangladesh

### **Candidate Eligibility and Nomination**

Candidate nominations were submitted to respective Returning Officers. Appeals against the decision had to be made to the EC, and according to the law its decision was to be final. However, subsequent court decisions overturned some EC decisions.

Over two thousand candidates were nominated. A total of 1,555 had their nomination accepted to contest the election. Key eligibility criteria for candidacy are established in the Article 66 of the Constitution, which stated that in order to be eligible a person must:

- Be a citizen of Bangladesh and at least 25 years of age
- Be a registered voter
- Be nominated by a registered party or as an independent candidate
- Not be holding any office of profit in service of the Republic
- Not have been convicted of an offence (such as corruption, murder) which carries a prison term of two years or more, unless a period of five years has lapsed.
- Not be in default of utility bills or loans

In addition, under the RPO, prospective candidates were required to submit various documents. For candidates from a political party this included:

- A certificate from the registered party attesting that the candidate is their official nominee
- A signed affidavit with the following information:
  - An attested copy of highest education certificate obtained
  - Whether the candidate is at present accused of any criminal offence
  - Whether the candidate has any past criminal record
  - A description of profession/business
  - The probable sources of income of the candidate
  - A statement of property or debt of the candidate or his/her dependents
  - What promises were made before an election in which the prospective candidate was elected in the past and how many of those promises were fulfilled
  - The amount of any loan received by the candidate alone or his/her dependents

Independent candidates were required to submit a list of signatures of registered voters from that Constituency equivalent to 1% of registered voters in that constituency. They must also have submitted all financial disclosures.

A candidate could contest up to a maximum of three constituencies, though they could only take up one of the seats if successful in more than one. The vacant seat would then be filled through a by-election. Political parties could only have one nominated candidate per constituency.

### **Code of Conduct for Political Parties and Candidates**

Under the authority of Article 91B of the RPO the EC promulgated a Code of Conduct for Political Parties and Candidates for the Parliamentary Elections 2008. The Code had the status of a law, and persons could be punished and/or disqualified for violating it.

The Code provided for a more restricted, managed, framework for the campaign. Basic rights and freedoms were provided for, but various limitations were also evident as compared to previous elections. It was argued that these were designed to address problems experienced during past campaigns – particularly “money and muscle” of the parties - and generally there was positive feedback in terms of what many characterised as a more orderly and acceptable election campaign.

The Code of Conduct was a laudable attempt to establish the ‘do’s and don’ts’ for the campaign and create a level playing field. However, it seemed from reports that the Election Commission lacked the capacity or time to fully enforce the Code, preferring instead to issue warnings on occasions. Many aspects of it were respected and it appeared it was well understood by parties and candidates.

Some key elements of the Code were:

- A registered party or its nominated candidate or an independent candidate shall get equal opportunity for campaigning, but could not spoil or obstruct a meeting or procession of any other campaign
- Candidates could not stick any type of poster on a building, wall fence etc, rather such ‘posters’ should be hung up
- Posters utilized for the campaign should be black and white and not more than 23x18 inches in size
- Campaigning could not include a procession using trucks, bus or motor cycle etc
- Campaigning could not include graffiti on walls
- Campaign activities could not create an obstruction on the road
- Candidates could not make any derogatory statement which may defame an individual’s character
- A candidate could not campaign in a mosque, temple or church
- No campaigning was allowed more than three weeks before election day
- The use of loud speakers for campaigning was limited to the hours of 2pm to 8pm
- The limit on campaign expenditure should be respected
- Persons in violation of the Code would be investigated by an Election Enquiry Committee
- Violation of the Code carried a punishment of not more than six months jail or 50,000 taka or both

### **Complaints and Appeals**

Procedures and systems for complaints and appeals varied depending upon the stage of the electoral process. For instance:

- Appeals during the voter registration phase were to be made directly to the Registration Officer

- Appeals against candidate nomination were to be made to the RO with a further appeal to the EC. The EC's decision was final according to the RPO
- Complaints regarding campaign violations were determined by an Election Enquiry Committee (EEC), which are appointed by the EC and which comprised District Judges. Appeals against a decision of an EEC were made to the EC, which had final authority
- A petition against the result of an election was to be made to the High Court

For election day, EECs were active as were mobile teams of judicial magistrates, which could hear and/or investigate complaints and could conduct summary trials. In addition, mobile teams of executive magistrates for law and order issues were also provided for.

For a complaint against the process in a polling booth to be valid it had to be made to the relevant Presiding Officer in the first instance.

## **Key Issues**

### **1 The State of Emergency**

The State of Emergency was declared on 11 January 2007. It was partially lifted in November 2008 and fully lifted on 17 December 2008.

As it related to political activity and human rights the Emergency Power Rules (EPR) of 25 January 2007, established the regulations governing activity. Many basic rights and freedoms were suspended, and the Emergency was clearly incongruous with the necessary conditions for democratic elections.

For example, laws under the EPR could not be challenged in court; political parties were not allowed to engage in regular activities or meetings; public processions, meetings and assemblies were prohibited; there were curbs on freedom of expression and "politically-motivated" statements inciting reactions against the government.

Interlocutors reported that some aspects of the Emergency had been imposed with a "light touch". In this vein, print media claimed not to have been unduly troubled by the Emergency, especially in the second year. However, electronic media were under more influence. Some sections of the EPR were conditionally lifted on 3 November, allowing for public activity by political parties. Indoor political activity had been allowed at an earlier stage.

The formal lifting of the Emergency was necessary for the credible conduct of the election, and the fact that it was lifted on 17 December meant that at least the campaign and voting processes could be held under the normal legal framework.

However, the fact that the Emergency had been in place for close to two years in the lead up to the election meant it inevitably influenced the environment for the election, not least of which because parties had been so limited in their activities and members of parties had been arrested and detained. Having said this, many reactions from the public were that the presence of the Emergency and thereby the security forces was a reassuring one.

## **2 Voter Registration**

The registration of more than 81 million persons on a widely accepted list with photographs for these elections was a great achievement. However, the process could be improved as currently only persons turning 18 prior to 1 January 2008 will appear on the voter list for an election in that year. As the election was held on 29 December, this meant that virtually every person turning 18 during 2008 (estimated at some 3 million persons) was excluded from the list and therefore was not able to vote.

This was a significant exclusion of young voters, which could have been addressed by either registering 17 year olds, who could have been added as and when they turn 18, or by use of a supplementary list.

## **3 Candidate Nomination Process**

The new stipulations contained in the RPO on candidate nomination represented a more rigorous set of criteria, reflecting the tone and context of the reform process, whereby the Caretaker Government, under the Emergency, aimed to reform corruption in political life in Bangladesh. In this respect the 30-page financial declaration submitted by candidates, including some eight counts of disclosure, was an attempt to deter and prevent persons involved in corruption or other illegal practices.

Prior to the nomination process it was widely reported and understood that the Election Commission had distributed a list of some 80 persons it deemed to be ineligible for nomination according to stated criteria to the political parties. It urged the parties not to put forward these persons on the list as candidates. These persons were from both the main political parties. This is a highly unusual act for an Election Commission to undertake.

Under the RPO, initial decisions on candidate nominations were to be by the relevant RO. Appeals were to the EC and its decision was supposed to be final. Article 92 of the RPO states: “No court shall question the legality of any action taken in good faith by or under the authority of the Commission, [or] a Returning Officer .... “

However, a public interest litigation led to a High Court ruling that EC decisions on nominations could be challenged. As a consequence a number of appeals were made to the High Court and Supreme Court. Subsequently the Supreme Court (in the form of one single Judge) ruled to allow more than 20 candidates (rejected by the EC) to contest the election. Categories included persons deemed to be loan defaulters, convicted persons and also Mayors, who had been rejected by the EC because they held an office of profit in service of the Republic.

These decisions had a number of consequences:

- The EC had to reprint 2.4 million ballot papers because the court decision came after the close of nominations and the finalisation and printing of the ballot
- Decisions created tension within some parties as they had to decide which candidate would have the party nomination, given that in many cases they had nominated an alternative after the initial rejection
- EC decisions which were overturned created uncertainty over eligibility criteria
- There is a chance that a winning candidate could be “un-seated” after the election and after he/she has taken up a seat in parliament as the EC has announced that it will challenge the Court decisions on the basis that they are at odds with the RPO. Due to time constraints, this appeal can only be heard after the election



#### **4 Women's Participation**

Even though there are no legal obstacles to women's participation as candidates they remain under-represented in parliament. There is positive promotion for women's representation in the form of the 45 indirectly-elected reserved seats for women in the parliament and the new requirement for political parties to reserve at least 33% of all committee positions for women including the central committee by the year 2020.

For these elections the two leading candidates – the leaders of the two largest parties going into the election – were both women. In addition, results of the election indicated that there was a noticeable increase in the number of women winning seats compared to 2001, with 18 women elected to the 9<sup>th</sup> parliament compared to six in the 8<sup>th</sup> parliament.

However, at the same time, women represented just 3% of the total number of candidates contesting the election and were largely absent from senior positions in the election administration, though many did serve as Polling Officers.

#### **5 Powers of the Election Commission**

Under the reform process, the EC was given increased powers, reflecting past criticism that it lacked the requisite power to oversee the process in the fractious political environment of Bangladesh. Generally this was felt to have increased the independence of the Commission, though there was criticism in the lead-up to the poll that some of the powers were too far reaching. Article 91E of the RPO was an item of major discourse in the lead-up to the election. This Article states:

- "... if it appears to the Commission on receiving information from any source or any verbal or written report that any contesting candidate ... 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/she may be disqualified to be elected as a member, the Commission may pass an order for an investigation..."

The Article goes on:

- "...if the Commission is satisfied that the report was true, the Commission may ... cancel the candidature of such candidate."

The Article is followed by Article 92, mentioned above, which states that no decision of the EC can be contested in a court.

In effect this means the EC can retroactively disqualify a candidate, even after the nomination has been confirmed and even after the candidate has been elected to the parliament. This is an extremely far-reaching power, especially as according to the RPO it cannot be legally challenged.

#### **6 Constituency Delimitation**

Under the Constitution the EC is responsible for Constituency delimitation and the delimitation of each constituency is to be reassessed every 10-years, based on census data to ensure they remain of roughly equal size. However this has not been done for 24 years and there were widespread discrepancies in the size of the constituencies, negating the principle of equal suffrage.

In 2008, the Election Commission undertook a delimitation exercise, through a consultative process, and amended 133 out of the 300 constituencies. As a consequence, constituencies

now have a variance of +/- 25%. This is a marked improvement from the previous range, which was between 100,000 voters to over 1 million.

There is no set international standard on constituency size. Good practice is to aim for a maximum range of 10-15%, but it has to be recognised in the Bangladeshi context that a massive improvement was achieved with an attempt at a consistent population balance as the guiding principle.

The Election Commission stated that the process was undertaken in consultation with the political parties. The Delimitation of Constituency Ordinance (1976) states that when the EC gazettes the new boundaries it must invite objections and suggestions. The EC can then make any amendments it deems desirable. These decisions cannot be challenged in a Court. The Constitution reiterates that such a decision cannot be challenged in a court.

For these elections the delimitation exercise was undertaken at quite a late stage, given the relatively short time frame for the election. In addition the delimitation was unsuccessfully challenged in the High Court, whose deliberation and final decision took longer than expected. This delay caused a delay in the confirmation of the final election schedule.

## **Recommendations**

- A new procedure should be introduced to ensure 18 year olds can exercise their right to vote. While there is always an administrative cut-off point for completion of the Voter List, the current arrangement, as evidenced during this election, can lead to large scale exclusion. It is important that a programme of effective civic education is also undertaken to fully acquaint young persons with their electoral rights.
- The nomination process must be conducted in good time prior to the election, in order to ensure all objections and appeals are concluded prior to the printing of the ballot papers and the commencement of the campaign.
- Once the nomination process is concluded and a candidacy approved and confirmed the decision should be final. The Election Commission should not be able to retroactively de-register a candidate after the day of the election.
- The review of Constituency delimitation should be continued to further improve the conditions for equal suffrage.

## **Chapter 4**

### **MEDIA**

#### **Overview of Media Landscape**

Bangladesh has a varied and vibrant media which, taken together, gave considerable coverage to the parliamentary elections.

The state owns the only terrestrial channel in the country (Bangladesh Television) as well as a major radio station (Radio Bangladesh) and 12 regional stations. In recent years there has been a significant rise in the number of privately owned satellite television channels which now stands at 15, including ATN Bangla, Channel I and NTV. There are four privately owned radio stations.

The World Association of Newspapers 2005 report states that under 15 per cent (20 million) of the population in the country read newspapers. Television is the primary form of media, especially in cities. There are also a significant number of papers - 243 dailies nationwide - in English or Bangla. Although the government does not own these papers it is in a position to exercise leverage by boosting a paper's revenue (or not) with advertisements. In addition, the government has power to control the amount of paper which individual newspapers receive from state-owned newsprint mills in Khulna.

SMS messaging and the internet were used by political parties in the run up to the December 29<sup>th</sup> elections.

There are three news agencies, one of which is government owned (BSS) and two privately owned (United News of Bangladesh and BD News).

#### **Regulations on Election Coverage**

In the build up to the elections, there were no official regulations or guidelines for media. A draft Code of Conduct for the media was made public on 11th November 2008 by the Chief Election Commissioner but a committee tasked with finalising it did not deliver its report in the stipulated deadline. It was confirmed by the Chief Election Commissioner on 5<sup>th</sup> December that there would be no Code of Conduct for the media for the elections. Having such a code would clarify the guidelines of media coverage for the elections. It is important that these guidelines are finalised and the media and Election Commission work together for it to be fully implemented before the next parliamentary elections.

The Constitution of the People's Republic of Bangladesh guarantees freedom of thought and expression and the freedom of the media. There is also the Press Council Act of 1974 which aims to protect freedom of the media and uphold fair and responsible journalism. However the Press Council does not have power to act should the government ignore the regulations that uphold the freedom of the media.

Two key decisions played an important role in guaranteeing the media's right to freedom of expression in its coverage of the election campaign.

- On 3<sup>rd</sup> November 2008 the Ministry of Home Affairs repealed Rules 5 and 6 of the Emergency Power Rules 2007.<sup>1</sup> These rules basically gave the government the discretionary power to exert editorial control over all media publications.
- Lifting the State of Emergency on 17<sup>th</sup> December 2008 allowed coverage of the election campaign to be conducted under more regular and positive conditions.

Consequently reports given to Commonwealth observers from senior members of both print and broadcast media indicated there was freedom of expression.

The Right to Information Ordinance (October 2008) was another positive measure introduced to improve freedom of information for the general public and the media in Bangladesh. It states that public bodies must provide information requested by citizens in 20 days. In cases regarding the right to life and liberty the information must be provided within 48 hours.

### **Reports on Conduct of Media**

In the build up to polling day and subsequently, the print media focused heavily on the election. Many national papers dedicated a large portion of their coverage to both the BNP and the Awami League and their alliance partners. The electronic media also extensively covered the election campaign in their news programmes. In the immediate run up to the polls many television stations also had special programmes exclusively focusing on the elections.

The Ministry of Information issued guidelines to State television and radio stations on 11<sup>th</sup> December which mandated that all registered parties or alliances with 30 or more candidates be provided with equitable air time. These guidelines<sup>2</sup> were a useful method to ensure fair representation across the political spectrum and were followed/adhered to by Bangladesh Television and Bangladesh Radio.

Commonwealth observers witnessed electronic media reporting freely at Polling Centres across the country. The relationship between the Presiding Officers and the media was noted to be cordial and cooperative.

Overall, the media in Bangladesh is intensely engaged and offered a broad range of coverage during the election process.

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<sup>1</sup> Rule 5. To safeguard the security and interest of the state and the people and to maintain peace, the government, with general or specific order, may prohibit or control applying conditions as per requirement of the situation the news of information related to any meeting, procession, seizure, agitation, oration, briefing or destructive or provocative activities; and any airing, publication or broadcasting of news, editorial, subeditorial, article, feature, caricature, cartoon, talk-show or discussion session or any still photograph thereof in the print or electronic media and internet or any other mass media.

Rule 6. With the Rules promulgated to safeguard the security and interest of the state and the people and to maintain mass discipline and peace, the government prohibits provocative oratory against the government and any of its activities; putting up any obstructions against its activities; printing, furnishing and showing of caricature or cartoon on the government or any of its activities or any of its persons; and making and setting fire to any types of statuettes,

<sup>2</sup> The guidelines state: Political parties or coalitions competing in 30 to 50 constituencies will receive ten minutes of airtime; parties competing in 51 to 70 constituencies will receive 15 minutes; parties competing in 71 to 100 constituencies will receive 20 minutes; parties competing in 101 to 300 constituencies will be entitled up to 40 minutes of airtime.

## **Key Issues**

### **1 Press Freedoms**

The International Press Institute conducted an assessment between 27<sup>th</sup> November and 2<sup>nd</sup> December 2008 on the state of press freedom in Bangladesh. They called for the “investigative authorities to openly and transparently investigate all attacks on journalists and to continue investigations into every case of a journalist murdered.”

## **Recommendation**

- A voluntary Code of Conduct on election coverage by media practitioners is essential for fair, equitable reporting in a diverse country like Bangladesh. Therefore, the media and Election Commission should engage in extensive consultations with the aim of mutually formulating a universal set of guidelines/code of conduct that will be adhered to by all local media practitioners. It is important that this code of conduct be agreed on and implemented before the next parliamentary elections.

## **Chapter 5**

### **Voting, Counting and Tabulation**

#### **Voting, Counting and Tabulation**

On 29 December, Bangladesh held parliamentary elections in 299 of the country's 300 Constituencies. The election in one Constituency was cancelled due to the death of a candidate. It has been scheduled for 12 January 2009.

For the purpose of voting, 35,263 Voting Centres were established across the six Divisions of the country. Commonwealth Observers were present in all six Divisions (Dhaka, Chittagong, Sylhet, Khulna, Barisal and Rajshahi), reporting from 30 Constituencies.

Each of the Voting Centres was run by a Presiding Officer. The Centres had a variable number of Polling Booths, which were administered by Assistant Presiding Officers and Polling Officers, under the supervision of the Presiding Officer. The processing of female and male voters was separated, with booths determined as male or female booths, though Polling Officers were mixed. The vast majority of Presiding Officers were men, and women represented approximately one-third of Polling Officers.

There was a highly visible security presence for the poll. It can be characterised as a three-tiered system, of static, mobile and strike teams. Security forces were drawn from the Police, Army, ANSAR and Rapid Action Battalions, among others. In total it was reported that there would be on average 14 security personnel per polling place, with more for Polling Centres deemed 'critical'. Overall some 600,000 security forces were on duty for the poll. Observers felt that the presence of security forces was a positive factor, providing order and confidence to voters.

On election day some restrictions were imposed on private vehicles, though it varied from area to area.

Each of the candidates for the Constituency was entitled to have an official agent present in the polling booth, known as a Polling Agent. In addition, international and national observers were authorised to be present.

The basic voting process was prescribed as follows:

- Polling opened from 8 a.m. to 4 p.m.
- Persons had to be on the Voter List in order to be allowed to vote
- The identity of voters was checked against their photograph on the list
- 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 voter 'signed' or made a thumb print as proof of receiving the ballot
- The ballot paper had to be officially stamped on the back
- A person had to vote in secret

Some other features of the law were:

- Blind or “incapacitated” persons could be helped by a companion of their choice
- In cases of a challenge to a person’s identity, or if register indicated that they had already voted despite them proving their identity, then they could vote by tendered ballot, which would be adjudicated at a later point
- If a voter spoiled a ballot they could request a replacement
- Persons waiting in line at the time of closing were allowed to vote

Votes were counted at the Polling Centre, by Polling Officers under the supervision of the Presiding Officers. Polling Agents and observers were authorised to be present for the count.

The basic counting process is prescribed as follows:

- Ballot box was opened and ballot papers taken out
- Packet of “challenged ballot papers” is opened and included in the count
- Ballots are sorted and counted for each contesting candidate
- During the sorting and counting invalid ballots are separated
- Valid ballots for each contesting candidate are put into separate packets
- Invalid ballots are put into a separate packets

Upon completion of the count, the Presiding Officer had to prepare a Statement of the Count, indicating the number of valid votes polled by each contesting candidate and number of invalid ballots.

The Presiding Officer had to also prepare a Ballot Paper Account, which showed:

- The total number of ballot papers assigned to the Polling Centre
- The number of ballot papers taken out of the ballot boxes
- The number of tendered and challenged ballot papers
- The number of un-issued ballot papers
- The number of spoiled ballot papers

Some features of the counting and results process were:

- Polling Agents could request a re-count, which would be undertaken if the Presiding Officer felt the request to be reasonable
- Polling Agents were to sign the result indicating their acceptance where relevant
- Polling Agents were entitled to receive a certified copy of the result at the Polling Centre
- The result was to be posted at the centre, prior to being sent to the ARO and RO.

The ballots and other materials were then packaged up and sent to the respective Constituency centre for tabulation. The security forces escorted all results and materials as they had done for the distribution of materials.

Depending upon the geography of the area, results were either tabulated at the Assistant Returning Officer (ARO) and then transmitted to the Returning Officer (RO) for full tabulation, or were sent direct to the RO. In some areas ROs were announcing results in the early hours of the morning on the day after the election. The EC in Dhaka had a results centre, where it reported results from the Constituencies.

## **Assessment of the Voting, Counting and Tabulation**

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 midday. 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 Centres visited.

The count at the Polling Centres 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 Centre. Observers noted some inconsistencies in the counting process, notably during the reconciliation process. In some Centres 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.

The tabulation process proceeded quite quickly, with preliminary results being reported by the media as well as the various levels of the election administration, although transparency could be improved at the Constituency level.

Some complaints were lodged with the Election Commission about individual incidents and some isolated clashes were reported prior to election day and in the immediate post-election period. Indeed, media reports in the week after the election reported a number of injuries and even deaths following inter-party clashes in a couple of areas. However, such incidents, whilst important in their own right, did not characterise the overall national electoral process.

In terms of Division reports, some specific points raised were:

### **Khulna**

- Concerns were expressed to Observers that a small number of Polling Centres were in Madrasas, as this might be perceived as intimidating to the religious minority present in Khulna. This may have been due to the limited options available, as the RO had been unable to find an alternative solution.
- The quality of the room for voting in some instances was not entirely adequate, such as insufficient light or inadequate furniture. It is recognised that this reflected a lack of options.
- In Kulna 2 Constituency the Awami League requested a recount due to the narrow margin of victory secured by the BNP. The RO heard the complaint and ruled that there were no grounds for a recount, particularly as AL Agents had signed off on the result at the individual centres. The Observers felt that the decision by the RO was in accordance with the law.

### **Barisal**

- It was reported to observers in Barisal 2, that many people from the minority Hindu community were participating in an election for the first time
- The Army had toured round the remote areas of Barisal Division in the lead-up to the election reassuring people that it was safe to vote.
- Some Polling Centres were co-located in a single complex, resulting in concentrations of large numbers of voters (up to 12,000 in one instance). Such a large concentration required special crowd control measures.



## **Sylhet**

- Polling Officers and Polling Agents were seen using mobile phones during the counting of votes. Such actions could be misconstrued and could also distract officials.
- The layout of Polling Booths caused a degree of congestion in some cases. The placing of the ballot box, directly in front of the Polling Officers, created confusion.

## **Chittagong**

- The traffic lock-down on election day adversely affected the ability of the domestic election observers to deploy across the Division
- The application of the indelible ink was inconsistent, in terms of where on the thumb the ink was applied and how much ink should be applied.
- It was reported to Observers that across 10 Constituencies in Chittagong some 1,200 persons had been turned away from voting. They had an ID card but were not on the Voter List at that Centre.
- There was confusion in some queues at Polling Centres as to which Booth a person should be queuing for. Some people mistakenly thought the voter numbers indicated for the queue referred to their National ID Card number, and so joined the wrong queue.

## **Dhaka**

- In some instances voters were effectively reporting to Polling Agents inside the Polling Booth to establish their identity, prior to presenting themselves to Polling Officers.
- The turnout of voters was extremely high, but the security forces provided order around Polling Centres and polling officials ensured the orderly and timely processing of voters inside. However, the time processing was largely reliant upon voters possessing the slips from political parties indicating their Consecutive Number on the list.

## **Rajshahi**

- Some Polling Agents did not have a copy of the Voter List, as thus had not been adequately prepared for their task by their respective parties.
- Observers received a small number of complaints that people with an ID Card could not be found on the Voter List.
- In some Polling Centres the result was not posted.

## **Key Issues**

### **1 Organisation of the Voter List**

The compilation of the voter list with photographs was a major achievement. It greatly contributed to the credibility of the process, enhancing public and political confidence.

However, it should be noted that the voters were listed in a manner that did not facilitate the processing of voters. People have a National ID Card and that number was known to them. They were issued with a Voter Number at the time of registration and they might have recalled that number. However, the list was ordered by a Consecutive Number based on the order in which they were registered. This number was not known to people in most instances.

Thus in order to quickly find a person's name on the list it was necessary for either the voter or the Polling Officer to know the Consecutive Number (i.e. their place on the list) of a voter, and neither was aware of it. As a consequence, the formal procedures put into place for the locating of voters on the list in an efficient and timely manner were not really adequate.

This impediment was overcome by two practices not provided for in the law. Firstly, political parties established 'information tables' close to Polling Centres – or in some cases in Bandarban in the Chittagong Hill Tracts inside the Polling Booths - where they identified voters on the voter list and provided them with a piece of paper with their Consecutive Number. Some of these were small slips while others had the party symbol, logo and picture of party leader, which were in effect campaign materials. However, at the same time without this practice the polling process would have been far lengthier and more frustrating.

A further practice was that most voters brought their ID card with them. However, as stated, this was not formally required. On the day, it proved extremely useful as a rapid way to identify voters.

It is important to find a consistent method for organising the Voter List, whereby the order of the list corresponds with a document or information the voter is aware of and easily able to provide.

## **2 Voting by Poll Officials, Security Forces and Others**

Polling Officers, security officials and national election observers were registered to vote, however their official duties on election day meant they were working away from their ordinary place of residence. Polling Officers and national election observers, for instance, had to be employed outside of their union of residence, while security forces could be deployed anywhere in the country.

The law provides for postal voting, but this option was taken up in very few cases. This was partly due to the fact that it was not widely publicised. Further, the final printing of the ballots did not realistically provide adequate time for the postal vote provision to be employed.

As a consequence Polling Officers, security forces and national election observers – who together represented some 1.2 million persons – were not able to fully exercise their franchise.

## **3 Role of Polling Agents**

The RPO provides that Polling Agents can be present in a polling booth to monitor the process, taking note of who votes and had a right to challenge the identity of voters. It was observed that Polling Agents were present in most Polling Booths.

In some instances the proper procedure was followed, whereby voters presented themselves to Polling Officers, who called out the name and number of the voter for Agents to take note of. In other instances, it was noted that in some Polling Booths voters were presenting themselves first to Polling Agents, who were then checking the identity of the voter and even announcing this to the Polling Officers.

According to the RPO the role of Polling Agents is clearly stipulated and they should not have been fulfilling a 'semi-official' role in the processing of voters.

## **4 Special Provision for Voting**

There were no special provisions for the 'fast track' processing of voters such as pregnant women, persons with babies, elderly or disabled persons. On election day, this meant that

such persons often had to wait in very long queues for up to one hour, in what were often cramped circumstances or exposed to the weather.

It was observed there was no provision made for disabled persons to be able to access Polling Booths.

It was also reported that provision was not provided for prisoners to vote.

## **Recommendations**

1. The voter list should be organised in such a manner as to facilitate the quick identification of voters, without the need for the use of political party ‘information slips’. The list should be ordered according to ID card number, alphabetical order or some such appropriate manner.
2. Proper and realistic provision needs to be made to ensure that persons exercising official duties for the election, such as Polling Officials, security forces and national observers, are able to exercise their right to vote. This can take a number of forms, such as advance voting or a procedure for Polling Officers to vote at the Polling Centre at which they are on duty on election day.
3. Special provision should be made to enable the fast-track voting for categories of voters, such as pregnant women, people with babies, elderly and disabled persons. Appropriate locations for Voting Booths also need to be identified to facilitate access by disabled persons.
4. There needs to be proper provision for persons such as prisoners to vote.
5. The count at Polling Centres needs to be more consistent in order to ensure uniformity of the reconciliation procedures. This can be addressed through more comprehensive training.
6. The transparency of the tabulation of Polling Centre results at the Constituency level needs to be improved, ensuring that representatives of candidates can easily follow the tabulation of the result and verify the certified results they have collected from individual Polling Centres.

## **Chapter 6**

### **Conclusions and Recommendations**

#### **Conclusions**

The 29 December 2008 Parliamentary Elections were of crucial importance for the further democratic development of the People's Republic of Bangladesh. The elections were credible, competitive and inclusive, and once the State of Emergency had been fully lifted most of the basic rights and freedoms were provided. As a result of the elections, democratic life in the country can be resumed and the parliament re-constituted, nearly 2 years after the imposition of the State of Emergency.

Some of the decisions and reforms instituted by the Caretaker Government and the Election Commission have been unpopular with one party or another and other aspects represent a heavily regulated environment and framework. However, the intention and outcome were to achieve as credible an election as possible in a difficult environment and extremely polarized political context.

The Observer Group found that the election was credible and met most of the benchmarks for democratic elections to which Bangladesh had committed itself. Credit must be given to the major effort involved in the successful registration of voters. The significantly improved voter list increased public and political confidence in the process and ensured that universal suffrage was largely provided. On election day, 87% of voters exercised their right to vote, the largest turnout in the country's history.

The legal framework provided the basic conditions for genuine elections, such as the right of political parties and candidates to participate, provision of basic campaign freedoms and improved conditions for equal suffrage through the recent delimitation of constituencies.

The State of Emergency impacted negatively on the environment in the lead-up to the election, limiting basic rights and freedoms, including the ability of parties and individuals to associate freely and placing limitations on freedom of expression. However, the State of Emergency was lifted on 17 December 2008.

For the purpose of these parliamentary elections, the Representation of the People Order (RPO) was amended and a strict Code of Conduct for Parties and Candidates was introduced. In addition the Election Commission and its Secretariat were reconstituted and a comprehensive voter registration process was undertaken and successfully completed.

The registration of 81,058,698 eligible voters for this election, with photographs, in less than one year was a phenomenal effort. Discontent with the previous voter list was a major point of grievance in 2006. This grievance has now been addressed, resulting in greater public and political confidence in the process and providing key safeguards for the voting process. It is unfortunate that persons turning 18 in the last year were not able to be included on the list, but now the register can be regularly updated to maintain a high quality register of voters for future elections.

According to reported figures, women comprised some 51% of the 81 million registered voters. However, despite women leading the two largest parties, women represented just 3% of the total number of candidates contesting the election. Results show that there was a notable increase in the number of directly-elected women winning seats (18 compared to six

in 2001), which is a positive indicator. However, women were largely absent or a distinct minority in senior positions in the Caretaker Government, Judiciary and election administration.

For the first time political parties had to be registered for the election. Most of the criteria for registration were reasonable, and 39 parties were registered. All of the main political parties in the country contested the election, making it an inclusive and competitive poll.

The right to stand in the election was provided for, and over 1,500 candidates contested the polls. However, the nomination and registration of candidates for the election was problematic. Under the revised RPO, candidates who are loan defaulters, accused of corruption, guilty of a serious crime with a sentence of two years or more or in an 'office of profit' were ineligible. In spite of the RPO, a number of such prospective candidates came forward and subsequent court decisions effectively overturned the decisions of the EC. The last minute announcement of some of these court decisions caused the Election Commission severe administrative problems as it required the reprinting of over 2 million ballots, and caused political tensions within parties and alliances over possible re-allocation of the party nomination.

The Code of Conduct for Parties and Candidates provided for a more regulated environment. Many claimed this resulted in a calmer and more manageable campaign than previously experienced and helped keep campaign expenditure to more modest proportions. The Code was not entirely enforced. The Election Commission deciding instead to issue warnings in some instances. Although some incidents of violence were reported, the campaign was generally peaceful and the basic freedoms of assembly, expression and movement were provided for.

The amendments to the RPO and the introduction of the Code of Conduct represented rigorous reforms. Collectively these changes attempted to create a more independent election management body, re-define who could participate as a candidate and provide strict regulations and a level playing field for the conduct of the campaign.

However, there appears to have been insufficient time and capacity to fully implement the Code of Conduct on this occasion. Court decisions reversed some aspects of the reforms, creating confusion as to eligibility criteria and whether or not decisions of the EC can be challenged in court. The in-coming parliament has to consider the large number of ordinances passed by the Caretaker Government, including the various electoral reforms, so that it will become clearer as to what extent such progressive reforms will be maintained.

On election day, Commonwealth Observers reported that there was an extremely high turnout of voters in a largely peaceful environment. The security presence was visible in most areas, but found to be helpful. Polling officials worked extremely hard and diligently to properly administer the process and the necessary materials were all in place. Polling Agents and national election observers were present in most of the Polling Centres visited.

It is unfortunate that the system for listing names on the Voter List necessitated the use of ID cards and party 'information' desks outside, and sometimes inside, Polling Centres in order to facilitate the process. Neither of the use of ID Cards or such a role for parties is foreseen in the law. Also the postal vote facility was not adequately implemented or utilized, resulting in hundreds of thousands of persons, including polling officials, security personnel and national elections observers, *de facto* losing the opportunity to vote.

There were media reports of some isolated clashes between party supporters on election day and immediately after. Complaints were also lodged with the Election Commission. Overall,

observers found that the voting process was well conducted, with voters appearing to be free to express their will by a secret ballot.

The count at the Polling Centres was generally well conducted and transparent. In the instances we observed, Polling Agents were able to receive a copy of the certified result and the result, which was also posted at the Centre in most instances. The tabulation process proceeded quite quickly with preliminary results being reported by the media as well as the various levels of election administration, though aspects of the tabulation at the Constituency level could be more consistent and transparent.

The elections have been credible, meeting most of the key benchmarks for democratic elections. They represent a crucial step in the continuing effort to strengthen democracy and improve governance in the People's Republic of Bangladesh.

## **Recommendations**

### **Legal Framework and Election Administration**

- A new procedure should be introduced to ensure 18 year olds can exercise their right to vote. While there is always an administrative cut-off point for completion of the Voter List, the current arrangement, as evidenced during this election, can lead to large scale exclusion. It is important that a programme of effective civic education is also undertaken to fully acquaint young persons with their electoral rights.
- The nomination process must be conducted in good time prior to the election, in order to ensure all objections and appeals are concluded prior to the printing of the ballot papers and the commencement of the campaign.
- Once the nomination process is concluded and a candidacy approved and confirmed the decision should be final. The Election Commission should not be able to retroactively de-register a candidate after the day of the election.
- The review of Constituency delimitation should be continued to further improve the conditions for equal suffrage.

### **Media**

- A voluntary Code of Conduct on election coverage by media practitioners is essential for fair, equitable reporting in a diverse country like Bangladesh. Therefore, the media and Election Commission should engage in extensive consultations with the aim of mutually formulating a universal set of guidelines/code of conduct that will be adhered to by all local media practitioners. It is important that this code of conduct be agreed on and implemented before the next parliamentary elections.

### **Voting, Counting and Tabulation**

- The voter list should be organised in such a manner as to facilitate the quick identification of voters, without the need for the use of political party 'information slips'. The list should be ordered according to ID card number, alphabetical order or some such appropriate manner.

- Proper and realistic provision needs to be made to ensure that persons exercising official duties for the election, such as Polling Officials, security forces and national observers, are able to exercise their right to vote. This can take a number of forms, such as advance voting or a procedure for Polling Officers to vote at the Polling Centre at which they are on duty on election day.
- Special provision should be made to enable the fast-track voting for categories of voters, such as pregnant women, people with babies, elderly and disabled persons. Appropriate locations for Voting Booths also need to be identified to facilitate access by disabled persons.
- There needs to be proper provision for persons such as prisoners to vote.
- The count at Polling Centres needs to be more consistent in order to ensure uniformity of the reconciliation procedures. This can be addressed through more comprehensive training.
- The transparency of the tabulation of Polling Centre results at the Constituency level needs to be improved, ensuring that representatives of candidates can easily follow the tabulation of the result and verify the certified results they have collected from individual Polling Centres.

## **ANNEX I**

### **Biographies and Composition of the Commonwealth Observer Group**

#### **H E Mr Cassam Uteem GCSK: Chair (Mauritius)**

Cassam Uteem began his career as a youth leader and social worker. In the late Sixties he entered politics and was elected the Municipal Councillor of the City of Port Louis. He later joined the Militant Movement of Mauritius Party, rising to become its deputy leader. He was elected to Parliament in 1976, where he remained until 1992. During this period he served in a number of Cabinet positions, including Minister of Employment, Social Security and National Solidarity; and Deputy Prime Minister and Minister of Industry and Industrial Technology. In 1986, he was elected Mayor of the City of Port Louis.

In 1992 Mr Uteem was elected President of the Republic of Mauritius, and was elected for a second term in 1997. He stood down in 2002 and since then has been active in the field of international policy. He is presently a member of the Club de Madrid, and of the African Forum.

#### **Mr Ahmed Mehboob (Pakistan)**

Mr Mehboob is the founder and executive director of the Pakistan Institute of Legislative development And Transparency – PILDAT. He has over 25 years experience in senior management and advisory positions and over 8 years experience in design, planning and implementation of projects in the field of Parliamentary development, strengthening democratic institutions, democratisation, political discourse, election monitoring and dialogues for reconciliation. Mr. Mehboob is also the lead author of PILDAT's annual State of Democracy Report. Mr. Mehboob has carved and spearheaded a non-partisan political research initiative from the platform of PILDAT and has facilitated the formation of dialogue, research and policy groups on areas such as Civil-Military Relations, Centre-Province Relations, Relations between the Muslim World and the West and Electoral Reforms. Mr. Mehboob has authored and edited more than 50 briefing papers, background papers and case studies relating to electoral systems, parliamentary strengthening and democracy watch programmes. He is the lead author of the first-ever Parliamentary Strengthening Curriculum for parliamentarians and parliamentary staff in Pakistan. Prior to his entry in parliamentary strengthening field, Mr. Mehboob held senior positions in Civil Engineering profession and holds a B.Sc. Engineering degree from University of Engineering and Technology, Lahore, Pakistan.

#### **Miss Ilham Mohamed (Maldives)**

Miss Mohamed is Head of Transparency International in the Maldives, building on a strong background working on financial management and transparency initiatives. From 1997-2007 she worked at the Ministry of Finance and Treasury holding several positions including Assistance Undersecretary for Economic Affairs and Policy



Planning and Director overseeing and fund raising from overseas development assistance groups and commercial lenders. She advised the Minister and Deputy Minister on the external debt environment of the country by preparing and forecasting future borrowing and projects to be assigned foreign funding.

Miss Mohamed holds a Masters in Gender Studies from the University of London and a Bachelor of Arts from the University of Toronto.

### **Ms Sasha Mohammed (Trinidad and Tobago)**

Ms Sasha Mohammed is a senior multi-media journalist in Trinidad and Tobago. She has worked with the country's two major newspapers (Trinidad Guardian and Trinidad Express) since 1999. She currently works at CCN Tv6 news as a senior investigative/political journalist. It is the country's number one station. Ms Mohammed has covered a huge range of social, political, cultural, legal and economical issues in her work throughout the Caribbean, in the US and UK, which has often resulted in national impact. She has also won over 20 local and regional awards for her extensive investigative work in journalism.

Ms Mohammed has a background and training in education (as a former teacher) and law.

### **Mr Halifa Sallah (The Gambia)**

Mr Halifa Sallah is currently the Director of the People's Centre for Social Science Research Civic Awareness Community Initiative. He is author of a number of books to 2007 he was Leader of the Opposition in the Parliament/National Assembly of the Gambia and a member of the Pan-African Parliament. He has been on many missions for the Parliament and was the Rapporteur of its mission to Darfur. He was the presidential candidate of the National Alliance for Democracy and Development in the 2006 Presidential elections of the Gambia.

### **Dame Jennifer M. Smith, DBE, JP, DHumL, MP (Bermuda)**

Dame Jennifer has been a Member of Parliament since her appointment to the Senate in 1980 and her subsequent Election to the House of Assembly in 1989.

After spending 17 years and 6 General elections in her parliamentary seat, Dame Jennifer rose through the ranks of her party – the Progressive Labour Party – to become Deputy Leader in 1994 and then Leader in 1996.

In 1998, she took her party to election victory after 36 years in Opposition.

After taking her party to two general election victories, Dame Jennifer stepped down as Premier and Party Leader to stave off a disruption within the party. The same year, 2003, she was elected Deputy Speaker of the House of Assembly, where she continues to serve following the December 2007 General Elections.

### **The Hon Dr Sharman Stone (Australia)**

The Honourable Dr Sharman Stone has been the Federal Member for Murray since 1996. She is currently the Shadow Minister for Immigration and Citizenship and

previously has held portfolios of Environment and Heritage and Finance and Administration. Dr Stone was the Minister for Workforce Participation in the former Howard Government. She has also been a social science academic and is the published writer of a number of books, including on Australian race relations, social history and water management. Immediately prior to her election to Federal Parliament in 1996, Dr Stone was manager for International Development for the University of Melbourne. Dr Stone is now focusing on improving resettlement strategies and guest worker rights. She has represented her country in forums and delegations advancing these causes.

### **Mr BB Tandon (India)**

Mr B.B. Tandon held the Constitutional posts of Election Commissioner and Chief Election Commissioner of India during 2001-06. During this period, he successfully conducted the General Elections to the Parliament in 2004 and several elections to the State Assemblies. Concurrently, Mr Tandon also served as a Member of the Delimitation Commission of India from 2002-05. He retired as Chief Election Commissioner in June 2006. Previously, Mr Tandon served in the Indian Administrative Service (IAS) for more than three and half decades. Mr Tandon also served as a member of the Commission on 'Constitutional and Electoral Reforms' of Mauritius during 2001-02, and as International Election Observer for 2003 Second Cambodian General Elections. From July 2006 to April 2007, he served as a member of the UNDP's International Technical Advisory Committee to the Independent National Elections Commission, on the 2007 Nigerian General Elections. Mr Tandon was the main resource person for the Workshop organized by the World Bank in Dhaka in January 2008 for the ensuing General Elections in Bangladesh in December 2008. He was a member of the Commonwealth Observer Group for the first multi-party Presidential Elections in Maldives in October 2008.

### **Ms Judy Thompson (Canada)**

Ms Thompson served as Deputy Chief Electoral Officer in the province of Manitoba, Canada. While there, she developed voter education programmes to encourage participation by first-time voters, new Canadians, the disabled and homeless voters.

Ms Thompson has worked as an international election consultant in post-conflict elections since 1992, with the UN and NATO peacekeeping missions and with the Commonwealth. She has worked in over 25 countries, mostly in Africa, but also in Asia, Europe and the Middle East. She has held a variety of positions including in administration, training, education and observation. Most recently, she has assisted with the election planning in Bangladesh, Palestine, Jordan (Iraq) and Sierra Leone.

### **Commonwealth Secretariat Staff Support Team**

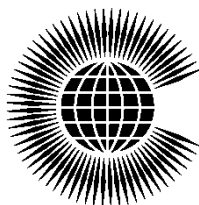
Mr Mark Stevens  
Mr Pavan Kapoor  
Ms Nishana Jayawickrama  
Ms Christiana Hajdu  
Ms Zippy Ojago  
Mr Cristian Martin  
Mr Tom Baird

## ANNEX II

### DEPLOYMENT PLAN

Location	Team Members	Nationality
Dhaka	H.E. Mr. Cassam Uteem Mr. Mark Stevens Mr. Tom Baird	Mauritius Commonwealth Secretariat Commonwealth Secretariat
Dhaka	Mr. Pavan Kapoor Ms. Zippy Ojago	Commonwealth Secretariat Commonwealth Secretariat
Dhaka (Office)	Mr. Cristian Martin	Commonwealth Secretariat
Chittagong	Ms Judith Thompson The Hon Dr Sharman Stone MP	Canada Australia
Sylhet	Dame Jennifer Smith MP Ms. Nishana Jayawickrama	UK-Bermuda Commonwealth Secretariat
Khulna	Mr BB Tandon Ms Sasha Mohamad	India Trinidad and Tobago
Barisal	Mr. Ahmed Mehboob Ms. Christina Hajdu	Pakistan Commonwealth Secretariat
Rajshahi	Mr Halifa Sallah Ms Ilham Mohammed	Gambia Maldives

## **ANNEX III**



### **Commonwealth Observer Group for the Bangladesh General Election**

#### **ARRIVAL STATEMENT BY H.E. CASSAM UTEEM CHAIRPERSON OF THE COMMONWEALTH OBSERVER GROUP**

The Commonwealth Secretary-General, Kamalesh Sharma, has constituted an Observer Group for the 2008 Bangladesh Parliamentary Elections following an invitation from the Foreign Affairs Adviser of the Caretaker Government of Bangladesh.

It is my honour and privilege to have been asked to lead this Commonwealth Observer Group and be here in Bangladesh at this time. These elections should enable the resumption of normal democratic life in the country and the re-constitution of the parliament. I am very glad that the State of Emergency has now been fully lifted so that the election campaign and polling can be conducted under normal conditions.

As the Secretary-General noted during his visit to Dhaka in October, democracy and good governance are core Commonwealth principles and the restoration of representative democracy in Bangladesh is as important to the Commonwealth as it is to the people of Bangladesh themselves.

Our task as the Commonwealth Observer Group is to observe and report on relevant aspects of the organisation and conduct of the elections. The group will consider all the factors impinging on the credibility of the electoral process as a whole, and assess whether the elections have been conducted according to the standards for democratic

elections to which Bangladesh has committed itself, with reference to its own election-related legislation as well as relevant regional, Commonwealth and other international commitments.

In this regard, we will consider, among other things, the transparency of the process; whether the state apparatus and state media remained impartial; whether candidates were free to campaign and voters were able to express their will free of intimidation and that their will was respected.

In conducting our duties and undertaking our assessment, we will be neutral, impartial, objective and independent. If we offer any criticism it will be constructive, with the intent to help strengthen the democratic process in the country for the future.

Commonwealth Observers are present here in their individual capacities as eminent Commonwealth citizens. The assessment by the Group will be its own and not that of member governments or of the Commonwealth Secretariat.

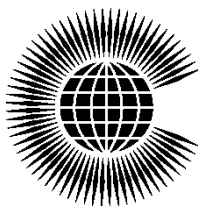
The team of Observers come from across the Commonwealth, from current and former members of parliament to a former chief election commissioner and representatives of civil society and the media.

We have already met with officials from the Election Commission who briefed us on their preparations for the election. We have met with representatives of one of the political parties and will be meeting a few more parties in the coming days. We will also speak with representatives of civil society, media, High Commissions and representatives of other international and domestic observation groups before deploying to different parts of the country to observe the conclusion of the campaign and thereafter the voting, counting and results processes.

We will issue an Interim Statement after the poll and a Final Report upon completion of our duties.

**Dhaka, 24 December 2008**

## ANNEX IV



# **Commonwealth Observer Group Bangladesh Parliamentary Elections 29 December 2008**

## **INTERIM STATEMENT**

**H.E. Cassam Uteem, Chair of the Commonwealth Observer Group**  
Wednesday 31 December 2008

### ***Credible elections meet most key democratic benchmarks***

*A crucial step in the continuing effort to strengthen democracy and  
improve governance in the country*

The 29 December Parliamentary Elections have been of crucial importance for Bangladesh and are an integral element in the on-going efforts to improve democratic governance in the country. As a result of the elections, democratic life in the country can be resumed and the parliament re-constituted, nearly 2 years after the imposition of the State of Emergency.

The Commonwealth has closely followed developments in Bangladesh and was pleased to receive an invitation from the Foreign Affairs Adviser to observe the elections. The decision to deploy this Observer Group was taken once it was confirmed the State of Emergency would be fully lifted, allowing at least for the conduct of the election campaign and polling under the normal conditions and the regular legal framework.

The Commonwealth Observer Group has been present in the country since 22 December. We have met with a range of stakeholders, including the Chief Adviser, the Election Commission, political parties, civil society, media and other observer groups. For the voting and counting processes Commonwealth Observers were present in all six Divisions of the country, and we have also co-operated closely with other observers, both national and international, building up a comprehensive picture on the conduct of the electoral process.

### ***Key Findings***

- The 29 December elections in Bangladesh for the 9<sup>th</sup> Parliament have been competitive and inclusive, with many of the basic rights and freedoms provided, once the State of Emergency had been fully lifted.

- Whilst some of the decisions and reforms instituted by the Caretaker Government and Election Commission may have proved unpopular with one party or another, and whilst some aspects do represent a more heavily regulated environment and framework, we feel the intention and outcome have been to achieve as credible an election as possible in an extremely polarized political environment.
- To this point in the process the Observer Group found that the election has been credible and met many of the benchmarks for democratic elections to which Bangladesh has committed itself. Particular mention must be given to the major effort involved in the successful registration of voters. The significantly improved voter list increased public and political confidence in the process and ensured that universal suffrage was largely provided for.
- The legal framework provided the basic conditions for genuine elections, such as the right of political parties and candidates to participate, provision of basic campaign freedoms and improved conditions for equal suffrage by the recent delimitation of 133 of the 300 constituencies.
- The State of Emergency did impact negatively on the environment in the build-up to the election, limiting basic rights and freedoms, including the ability of parties and individuals to associate freely and placing limitations on freedom of expression.
- During the campaign there were reports of some clashes between party activists, particularly in the build-up to election day, though thankfully these were of a limited and isolated nature.
- On the day of the election Commonwealth Observers reported from all six divisions. Whilst incidents were reported in some areas and some complaints filed with the Election Commission, overall Observers found people peacefully turned out to vote in extremely large numbers, the right to vote was provided for and people were free to express their will and cast a vote in secret. The tabulation and results processes were transparent, particularly as candidate agents could receive a certified copy of the result at the Polling Centre and individual Centre results were publicly posted at the site.

### ***Comments on the Process***

For the purpose of these parliamentary elections, a number of reforms were undertaken to the Representation of the People Order (RPO) and a fairly strict Code of Conduct for Parties and Candidates was introduced. In addition the Election Commission and its Secretariat were reconstituted and a comprehensive voter registration process was undertaken and successfully completed.

The registration of some 81 million eligible voters for this election, with photographs, in the relatively limited time available was a phenomenal effort. Discontent with the previous voter list was a major point of grievance in 2006. This grievance has now been addressed, resulting in greater public and political confidence in the process and providing key safeguards for the voting process. It is unfortunate that persons turning 18 in the last year were not able to be included on the list, but at least the register can now be regularly updated maintaining a high quality register of voters for future elections.

For the first time political parties had to be registered for the election. The criteria for registration were reasonable, and 39 parties were actually registered. All of the main political forces in the country contested the election, making it an inclusive and competitive poll.

The right to stand in the election is provided for, and over 1,500 candidates contested the polls. However, the nomination and registration of candidates for the election has been problematic. Under the revised RPO candidates who are, among other things, loan defaulters, persons accused of corruption, guilty of a serious crime with a sentence of two years or more or in an 'office of profit' were ineligible. However, a number of such prospective candidates did come forward and a number of court decisions effectively overturned these limitations in the RPO.

One report estimated that over 100 persons accused of corruption or murder contested the election, which is incongruous with the law as it stands, the spirit of the reform process and also good governance principles. In addition, the last minute timing of some of these court decisions caused the Election Commission a severe administrative problem as it required the reprinting of over 2 million ballots and caused political tensions within parties and alliances over possible re-allocation of the party symbol.

According to reported figures, women represent some 51% of the 81 million registered voters. However, despite the presence of a woman leading each of the 2 largest parties, women represented just 3% of the total number of candidates contesting the election. Results show that there was a notable increase in the number of women winning seats, which is a positive indicator. However, women remain largely absent or a distinct minority in senior positions in the Caretaker Government, Judiciary and election administration.

The Code of Conduct for Parties and Candidates provided for a more highly regulated environment. Many have claimed this resulted in a calmer and more manageable campaign than previously and helped keep campaign expenditure to more modest proportions. Whilst the Code was not entirely enforced, with the Election Commission deciding instead to issue warnings in some instances, and whilst some incidents of violence were reported, the campaign generally passed off calmly and the basic freedoms of assembly, expression and movement were provided for.

The revisions to the RPO and the introduction of the Code of Conduct were rigorous reforms. Collectively these changes were an attempt, and an aspiration, to re-shape the electoral environment in terms of creating a more independent election management body, somewhat re-defining who can participate as a candidate and establishing the parameters for the conduct of the campaign.

However, there appears to have been a lack of time and capacity to fully implement them on this occasion, and later court decisions have somewhat reversed some aspects of the reforms. The in-coming parliament has to consider the large number of ordinances passed by the Caretaker Government. Included in these will be the various electoral reforms, so at that stage it will become clearer as to what extent such progressive reforms are maintained or not.

On the day of the election, Commonwealth Observers reported that voters turned out in significant numbers in a largely peaceful environment. The security presence was heavy 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. The high level of illiteracy represented a challenge for poll staff and voters alike. Candidate Agents and domestic observers were present in most of the polling centres visited.

It is unfortunate that the system for organizing names on the voter list necessitated the use of ID cards and party 'information' desks outside polling centres, neither of which are foreseen



in the law, in order to facilitate the process. Also the postal vote facility was unfortunately not adequately implemented or utilized, resulting in hundreds of thousands of persons, including poll workers de facto losing the ability to vote.

We have heard that some complaints have been lodged with the Election Commission on individual incidents and also that there were some isolated clashes on election day. However, overall, observers have found the voting process was well conducted, with voters appearing to be free to express their will by a secret ballot.

The count at the polling centres was generally well conducted and transparent. Importantly in the instances we observed, agents were able to receive a copy of the certified result and the result was posted at the Centre. The tabulation process proceeded quite quickly and was also conducted transparently with preliminary results being reported by the media as well as the various levels of election administration.

### ***Conclusion***

The elections have been credible, meeting many of the key benchmarks for democratic elections, and represent a crucial step in the continuing effort to strengthen democracy and improve governance in the country. It is a time for leaders on all sides to grasp this opportunity and display statesmanship, with political forces, whether they are a future government or opposition, working in a spirit of mutual respect and co-operation to address the challenges facing the country.

The final stages of the process are on-going, with complaints and appeals yet to be fully dealt with, results to be completely finalized and at least one by-election to be held. Where the results or process are contested in any Constituency then the stipulated procedures for investigation and adjudication need to be followed. The Commonwealth team will continue to monitor the process, checking on the response to the results and the post-election environment.

The Commonwealth Observer Group will issue a final detailed report on the overall process including recommendations for changes to the process. This will be issued in approximately two weeks time.

### **For Media Contacts:**

Mr Tom Baird, Press Officer, Tel. 01737 539 622 (Dhaka) / Tel. +44 791 246 3744 (London)

Email: [t.baird@commonwealth.int](mailto:t.baird@commonwealth.int) [www.thecommonwealth.org](http://www.thecommonwealth.org)

## **ANNEX V**

The Commonwealth Secretariat is a signatory to both the Declaration of Principles for International Election Observation and the associated Code of Conduct for International Election Observation Missions, which were commemorated on 27 October 2005 at the United Nations in New York.

Commonwealth Observer Groups are organised and conducted in accordance with the Declaration and Commonwealth Observers undertake their duties in accordance with the Code of Conduct.