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**THE EFFORT OF THE NON-PARTY CARETAKER GOVERNMENT
TO MAKE THE NINTH PARLIAMENTARY ELECTIONS 2008 IN
BANGLADESH FREE, FAIR AND CREDIBLE**

AUTHOR: MD. SAFIQL ISLAM

SUPERVISOR: JAN TEORELL

Abstract

This study focuses the electoral reforms and the practical performances of the Non-party Caretaker Government in terms of its role to ensure that the ninth parliamentary elections be free, fair and credible. In Bangladesh, after Parliament had been dissolved, the constitutionally-mandated Non-party Caretaker Government was appointed to oversee the parliamentary elections, its main purpose being to assure free, free and credible democratic elections. Thus, the Non-party Caretaker Government (2007-2008) has undertaken an ambitious electoral reforms programme which includes reconstitution of the Bangladesh Election Commission, electoral law reform, voter registration with photographs and political party registration with Election Commission. In this study, I have analysed why the Non-party Caretaker Government has undertaken these electoral measure and how they have been applied in the electoral process. Besides, I have examined their influences on making the elections transparent and credible. It is found that collectively, these electoral measures have facilitated to create a more independent election management body, and provided the basic conditions for genuine elections, such as the right of political parties and candidates to participate, and a level playing field for conducting the campaigns. Moreover, this effort has made the ninth Parliamentary Elections more transparent and credible than previously held elections.

Key Words: Non-party Caretaker Government, Bangladesh Election Commission, Electoral Reform, Transparent and Credible Election.

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1. Introduction

Elections are regarded as the lifeblood of democracy: selecting representatives, determining the composition of parliament, influencing the distribution of power in government and peaceful transfer of power to the popularly-elected government. Today, no country can be regarded as a genuine democracy unless it meets the standards of universal suffrage and competitive, free and fair elections. However, it has a special resonance in emerging democracies of developing countries including Bangladesh, where deliberate electoral manipulation and systematic fraud by recalcitrant authoritarian rulers who are unwilling to give up power, have often blocked, derailed or truncated transitions to democracy. In Bangladesh, in the 1970s and 1980s, almost all regimes' use of the state machinery – the bureaucracy, law-enforcing agencies and the state-controlled electronic media – for electioneering by the ruling party made elections a travesty. Elections were never entirely free and fair in those periods. Opposition parties contested in the polls on unequal terms. In these circumstances, as a result of the strong and uncompromising prolonged movement by a united opposition, the provisions of a Non-party Caretaker Government (NCG) were incorporated into the constitution. The constitutionally-mandated Caretaker Government in Bangladesh has added a new dimension to the process of democratic consolidation in post-authoritarian polities. Moreover, the NCG (2007-2008) has undertaken some electoral measures such as party registration with the Election Commission, fresh digitalized voters list and voter ID card with photographs and electoral rule reform to make the ninth Parliamentary Elections free, fair and credible. In this the study, the electoral reforms and practical performances of the NCG in terms of its role to ensure that the ninth parliamentary elections be free, fair and credible have been examined.

1.2. Aims and Research Questions

Bangladesh has been a pioneer in institutionalizing the idea of a Caretaker government- an apolitical government sworn in to mediate between the political parties, its main purpose being to assure free, fair and credible democratic elections (Momen, 2009:66). However, the NCG (2007-2008) was military supported and assumed in office in a special situation when political tumult posed a serious threat to the future of the democratic system in Bangladesh and there was a higher level of distrust among political actors or political parties. This government has undertaken electoral reforms in securing transparent and credible elections.

Therefore, the aim of the study is to explore the electoral reforms in Bangladesh, in particular, the electoral governance of the Caretaker Government. My aim is also to examine

these efforts how effective they are in terms of making a level playing field where all contesting parties would enjoy similar electoral rights and privileges and to make elections corruption-free and credible. Based on these aims, the following research questions will be addressed:

___ Which measures and reforms of the electoral rules has the Caretaker Government (2007-2008) undertaken and how have these measures been applied in the electoral process?

___ What is the performance of the Caretaker Government in term of its role in securing that the ninth Parliamentary Elections be free, fair and credible by applying these electoral measures?

2. The Caretaker Government in Bangladesh: a short background

The transition to democracy in Bangladesh after the overthrow of the authoritarian regime in 1990 began with the formation of a non-party caretaker government to prepare the ground for the transfer of power to a popularly mandated government (Zafarullah and Akhter, 2000:345). Bangladesh has undergone a variety of regimes since it became independent in 1971 from Pakistan. The political culture and its offshoot- electoral culture in Bangladesh are deeply embedded in its political legacy inherited from years of non-democratic rule since independence (Zafarullah and Akhter, 2000:347). For almost half of that time, strong personalist or military regimes ruled the country. In those periods, there was, therefore, a gradual public alienation from the election process owing to alleged electoral malpractices. The crisis of the people's confidence in the stage-managed election system reached its peak during the rule of General Ershad (BANGLAPEDIA). Elections under the Ershad regime became meaningless without the spontaneous participation of major parties (Ahmed, 2001: 14). Thus, the restoration of democracy through free and fair elections was ultimately transformed into a united anti-Ershad movement by the combined opposition parties with a forceful demand for a neutral caretaker government. The opposition political alliances jointly sponsored a number of successful strikes demanding the resignation of Ershad and the holding of free and fair elections under a neutral caretaker government (Maniruzzaman, 1992:206). This prolonged movement by a united opposition forced the president Ershad to resign and handed over the power to the Chief Justice of the Supreme Court, Justice Shahauddin Ahmed on December 5, 1990 (Maniruzzaman, 1992:208). Justice Ahmed was given a mandate by all opposition parties to hold free and fair elections of the Jatiya Sangsad (Legislature) within three months after his assuming office.

However, this Non-party Caretaker Government (NCG) served its purpose fairly well paving the way for a popularly –elected government to assume power after years of non democratic rule. Parliamentary democracy was reinstalled, the foundations of democratic institutions were laid and normal political activities initiated. But a deadlock in the functioning of the parliament originated when the opposition law-makers raised allegations of government-sponsored rigging, intimidation and violence against the ruling Bangladesh Nationalist Party (BNP) in the Magura-2 by-election (ibid). The constituency had traditionally been recognised as a ‘safe’ seat of Awami League (AL) (Mashreque and Rashid 1995 cited in Hakim, 2006: 85). Apparently, the opposition lost faith in the democratically elected government’s ability to ensure fairness in elections. Alleged rigging in the by-election provoked the opposition parties to demand the inclusion of provision of a Non-party Caretaker Government (NCG) in the constitution for holding future parliamentary elections. Future elections under an NCG, a clarion call of the opposition, helped AL, Jatiya Party (JP), Jamaat-e-Islami (JeI) and other minor parties in the parliament to launch a united movement to build pressure on the government (Hakim, 2006:85). It was argued that an institutionalized NCG was necessary to serve as a bridge between the terms of two democratic administrations (Zafarullah and Akhter, 2000:346). The most common arguments of the ruling party against the idea of NCG were that a non-party government could never be an alternative to a democratically elected government; and that election under NCG would be an aspersion on the political integrity of politicians (Hakim, 2006:85). However, frequent strikes and other manifestations of agitation disrupted the normal functioning of government, administration, economy and public life. In these circumstances, the Parliament itself was dissolved on 24 November 1995, less than four months before its five-year term expired (ibid).The government scheduled the sixth parliament election for 15 February 1996. All major opposition parties that had representation in the fifth parliament not only boycotted the elections, but also vowed to resist it by any means (Kochanek, 1997:137). Therefore, the polling day was marked by massive violence throughout the country. And the opposition-boycotted voter-less election became an albatross around the neck of the BNP. The ruling party, however, defended the election as ‘constitutional necessity’ (Hakim, 2006:85). At last, in accordance with the demand of the opposition parties, with over 95 percent BNP’s representation, the sixth Parliament unanimously passed the constitution (Thirteenth Amendment) Bill, 1996 on March 26 1996. The main features of the amendment are:

- (a) within 15 days of the dissolution of Jatiya Sangshad (Legislature), an NCG consisting of the Chief Adviser and not more than ten advisers would be formed

to govern the country until the appointment of the new Prime Minister after election to the new parliament;

(b) the President would appoint the last retired Chief Justice of the Supreme Court as the Chief Adviser and would appoint the advisers in consultation with him;

(c) the Chief Adviser and the other advisers must not have any political affiliation and would be debarred from contesting parliamentary elections that they would supervise;

(d) NCG would supervise the elections to the Jatiya Sangsad and would perform routine work of government without making any policy decisions; and NCG would be collectively responsible to the President (the Constitution of Bangladesh, 2001).

After the enactment of the amendment, the resignation of what the opposition considered 'an illegitimate government' became the prime objective of the agitation programme. (Hakim, 2006:86). Consequently, the BNP government resigned and the short-lived (12days) sixth parliament was dissolved on 30 March 1996 (Kochanek, 1997:137). However, in accordance with the new provision of the constitution, the NCG conducted the seventh and eighth parliamentary elections of June 1996 and October 2001. Like its predecessor, it refereed an electoral contest in which all parties had an equal chance to win as in the founding democratic elections of 1991 (Hakim, 2006: 86).

However, at the end of October 2006, Parliament was dissolved as mandated by the constitution, which stipulates that the incumbent government must step aside at the end of its five-year term in favour of an NCG charged with overseeing the ninth parliament elections within 90 days (Hagerty, 2007:106). The NCG is meant to be led by the last Supreme Court Justice to retire - in this case K. M. Hasan. However, the AL objected to Mr. Hasan's candidacy, alleging that he was a BNP supporter who would not be neutral in the election process (ibid). The AL also argued that the BNP government increased the retirement age for Supreme Court Justices from 65 to 67 years by the 14th amendment to the constitutions in May 2004 for making up of the NCG in favour of them which would conduct next elections (Riaz, 2005:116). However, Mr. Hasan removed himself from consideration, and President Iajuddin Ahmed appointed himself as head of the NCG. And on November 27, 2006, the election commission declared that elections would be held on January 22, 2007 (ibid). But the AL immediately rejected the polling date, arguing that the election commission was not fully reconstituted and the voter lists were not purged of false entries (ibid). The AL instructed its

followers to “paralyze the country” with a transport blockade (ibid). Moreover, the fourteenth-party alliance led by AL and the JP decided to boycott the elections on the grounds that the NCG, headed by President Ahmed, was favouring its main opponent the four-party alliance led by the BNP. In this circumstances, President Ahmed, under pressure from the army cancelled the elections, resigned as Chief Advisor of the NCG and declared state of emergency on January 11, 2007. A New NCG was appointed to prepare for credible and participatory elections and took office for about two years from 2007 to 2008 (Hagerty, 2008:177). This NCG conducted the ninth parliamentary elections on December 29, 2008. The election process benefited from a series of electoral reforms instituted by the NCG during the past two years. These efforts contributed significantly to the credibility and efficiency of the 2008 elections which were better than previously held elections in 1996 and 2001.

3. Theoretical Framework

The Caretaker Government Model

Caretaker Governments are the product of transitions in which the outgoing authoritarian regime, or perhaps, new elite within the incumbent institutions, initiates a transition in the face of a growing economic deterioration, a severe rupture within the ruling elite, or a threat of opposition and even revolt (Shain and Linz, 1995: 53). However, the term “Caretaker Government” refers to two characteristics. First, the temporal nature of the government which means that there should be an end in view: the holding of elections on a specific date which in this case involves a change of regime (ibid). Second, the limited aspect of a Caretaker Government dictates that such a government in principle has no or only limited legitimacy to make any decisions of importance except those conducive to democratization (ibid). Moreover, in parliamentary democracies, Caretaker Government is expected to deal only with routine and the most urgent business. They are often called managing or administrative government. But, all Caretaker Governments do not refer to themselves that way, although many would accept this designation, and they may consider themselves normal governments within framework of the old regime or the special rules enacted to govern the transition (Shain and Linz, 1995: 53).

Electoral Governance

Elections involve more than voting. The formal act of casting a ballot is preceded by electoral competition in which rules defining, among other things, the electoral formula, district magnitudes, district boundaries, and assembly size coordinate the strategic choice of voters, parties and candidates over votes and seats (Mozaffar and Schedler, 2002: 7). Electoral

governance involves the interaction of constitutional, legal, and institutional rules and organizational practices that determine the basic rules for election procedures and electoral competition; organize campaigns and voter registration; resolve disputes and certify results (Hartlyn et al., 2008: 74). It operates on three levels: rule making, rule application, and rule adjudication (Mozaffar and Schedler, 2002: 7).

At the level of rule making, electoral governance involves the design of institutions that define the basic framework of democratic elections (ibid). Rules of electoral competition and rules of electoral organization configure this framework. Traditional electoral rules covering suffrage rights, rules of representation, assembly size, district magnitude, district boundaries, and electoral calendars form part of the agenda (ibid). But the basic framework of democratic elections also includes additional sets of rules that have been largely neglected in extant scholarship: the formal rules that govern voter, party, and candidate eligibility and registration; rules regulating election observation; laws and regulations that affect the resource endowments of parties and candidates (their access to money and media); rules prescribing the method of counting, tabulating, and reporting votes; and laws establishing the structure, jurisdiction, and operational framework of election management bodies and dispute settlement authorities (ibid).

At the level of rule implementation, electoral governance coordinates the tasks of diverse personnel and organizes the execution of a complex array of interdependent activities to establish the stable institutional basis for voting and electoral competition (Mozaffar and Schedler, 2002: 8). Moreover, electoral governance as rule application evokes an idealized image of bureaucratic routine and mechanical execution of coherent sets of known and tested rules (ibid). But, in transitional regimes and new democracies, the complex task of organizing electoral contests is much closer to the “diabolic” paradoxes of politics than to the tedium of bureaucratic routine (Weber, 1919 cited in Mozaffar and Schedler, 2002: 8). It involves pursuing and reconciling three “conflicting imperatives”: administrative efficiency, political neutrality, and public accountability (Gould, 1999 cited in Mozaffar and Schedler, 2002: 8). Electoral officials cannot neglect any one of them, nor can they maximize them all together. In the context of material scarcity and political distrust that is common to many emerging democracies, electoral credibility can be obtained when electoral governance succeeds in meeting the three challenges and balancing the trade-offs they involve (Mozaffar and Schedler, 2002: 8).

At the level of rule adjudication, electoral governance involves the mediation and settlement of disputes arising out of the process and the results of voting and electoral

competition ((Mozaffar and Schedler, 2002: 10). Rule adjudication prominently involves the authoritative resolution of disputes that arise from ambiguities in complex election rules and operational problems in their implementation (ibid). The resolution of electoral disputes represents the concluding act of electoral contests. Failure at this final stage may ruin any advances made at prior stages. Settling disputes over election results is, therefore, a vital function of electoral governance, as shown by the decisions of the various local, state and federal appeals courts ((Mozaffar and Schedler, 2002: 11).

Electoral management bodies and rules together can determine the probity of electoral processes, and in emerging democracies, where administrative processes are weak and distrust across political actors is high, their role at the centre of electoral processes tends to be more visible (Hartlyn et al., 2008: 75). In addition to expanded attention by the policy community, which is largely convinced that independent, professional electoral management bodies, in particular, electoral commissions play an important role in assuring competitive and transparent elections (ibid). They entrust a neutral body of officials with task of adjudicating conflicting claims about election outcome (Lehoucq, 2002: 36). Impartiality is what empowers electoral commissions to deter allegations of fraud (ibid). But, how successful electoral authorities are in depoliticizing the management of elections depends in part on how successful they are in achieving administrative efficiency (Lehoucq, 2002: 36, Mozaffar and Schedler, 2002: 9). In the context of limited financial and human resources prevailing in most emerging democracies, organizational excellence is difficult to achieve and some irregularities are bound to happen (ibid).

4. Methodology

In order to investigate the above-mentioned research questions, qualitative method has been utilized to get in-depth knowledge about the subject. A case study method has been used because it, as Berg (2001:233) has indicated, allow the investigator to retain insight into the life of a particular organization. Particularly, explanatory case study method has been useful as it has used a pattern-matching technique which is a situation where several pieces of information from the same case may be related to some theoretical proposition (Berg, 2001:230). Hence, this case study method has been applied for examination of the efforts of the NCG to make the ninth Parliamentary Elections in Bangladesh free, fair and credible.

Moreover, content analysis has been used for analysing data as it is regarded as an accepted research method of textual investigation (Silverman, 2001:123). Besides, one of its essential features is the use of categories, which are often derived from theoretical models and

brought to the empirical material (Flick, 2006:312). However, in my dissertation considering the time constraints, I have used relevant literature and secondary data. Particularly, sources for my study have been the empirical data which come from several sources such as research articles and books, other written texts, laws and acts, the constitution, speeches, foreign and local election observer's reports and media reports.

The study has investigated the background of the NCG and the nature of existing electoral rules to answer why the NCG has undertaken reforms of some electoral rules and why the elections have been held in extra-legislative delay. The study has also analysed the discussion held between political parties and the Election Commission, behaviour and opinions of political parties, opinions of academics and civil society actors and reports of local and foreign elections observer to appraise reforms of electoral rules themselves, legislation process and application process of electoral rules and their influences on making elections credible. The reasonability, acceptability and fairness of political party registration process and rules and the development of a new, digitalized voter list and its reasonability, fairness and public confidence are good indicators of the quality of elections. Thus, the study has explored these measures by analysing media reports, elections observer reports and electoral rules as the media reports present opinions, demands and speeches of the people, the political leaders and the parties.

After declaration of election schedule, the study has investigated party funding and candidate selection, expenses of candidates to election, all of which provide a picture of influences of money on voters. In emerging democracies like one in Bangladesh, the niceties of electoral law may be quite robust, particularly, in the competitive election after moving to political pluralism, but the playing field of electoral competition is often deeply skewed in favour of the dominant parties and elites (Elklit and Reynolds, 2005:150). Therefore, the study has captured both sides of the equation, the de jure and de facto rules which shape elections, the written laws and practical realities, the freeness of the vote and the fairness of the campaign and campaign regulation. Moreover, the study has examined the level of election related violence and integrity and accuracy of counting and tabulating the vote, percentage of voter turnout and resolving election related complaints and verification of final result by analysing election results, election observer's reports and media reports which provide data for the assessment of quality of elections. The study has also analysed reactions to the election results from the political parties and leaders and from civil society actors which making assessments of the credibility of the elections.

An important question of my study is how I have overcome possible biases in the sources that I have used. In regard of media reports, I have chosen roughly neutral newspapers which as being a citizen of Bangladesh I know very well about. Moreover, I have re-checked the theme of the reports of one newspaper compared with those in other newspapers and in election observer's reports as well. Besides, I have mostly used data from newspapers regarding information about the elections; speeches and comments of political leaders, civil society actors and academics and commentary of the election commission which have less scope of biases. Likewise, I have chosen the election observer groups who produced their reports following research methodology and conducting field work. The Election observer reports are, therefore, considered as research work. Other sources, I have used in my study are research articles and books, and electoral laws.

The limitation of my study is that it (the study) has not been able to follow formal techniques of content analysis because a great number of sources of empirical data have been used. However, the fact is that, as for the form of content analysis, no general rule can be defined exactly and it depends on the respective research question (Flick, 2006:314).

5. The Effort of the Caretaker Government

The Non-party Caretaker Government launched an ambitious electoral reforms programme during its two years period. The programme included reconstitution of the Bangladesh Election Commission, electoral law reform, voter registration, and political party registration with the election commission. In the study, the following electoral measures have been analysed:

5.1. Reconstitution of the Bangladesh Election Commission

Free and fair elections can not take place without an independent and transparent electoral administration (Massicotte, et al., 2004: 83). Article 118 of the Constitution lays down that the BEC is to be “independent in the exercise of its functions and subject only to the constitution and any other law”. But, before January 2007, the BEC had no financial and administrative autonomy as it was staffed and financed by the Prime Minister Office (EU EOM, 2009: 14). However, after the NCG had assumed in office, it set reconstitution of the BEC as one of its priorities to restore public confidence in the quasi-judicial body (New Age, January 22, 2007). Law and Information Adviser, Mainul Hosein, said that the NCG had given the highest priority to a reconstitution of the BEC which was likely to run the country as long as it need to create a congenial atmosphere for holding peaceful and fair elections (Daily Star, January 18, 2007). Independent and professional electoral commissions are deemed

especially important in situations of low administrative state capacity where there is a high level of distrust among political actors and few, if any, alternative mechanisms to help ensure honest and impartial elections (Hartlyn et al., 2008: 78). Lehoucq (2002: 30) has argued that as election commissions became more and more independent the validity of elections became less and less questioned and post-electoral conflict became less frequent. The NCG, therefore, made independent of the commission's secretariat from the office of the head of government (New Age, February 11, 2007). Since January 2007, it has been linked to the Ministry of Law and Parliamentary Affairs, with financial and administrative autonomy (EU EOM, 2009: 14).

Moreover, the President, Iajuddin Ahmed, appointed ATM Shamsul Huda as Chief Election commissioner, and Muhammad Sahul Hossain and M Sakhawat Hussain as Election Commissioners on February 4, 2007 (New Age, February 14, 2007). The constitution does not require consultation on the appointment of Election Commissioners with political parties or other election stakeholders. Commissioners are appointed by the President for a five-year term and can only be removed according to the procedures for removal of Supreme Court judges (the Constitution of Bangladesh, Article 118). The new appointment of the Chief and other Election Commissioners to the deserted Election Commission came as part of the government's reforms recipe aimed at holding credible general elections against the backdrop of the cancellation of the polls previously scheduled for January 22, 2007, amid a political crisis (New Age, February 5, 2007). The positions of Election Commissioners remained vacant as all five commissioners resigned on January 31, 2007, 10 days after the Chief Election Commissioner, MA Aziz, relinquished his post (ibid). The NCG wanted replacement of the old team of commissions to make it acceptable to the people (New Age, January 22, 2007). The AL-led alliance had accused the election commissioners of being the henchmen of the BNP-led alliance, and launched a movement demanding resignation of all of them to facilitate the holding of a fair and credible election (New Age, February 1, 2007). None of the commissioners, however, resigned from their posts at that time (ibid). However, BNP Secretary General, Abdul Mannan Bhuiyan urged that the government should appoint people with no record of playing controversial roles in the past or at present as the Chief Election Commissioner (CEC) and Commissioners (Daily Star, February 1, 2007). The AL welcomed the appointment of the Chief Election Commissioner and other Election Commissioners, and hoped that the reconstituted Election Commission would play a neutral role in holding a free and fair election (Daily Star, February 6, 2007).

5.2. Electoral Law Reform

The major laws governing the elections in Bangladesh are the Constitution of the People's Republic of Bangladesh and the Representation of the People Order (RPO) (1972) (as amended 2008). Moreover, other key legal instruments for the conduct of the elections are Code of Conduct for Political Parties and Candidates (2008), Delimitation of Constituencies Ordinance (1976), Election Roll Ordinance (2007) and Election Roll Rule (2008).

After the NCG had taken office it initiated an electoral law reform programme, partly in response to international recommendations. The BEC asserted that objectives of electoral reforms are to facilitate the process of institutionalisation of democracy; to facilitate internalisation of democratic norms within political parties and to make election process free from money, muscle power and misuse of power (the BEC, 2007:13). The Chief Advisor, Fakruddin Ahmed, said that it would be easier to make politics free of pollution and prevent the use of black money and abuse of authority in the political arena through setting up an appropriate legal framework and ensure its application (New Nation, August 15, 2007). Moreover, Asian Network for Free Elections (ANFREL) (2008:3) reported that the electoral legal frameworks were substantially amended during 2007 and 2008 in an attempt to level the playing field and lessen the influence of corruption in Bangladesh politics. The BEC on April 5, 2007 unveiled the draft for reforms of the electoral laws and processes and held a series of dialogues with political parties on it (ibid). It involved dialogue with 16 political parties in three successive rounds (BEC, 2008:5). Opinions of senior editors and journalists, various professional groups, civil society actors and Non-government Organizations and many other stakeholders were also earnestly sought (ibid). However, the NCG had made amendment to the basic law relating to election management, namely, the Representation of the People (amendment) Ordinance, 2008 and three other rules relating to voter registration and registration of political parties and their code of conduct during elections. The Representation of the People (Amendment) Ordinance (2008) was promulgated on August 19 and the gazette notification was made on August 21 (New Age, August 22, 2008).

The amended RPO (2008) made mandatory provisions of registration of political parties for contesting in elections and set new eligibility criteria for contesting parliamentary elections, new ceiling for elections expenditure, mandatory bank account for election funds, submission of expenditure returns and guidelines for electioneering. Article 90 B. (1) of RPO states that for registration, any party must have a record of winning at least one seat in any of the parliamentary elections since the country's independence or of obtaining 5 per cent of the total votes cast in which its candidates took part in any such parliamentary polls or having

active units in at least 10 administrative districts and offices in at least 50 upazilas or metropolitan thanas. In addition, a political party shall have the following specific provisions in its constitution:

(i) to elect the members of the committees at all levels including members of the central committee (ii) to fix the goal of reserving at least 33 percent of all committee positions for women including the central committee and successively achieving this goal by the year 2020; (iii) to prohibit formation of any organization 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 or establishment or the members of any other profession; (iv) to finalize nomination of candidate by the 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 concerned constituency.

Moreover, article 90C (1) of RPO (2008) stipulates that a political party will not be qualified for registration -- if any discrimination regarding religion, race, caste, language or sex is apparent in its constitution; or by name, flag, symbol or any other activity it threatens to destroy communal harmony or leads the country to territorial disintegration. Besides, the NCG has inserted some provisions in the RPO (2008) to ensure financial transparency and accountability of political parties. A registered political party, for example, will be entitled to receive donation or grants from any person taka five lakh (Tk. 500,000) or property or service equivalent to it and from any company or organization taka twenty five lakh (Tk. 25 00,000) or property or service equivalent to it in a calendar year (RPO, 2008, article 90F[1]) .

Moreover, the candidate will need to submit eight points of personal information along with the nomination paper. Particularly, at the time of submitting the nomination paper, every contesting candidate has to submit to the returning officer a statement of the probable source of fund to meet his election expenses. The candidate has also to show, for example, the sum of money to be provided by him from his own income and the sources of such income; the sum to be borrowed or received as voluntary contribution from his relatives, any other person, any political party and from any organisation (RPO, article 44AA [1]). Besides, article 44 B (3) has stated that the election expenses of a candidate would not exceed taka fifteen lakh (Tk. 1500,000) which earlier was five lakh (5 00,000). In addition, the RPO (2008) also restricts the candidate from contesting the election in more than three constituencies which earlier was five.

The Code of Conduct for Parliamentary Elections (Code of Conduct) 2008 regulates electoral campaigning. It requires political party candidates to obtain permission to hold rallies, bans the use of vehicles in processions, and limits the design and type of posters that parties may display. The Code of Conduct, 2008, has also prohibited the following measures:

- (a) erection of any gate, arch or barricade;
- (b) commencing election publicity in any manner at any time three weeks prior to the date fixed for the poll;
- (c) setting up more than one election camp or office in any union or in any ward of a municipality or city, or more than one central election camp or office in any constituency;
- (d) entertainment of electors in any manner;
- (e) using symbol or portrait of candidate with more than one colour.

The article 91 (E) of RPO provides the power of the BEC to cancel candidature at any level of elections. The Article has stated that, 'if it appears to the Commission on receiving an information from any source or any verbal or written report that, any contesting candidate or his agent or any other person on his behalf by his order engages or attempts to engage in any serious illegal activity or violates or attempts to violate any provision of this order or rules or code of conduct for which he may be disqualified to be elected as a member of parliament'. However, article 91(E) of the RPO has been criticized as it has granted the BEC 'despotic powers' to exclude a contesting candidate. The article was criticized by the BNP alleging that the BEC could make subjective decisions against parties of their choice. At one stage, the BNP had insisted on the suspension of 91(E) as a requirement for their participation in the election (New Age, November 21, 2008). One candidate likened political activity under article 91(E) to 'swimming with your hands tied with a rope' (ANFREL, 2008:4). The BEC argued that this power is vested with most election administrations and would remain intact (Daily Star, November 28, 2008). Transparency International Bangladesh (TIB) favoured the position of BEC and called the article indispensable (ibid). Legal employees of the BEC admitted that article 91(E) had entrusted the BEC with wide-ranging powers but regarded the article as a necessary tool for the time being to safeguard against abusive activities which had happened during previous elections (EU EOM, 2009:11).

5.3. Voter Registration

It is a mandatory responsibility of the BEC to prepare an appropriate and correct voter list of all voting age population prior to an election to Parliament. Till the election to the eighth Parliament, voter list had been prepared by following what is termed as traditional method

(the BEC, 2008). Moreover, in the past, electoral rolls that had been prepared did not include photographs. In July 2006, the then BEC led by Justice M A Aziz updated the voter roll as a preparation for the parliamentary election in 2007 which was later postponed (New Age, May 15, 2007). But widespread allegations of inflation and substantial omissions deeply weakened the credibility and public confidence in the BEC and the voters list 2006 (EU EOM, 2009: 16-17). The AL alleged that there were a lot of false entries in the voter list 2006 (Hagerty, 2007: 107) which led to boycotting the elections 2007 by the AL led alliance. However, in response to the demands for holding credible, free and fair elections, the BEC considered a number of options for preparing a trustworthy and generally acceptable voter list. It finally decided to go for voter listing with photographs by using the latest computer-based technology (the BEC, 2008: 4). It was also decided to use the same database to execute a National Identity Card (NID) programme as it did not require any extra time for the effort (ibid). The BEC (2008) asserted that the electoral roll with photographs prepared in this manner ensured that nobody was registered twice and would help in the polling centres to identify the voter and check fraudulent voting. But the existing electoral rolls ordinance 1982 and the electoral roll rules 1982 did not permit preparation of any fresh electoral roll with photographs. A former Supreme Court Judge, Naimuddin Ahmed said that the existing laws did not permit preparation of a fresh electoral roll and setting up camp offices instead of going on door to door visits (New Age, May 15, 2007). The NCG made, therefore, necessary amendments to the electoral laws and rules for preparing a new voters roll with photographs before launching the project. The President, Iajuddin Ahmed, promulgated Electoral Rolls Ordinance 2007 on August 09, 2007 making provisions for preparation of a fresh voters roll with photographs repealing the existing Electoral Rolls Ordinance 1982 (New age, August 11, 2007).

The BEC entrusted this challenging task to the Bangladesh Army. The process that started with pilot-testing at Sreepur in June, 2007, had been successfully completed by them on schedule (Daily Star, June 11, 2007). The pilot project ran for three weeks and covered 45, 000 eligible voters to gather field-level experience before finalising the methods for preparing the voters roll (New Age, June, 11, 2007). Under the project, 145 enumerators appointed, who happened to be local school teachers, visited door to door for distributing voter registration forms and collecting data (ibid). People had also been asked to visit the registration centres to have their photographs and finger prints (ibid). The pilot project was completed on June 30, 2007, listing 41 076 residents as voters (New Age, July, 01, 2007).

Formally, a new voter registration process, designed according to the experiences from the pilot project, started from Rajshahi City Corporation area on August 14, 2007 (New

Nation, August 15, 2007) and was successfully completed on July 8, 2008. The Chief Adviser, Fakruddin Ahmed, urged; while inaugurating the voter registration process at Rajshahi; all sections of people, irrespective of party, opinion, religion and race, to go to the registration centres to become voters (ibid). However, in carrying out the joint voter registration and NID programme, the BEC made a blending of the traditional system with the new technology. Basic data was collected by the traditional enumerators through door to door visits following which the voter was required to pay a visit to the designated registration centres on the appointed day for data entry and giving his photograph and fingerprints (the BEC, 2008: 4). During the registration process, mobile telephone companies had been requested to send message to subscribers to make people aware about the voter listing (Daily Star, July 09, 2008). Publicity has also been carried out through advertisement in the media (ibid). Local Government representatives, in particular, chairmen and members of Union Parishad and Municipality, and field-level government officials were helping a lot in the registration process (ibid).

However, in October 2008, the Chief Manager of the project, Major General Shafiqul Islam handed over the final list to the BEC with a total of 81 130 987 voters, of whom 41 236 146 female (50.9 percent) and 39 822 549 (49.1 percent) male enrolled across the country (New Nation, October 15, 2008). The number of voters stood up 8.17 percent from the roll prepared in 2001 and down 12.83 percent from the controversial voter's roll of 2006 (New Age, October 15, 2008). The entries of voters had been checked and re-checked in such a way that strictly prevented duplication (Daily star, October 15, 2008). Besides, the BEC included a supplementary voter list appended to the end of the regular electoral register in which only 631 of voters actually registered and at the discretion of the BEC , those were not included in the supplementary list could be added upon their written request to the BEC (EU EOM, 2009:17). However, general people and political leaders were confident about the authenticity of the new voter list. Shamima Akhter told the reporters of the Daily Star (June 11, 2007) "No one will be able to cast my vote as the list has now my photograph on it". Former lawmaker of the AL, Advocate Rahmat Ali, appreciated the NCG's move as a historic step (ibid). Former President of Gazipur District BNP, Abdul Motaleb, said that the NCG presented an authentic and complete digitalised voter list" (ibid). EU EOM (2009:17) observed that it was a largely successful exercise, leading to the production of a high-quality voter list with photographs. They also reported that this new voter list was much more accurate and inclusive than the 2001 and 2006 voter lists thanks to the absence of millions of duplicates or erroneous entries, as well as the registration of young voters and some

marginalized segments of society. Likewise, the Editorial of the Daily Star (one of the major daily newspapers) (October 16, 2008) assessed, “there is in hand and finally, an authentic voters’ list that will greatly contribute to the credibility of the promised general elections in December 2008. It is a step that strengthens our faith in democracy”. Moreover, ANFREL (2008:6) observed that voters were highly confident that the new photographic voter list would reduce electoral fraud. In addition, Head of the Japanese Election Observation Mission, Goji Sakamoto, said that the voter list in previous elections was not as correct and appropriate as it was this time (New Nation, December 31b, 2008).

5.4. Registration of Political Party

The RPO (2008) made registration of political parties taking part in the election compulsory for the first time in Bangladesh (Article 90A). However, political parties were critical, saying that the BEC, by arranging a political party registration procedure imposed its control over the parties. Joint-secretary of the BNP, Nazrul Islam, said that there were many vague, irrelevant and unnecessary things in the electoral laws regarding registration of political parties (New Age, October 10, 2008). Acting Secretary General of the AL, Syed Ashraf Islam, said that the NCG had amended the RPO regarding registration of political parties with an aim to depoliticise the country (Ittefaq, August 28, 2008). In this regard, the CEC, ATM Shamsul Huda, argued that “registration (of political parties) did not mean imposing the BEC’s control over the parties – it was aimed at bringing political parties under a “legal framework” to ensure accountability and to consolidate democracy” (New Age, October 10, 2008). However, the BEC held dialogues with political parties in an effort to reach a consensus on party registration (Islam, 2008a: 1). The BEC invited 16 political parties, including the BNP and the AL, to hear their problems and suggestions (ibid). After finishing dialogues with the parties, the BEC offered an opportunity to resubmit their application after having made necessary changes in their constitution if the parties initially failed to meet the requirements (EU EOM, 2009: 18).

The BEC issued a notice, on August 27, 2008 published in national daily newspapers, inviting parties to apply for registration in a prescribed form along with a number of documents, setting October 20, 2008 as the deadline (Islam, 2008a: 1). According to the notice, the parties willing to be registered would need to submit nine documents and information including the name of the party with the address of its headquarter, constitution and rules of the party, election manifesto of the party, if any, a photograph showing the party’s flag and log, all names with portfolios of the members of the central or similar

committees, party's bank account number and bank statement including detailed sources of income (ibid). The BEC had formed a five-member committee to verify the validity of the information and documents provided in and submitted along with applications for registration (Prothom Alo, October 21, 2008). Within deadline, a total of 107 political parties including the major parties- the AL and the BNP applied for registration (ibid). The BEC approved of 39 of these parties for registration, representing a spectrum of political ideologies from secular and socialist orientations to Islamic conservatism (EU EOM, 2009:18). The BEC verified the information provided by the parties and many applications were rejected on the basis that the district and upazilla-level offices existed on paper, but not in reality (ibid). However, although any decision of the BEC with regard to the registration of a political party is final, if a party is challenged, the BEC can give the party an opportunity to be heard. The major ally of the BNP in the four-party alliance, Jamaat-e-Islami, was one of the parties heard after being challenged by different civil society organisations (EU EOM, 2009: 20). The objections to the Islamist party's registration were lodged by different citizens and freedom fighters' groups accusing it of war crimes during the liberation war (Daily Star, November 4, 2008). The party was eventually certified by the BEC.

EU EOM (2009:18) assessed that the BEC managed the registration in an equitable manner. The Commonwealth Observer Group (2008: 3) also appraised that the criteria for registration were reasonable, and 39 parties were actually registered. However, one consequence of the registration requirements was that very small or geographically concentrated parties could not qualify (EU EOM, 2009:18). Moreover, some positive consequences of registration requirements were that political parties amended their constitution in line with the RPO (2008) and absolute authority on the part of any chairman or chairperson of parties was curtailed which would ensure democratic practices within the party. Absolute authority of the chairperson of the BNP, for example, to form the party's standing and executive committees had been clipped in its revised constitution submitted to the BEC and from then on, members of the central body would be elected by national council in efforts to secure democratic practice within the organisation (Daily Star, October 21, 2008). Likewise, Jamaat-e- Islami (an Islamic Conservative party) made major changes in its constitution allowing non-Muslims to be members of the party (Liton and Hasan, 2008: 1). The AL also amended its constitution in line with the RPO (2008), setting free its front organisations including its student and labour wings which instead would remain as the party's associate organisation (New Age, October 9, 2008).

6. The Ninth Parliamentary Elections 2008

6.1. Electoral Administration

The BEC has a full-fledged Secretariat in charge of all assistance to execute the decisions and orders of the Commission (the BEC, 2008:03). However, the Secretariat, in its turn, is assisted by a moderate field establishment. There are nine Deputy Election Commissioners, 83 District Election Officers and 505 Upazaila/Thana Election Officers posted respectively at the Division, District and Upazila/ Thanas levels (the BEC, 2008:03). Their main functions are to maintain liaison with the next higher level of hierarchy and to provide support to the many activities carried out by the Secretariat in fulfilling the mandate of the Commission. During the election period, in accordance with the RPO (2008), other local government structures become responsible for administering the election and aggregating the results. In particular, the BEC has appointed Deputy Commissioners (DCs) as Returning Officers (ROs) and they are, therefore, responsible for candidate nomination, election administration and the results process (the BEC, 2008:6). Under the ROs, there are Upazila Nirbahi Officers (UNOs) in rural areas, and Thana Nirbahi Officers (TNOs) in metropolitan locations, who serve as Assistant Returning Officers (AROs) (ibid).

There has been a greater degree of confidence in the current BEC than there was in its predecessor (EU EOM, 2009: 15). ANFREL (2008: 5) assessed that the BEC professionally administered the election and met key requirements to ensure a smooth and transparent electoral process. Regional BEC offices were also well prepared to conduct the polls and had access to all necessary materials (ibid). The BEC was rated as neutral by more than 70 percent of all voters interviewed by ANFREL observers (ibid). Regional BEC offices were also well prepared to conduct the polls and had access to all necessary materials (ibid). The BEC undertook dialogue and consultation with most political parties and civil society on the reform of the electoral process and this process was positively assessed by most stakeholders (EU EOM, 2009: 15). However, efficiency was hampered by overreaching and the BEC appears to have regulated beyond its practical capacity to implement, which overwhelmed the system (ibid).

6.2. Candidate Registration

Article 66 of the constitution has stated that a person would be qualified to be elected as a member of parliament if he is a citizen of Bangladesh and has attained the age of twenty-five years. Article 12 of the RPO (2008) listed candidate disqualification criteria which include

defaulting on bank loan or failure to pay utility bills until fifteen days before the submission of nomination. All candidates were required to produce an affidavit with information regarding their educational qualifications, wealth, criminal record or pending charges against them, if any, as well as election promises made in past elections and how many of these had been fulfilled (ibid). Candidate nominations were submitted to the respective Returning Officers (ibid).

However, one of the amendments to the RPO provided that parties should choose a candidate from a list of names proposed by members of its local committees in the constituency concerned (Article, 90B). This provision was inconsistently complied with. Among the major parties, AL seemed to be the most ambitious in terms of seeking to reflect the preferences of its local members, although the party overruled the latter's choices in a few constituencies, causing sharp protests (Liton, 2008b:1). It appeared that BNP disregarded the provision altogether. Central leaders of the BNP, however, claimed that they had earlier collected names of prospective candidates from the grassroots through seven organisational teams (ibid). The BEC indicated that it would not insist on the implementation of the provision in this particular election because of having such a short span of time (EU EOM, 2009: 19)

According to the election schedule announced by the BEC the deadline for submitting nomination papers was on the 30 November 2008 (Liton, 2008c: 1). Returning officers scrutinized the nominations on the 3 and 4 December (ibid). However, the BEC's returning officers scrutinized approximately 2456 nomination papers filed by candidates for 300 constituencies (Islam, 2008b: 1). Five hundred and fifty seven were rejected, at least 75 specifically for defaulting on their loans (ibid). The BEC Secretariat officials said that nomination papers were found invalid because of misinformation, loan default and conviction (ibid). Moreover, most of the nominations, mostly of independent candidates, were cancelled because the aspirants either failed to submit the signatures of one percent of the voters of the constituency or submitted fake signatures (ibid). A candidate must either be nominated by a political party or run as an independent. Independent candidates were required to submit a list of signatures representing one percent of the constituency voters, a rule which did not apply to candidates who had been elected to Parliament in previous elections (the RPO, 2008: article 12). However, many candidates appealed their rejection and 119 were cleared by the BEC after their appeal hearings (Daily Star, December 12, 2008).

The RPO (2008) allowed candidates to stand simultaneously in a maximum of three constituencies (Article 13 A), compared to five constituencies in the past. If a candidate is

elected in several constituencies he or she has to choose one to represent in Parliament (the Constitution of Bangladesh, article 72), with by-elections being organized in the others within a period of three months from the declaration of the election result. There were 33 candidates who stood in multiple constituencies (Islam, 2008b: 1). AL only allowed Sheikh Hasina to be a candidate in multiple constituencies; and BNP allowed three candidates to enjoy this privilege. However, the number of candidates intending to contest the elections on December 29, 2008 was the lowest in Bangladesh's election history since 1991 (New Age, December 01, 2008). According to the BEC records, a total of 2 563 candidates filed nomination papers for October 1, 2008 elections, 3 096 for June 12, 1996 elections and 3 855 for February 27, 1991 elections (ibid). The Number is significantly less than the previous elections because of the strict provision for political parties registering with the BEC. Liton, Shakhwat, argued that the parties which existed only on papers were not able to submit nominations always failed to win any seat in the previous parliamentary elections with the paltry votes they managed to bag and it had been reported many a time that those parties often sold their polling agent to major political parties during elections (Daily Star, December 2, 2008). He added that leaders of those parties considered their positions as a status symbol.

Appeals and petitions related to candidate nominations had a significant impact on the election process in the month prior to the day of the election. Rejected candidates could appeal to the BEC and almost four hundred (388) appeals were received (EU EOM, 2009:20). Hearings started on 6 December 2008 and the last case was heard late in the evening on 10 December. During the entire period, the BEC was represented by all three Commissioners and leading officials of the Secretariat (Daily Star, December 12, 2008). The EU Election Observation Mission (2009: 20) reported that the actual hearings were held in a transparent way and the decisions seem to be made in an unbiased manner. However, many candidates rejected by the BEC filed writ petitions to the Supreme Court. A number of these petitions were accepted either by the High Court or later by the Appellate Division. The BEC was directed to reinstate candidates, decisions that disrupted the election process as ballots had to be reprinted a short time before Election Day (ibid). The Supreme Court decision to direct the BEC to reinstate candidates was only temporary and hearings were expected to resume in January 2009 (ibid). The BEC informed that it was respondent in twenty-one cases, with two cases involving candidates that obtained a seat in the elections (ibid). New elections must be taken place if the candidate's petition is finally rejected.

6.3. Election Campaign

The campaign was generally conducted in an open and free environment with parties and candidates not reporting any obstacles to holding meetings and rallies (EU EOM, 2009: 21). Campaigning generally remained peaceful through out the country. People eagerly joined processions, conducted door-to-door campaigns and broadcast political messages from loudspeakers in cars and rickshaws (ANFREL, 2008: 7). However, parties generally abided by campaigning restrictions in the Code of Conduct and the RPO (2008). The Code of Conduct (2008) included a ban on colour posters hanging on walls, the use of motor vehicles in rallies, and the offering of food and drinks to voters. Candidates of the major electoral alliances organized processions, held rallies and hung posters from ropes at different spots (Daily Star, December 14, 2008). People, in particular, residents of Dhaka City were expressed their satisfaction with the new electoral Code of Conduct as the candidates were not allowed to draw graffiti or to paste posters on walls, and were not allowed to bring out processions blocking traffic (ibid). Mahamuda Begum, a resident of Nikunia area, Dhaka City, told reporter from the Daily Star, “The nicest thing this year is that the candidates are not allowed to hold rallies or bring out processions blocking people’s movement, which used to be a constant source of irritation during previous elections” (ibid). Moreover, Columnist, Hasnat, Abdul Hye, assessed that meetings held and processions brought out by supporters of candidates were also relatively modest affairs, in stark contrast with the past (Hasnat, 2008). However, vehicles were used in a number of processions in Chittagong division (ANFREL, 2008: 7). Some campaign materials distributed in Dhaka and Sylhet were designed to discredit the two major parties. Police arrested four activities of the BNP and Jamaat- e-Islami from Moghbazar area in the Dhaka City on charges of distributing leaflets containing derogatory remarks against the AL (Daily Star, December 22, 2008). An editorial of the New Nation (December 23, 2008) reported that potential voters were receiving money in exchange of promises to vote for candidates and the candidate were trying to eclipse each other in purchasing the loyalty of voters. Gift such as sarees and jackets were distributed to voters in Noakhali and Jessore (ANFREL, 2008: 7). Moreover, local media reported that the seizure of 410 000 taka in Chittagong the night before the election, allegedly meant for vote buying. Police arrested 19 persons of the AL-led grand alliance in seven districts for distributing money for votes (New Nation, December 31a, 2008). However, the ANFREL Report (2008: 7) assessed that incidents such as these were not prevalent across the country. The style of electioneering had significantly changed for the better contents of campaigns. Chairman of Transparency International, Muozaffar Ahmad asserted that a qualitative change had been

brought about in the election campaigning of the political parties before the upcoming parliamentary elections (New Nation, December 22, 2008).

Eighty-three EECs were established across the country to investigate alleged irregularities based on their own findings or complaints from the general public during the campaign (EU EOM, 2009: 23) as described in the Code of Conduct for the political parties and the candidates (S.R.O., No. 269/2008). These irregularities carry a maximum sentence of six months in jail or a fine of 50 000 taka. After a concluded investigation, the EECs submit their finding as a recommendation to the BEC, which is the body deciding on any legal action. The BEC claimed to only have acted on approximately 30 received cases and all were resolved through negotiations without any legal action. EU EOM observers (2009: 23) reported that the BEC indeed had an overall policy to resolve the matter through negotiations and mediation, and very few cases were actually filed. Alleged offenders were asked to rectify their action and were told that a second instance of misconduct would be punished (*ibid*). The EU EOM observers also reported that the establishment of the EECs and the BEC's flexible approach to the offenders had a positive effect on the campaign period.

6.4. Election Day

A. Polling

On 29 December 2008, 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, 35263 voting centres were established across the six divisions of the country (Prothom Alo, December 29, 2008). 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 (RPO, 2008). The processing of female and male voters was separated, with booths determined as male or female booths, though Polling Officers were mixed (Commonwealth Observer Group, 2008: 19). The polling staff performed their duties competently and all necessary materials were available (ANFREL, 2008: 9). Most observers noted that the polling officials were well trained and professional (NDI, 2008:5). The BEC officials asserted that the district election administration had sent all polling materials to the centres by the evening of December 28 (Islam, 2008c). Moreover, EWG (2008: 8) observers reported that transparent ballot boxes, voter lists, ballot papers, indelible ink and other essential materials reached individual polling centres and booths in good time. However, each of the candidates for the constituency was entitled to have an

official agent present in the polling booth, known as a Polling Agent (RPO, 2008). NDI (2008: 5) observed that candidate agents were present at all voting booths and had collegial relationship with opposing candidate agents. Likewise, EU EOM (2009:33) asserted that party agents (candidate agents) were present in 99.4 percent. However, although no major problems affected the overall quality of the polling process, voters faced challenges and time delays in locating their designated polling booths and finding their names on the electoral rolls. The difficulties in identifying the polling Booths meant an increased reliance on the services of the political parties on the day of election, who were issuing chits listing voter numbers (ANFREL, 2008: 10). It also led to an increased opportunity for party supporters to campaign or influences voters on the day of election (ibid). Inconsistencies were observed in the application of national ID cards. While most election officials followed the correct procedures of applying the voters list with photographs as proof of identity, some insisted on the national ID card as proof (ibid).

An unprecedented security blanket had been clamped across the country to ensure a violence-free, fair and credible election (Bangladesh Today, December 29, 2008). It can be characterised as a three-tiered system, of static, mobile and strike teams (Islam, 2008c). Nearly 600000 security forces, including 50000 troops, had been deployed to keep order before, during and after the elections throughout the country (Bangladesh Today, December 29, 2008). The NCG classified the polling centres into two categories- general and important (Islam, 2008c). According to the security plan of the BEC, eighteen security forces were deployed at each important polling centre and fourteen at general polling centres (ibid). Observers felt that the presence of security forces was a positive factor, providing order and confidence to voters (Bangladesh Today, December 29, 2008). However, several isolated incidents of violence took place, such as the assault of voters by Jamaat-e-Islami supporters in Comilla and a fight between BNP and AL supporters in Jhalokati, both leading to the suspension of polling (ANFREL, 2008: 9). Moreover, tension arose among agents and voters when a Presiding Officer in Khulna began stamping ballot papers twice, once on the counterfoil and once next to the logo of Jamaat-e- Islami (scales) (ibid). Polling was halted for approximately 30 minutes and some voters left without voting (ibid). The BNP alleged on the day of election that activists of the AL's candidates had rigged votes by capturing polling centres, forcing out agents of its (BNP) candidates and barring them from about 220 polling centres in 72 electoral constituencies across the country (New Age, December 30, 2008). Police reported that they arrested 98 persons in eleven districts on charges of trying to influence voters during the election (New Nation, December 31a, 2008) However, such

incidents, whilst important in their own right, did not characterise the overall national electoral process. NDI Observers (2008: 6) reported that security personnel, including the military, behaved professionally and interfered only when necessary. Moreover, the Election Working Group (EWG) Observers (2008: 10) assessed that the security environment at polling centres was significantly improved from previous parliamentary elections. They added that of particular significance, members of ethnic and religious minority communities that had historically faced particular security challenges, expressed confidence in casting their votes without fear, intimidation, or pressure.

B. Counting and Tabulation

As described in the BEC Circular, soon after the closing vote, the Presiding Officers counted votes in the presence of polling agents appointed by the candidates and published the result at the centre (Islam, 2008c). The Presiding Officers, then, distributed copies of the result among the polling agents, sent a copy to the Returning Officers and hung a copy of the result in front of the polling centre (ibid). The Returning Officers published the result after collecting the results from all Presiding Officers and sent them to the BEC (ibid). The counting at the polling centres was generally well conducted and transparent (the Commonwealth Observer Group, 2008: 21). It was observed that agents were able to receive a copy of the certified result and the result was posted at the centre (ibid). Almost all the foreign election observers said that the voting was peaceful and transparent while the counting of votes was being held professionally (New Nation, December 30, 2008). EWG assessed that the counting process was generally free from intimidation or threats, while in most cases election officials properly reconciled used, unused, and spoiled ballots and applied the same standards for determining valid and invalid ballots for all parties and completed the counting process with no objection or demand for recounting. No objections were raised by Party Agents about the integrity of the seals or authenticity of the cast ballots at the end of the day (ANFREL, 2008: 10). However, in some polling centres around the country counting procedures were delayed for some time after the closure of the polls (EWG, 2008: 12). In some cases, the counting process began rather chaotically, with heated debate among polling officials and polling agents, but gradually settled into a more orderly procedure (ibid).

The tabulation process proceeded quite quickly, with preliminary results being reported by the media as well as at the various levels of the election administration, although transparency could be improved at the Constituency level (the Commonwealth Observer Group, 2008: 21).

D. Collection and Consolidation of Results

The consolidation process, although transparent overall, was marred by a small number of procedural and technical irregularities in its implementation. The official consolidation process was supposed to be performed exclusively by the Returning Officers (RPO, 2008, Article 37). At the same time, the Assistant Returning Officers were engaged in a parallel exercise of collecting unofficial results to be transmitted to the Returning Officers and to the BEC's headquarter for the declaration of preliminary results, by means of telephone, fax and email (ibid). This exercise was not supposed to interfere with the official consolidation process, conducted on official forms and exclusively the responsibility of the sixty-six Returning Officers (RPO, 2008, Article 39). However, EU EOM (2009: 35) observed that both the informative network and the official consolidation process became entangled in a disorderly manner in a few cases. Thus, Assistant Returning Officers conducted the unofficial gathering of results on the official forms that were meant to be completed exclusively by the Returning Officers and passed this data on as consolidations which were later validated by the Returning Officers (ibid). However, a small number of procedural and technical irregularities in the consolidation process did not appear to impact on the results (ibid). Most consolidation were law and procedures correctly followed.

The first partial unofficial results were progressively announced, by constituency, on election night by the BEC (EU EOM, 2009: 35). The next day, 30 December, the BEC announced unofficial preliminary results based on all of the 299 constituencies' result (New Age, December 31a, 2008). And the returns of the elections per constituency were gazetted in the official Gazette on 1 January 2009 (Daily Star, January 3, 2009).

7. Results

The AL alone won 230 seats out of 299 seats for which elections were held (a by-election to one remaining constituency would be held in January 12, 2009) (New Age, December 31b, 2008). In the 2001 elections, the party won 62 seats (Daily Star, December 31a, 2008). The BNP obtained 29 seats in this election, down from the 193 it won in the 2001 elections (ibid). Later, the BNP won the by-elections to the Noakhali 1 constituency (New Age, January 13, 2009). The Jamaat-e-Islami secured 2 seats, down from 17 which it won in 2001 (Daily Star, December 31a, 2008). The Jatiya Party secured 27 seats this time, up from the 8 it gained in 2001 (ibid). Together with its allies, the AL- led Grand Alliance has a total of 262 seats. The BNP's 4-Party Alliance has 33 seats (EU EOM, 2009: 35). The only party which won a constituency without being aligned with one of the main alliances was the Liberal Democratic

Party (LDP) (New Age, 31b, 2008). There were four successful independent candidates (ibid). However, the result was a reversal of the 2001 election with the difference that the gap between majority and opposition increased further: the AL alliance would hold an 87 per cent majority in Parliament against 72 per cent for the past BNP-led government (EU EOM, 2009: 36).

The 2008 ninth Parliamentary Election represented the highest recorded voter turnout in the country's history (the Commonwealth Observer Group, 2008: 5). 87.16 percent of registered voters participated in these elections, compared to 75.59 percent in 2001 (Daily Star, December 31b, 2008). In the June 12, 1996 elections, the turnout was 74.96 percent, while in 1991 it was 55.45 percent (ibid). However, an analysis of vote proportion indicated that the AL had gained 49.02 percent of the popular vote, compared to 40.13 percent in 2001 (the Commonwealth Observer Group, 2008: 6). The BNP's vote share was 32.74 percent down from 40.97 percent in 2001 (ibid). The Jamaat-e-Islami saw its vote share increase slightly, from 4.28 percent to 4.55 percent. The Jatiya Party's vote share was slightly reduced, down from 7.25 percent to 6.65 percent (ibid).

In the elections, 18 women in 22 constituencies were elected to the Parliament with AL President Sheikh Hasina and BNP Chairperson Khaleda Zia in three seats each (Daily Star, December 30, 2008). In the October 2001 parliamentary elections, only six women won in 13 constituencies with Khaleda in five and Hasina in four (ibid). It means that, apart from the two leaders, only four female candidates were able to win in the elections (see 'Participation of Women' in Appendix). Therefore, results of the election indicated that there was a notable increase in the number of women winning seats compared to 2001 (the Commonwealth Observer Group, 2008: 14). (See 'Complaints Relating to Election Results' in Appendix-2)

8. Appraisal of the Elections 2008

The election was an important step towards re-establishing the democratic governance of the country. The high turnout and the remarkably peaceful environment which prevailed up until the Day of election showed the determination of the people of Bangladesh to return to democracy (EU EOM, 2009: 37). EWG (2008: 1) has assessed that the election results represented the clear will of the Bangladeshi electorate. It also added that the ninth Parliamentary Elections were credible and consistent with international standards of freedom, fairness, and transparency (ibid). Likewise, Head of the Japanese Election Observation Mission, Goji Sakamoto, asserted that the ninth Parliamentary elections of Bangladesh were

free, fair and peaceful under good security arrangement (New Nation, December 31b, 2008). Moreover, NDI (2008: 2) appraised that with a few exceptions, the elections were well-administered and took place in a peaceful environment, resulting in a credible electoral process that met international standards. In addition, a local election observer group, Janipop said that the election was held in a free, fair, neutral and peaceful manner with very few stray incidents across the country (Daily Star, January 3, 2009).

However, the BNP-led alliance has not accepted the validity of the election result in as many words, but has implicitly recognized the result by attending the new government's swearing-in ceremony on January 6, 2009 (EU EOM, 2009: 36). The BNP Chairperson, Khaleda Zia, said that the general election had been stage-managed and farcical and because of that its results were not acceptable to her party (New Age, December 31c, 2008). She alleged, "up to 50 percent of the votes were cast by noon, and after that most of the polling centres got empty. Still, around 90 percent of the votes were shown to have been registered in those centres" (ibid). Likewise, JeI said that the public opinion was not reflected in the election (New Nation, January 1, 2009). However, explanations of the election result have ranged from claims of electoral fraud, albeit with scarce evidence, to a poorly-managed election campaign from the BNP's side (EU EOM, 2009: 36). The uncertainty which lingered until a late stage about whether BNP would contest the election at all arguably did not help the party in getting ready for the polls (ibid). Moreover, a commonly-held view was that the vote reflected the electorate's judgment of the past BNP-led government's record in office 2001-2006 and the reputation of mal-governance and nepotism that it suffered from (ibid). Mehnaaz Momem, (2009: 72) said that the BNP had lost significant public support because of wide scale corruption when in power and flirting with the idea of boycotting the election. Interestingly, around 31 percent of the voters were young voters who were truly thirsty for qualitative change in politics (Haque, 2008: 1). The Civil Society Organization, SHUJAN, reported that there were 163 new faces out of 299 elected members of parliament in the ninth parliamentary elections in the country (New Nation, January 2, 2009). Moreover, the AL in its manifesto put special emphasis on the young generation by declaring that they would build a digital Bangladesh by 2021 it voted to power (ibid).

However, all local and foreign election observers and actors of civil society termed the election free and fair (Daily Star, December 31c, 2008). Mehnaaz, Momem (2009: 72) asserted that the election was peaceful and orderly, with a strong voter turnout. Likewise, Islam, M. Saidul (2009: 1) said that the election with about 80 percent turnout had widely

been accepted as free and fair, and would remain as a model not only for Bangladesh but also for many nations of the world.

9. Concluding Remarks

This study concentrated on two research questions: first was that which measures and reforms of the electoral rules has the Caretaker Government (2007-2008) undertaken and how have these measures been applied in the electoral process? The NCG had undertaken reconstitution of the BEC, electoral law reform, fresh digitalized voters list and voter ID card with photographs, and political party registration with the BEC. The reconstituted BEC professionally administered the election and met key requirements to ensure a smooth and transparent electoral process. It has, roughly, played neutral role in deterring allegations of fraud and in resolving electoral disputes. But it appears to have regulated beyond its practical capacity to implement, which overwhelmed the system. It became, for example, overwhelmed by candidate nomination, scrutiny and the hundreds of resulting appeals, the adjudication of which by the courts ran past the deadline of 11 December. At the level of rule making, the BEC held a series of dialogues with political parties and civil society actors for incorporating their reasonable opinions in the electoral reform and for making acceptable to the people. Some of electoral reforms had been unpopular with one party or another but provided a regulated environment and framework.

The amendment to the RPO and the Code of Conduct for Parliamentary Election, 2008 were reasonable and their application made mostly corruption-free and peaceful national elections where all contesting parties could enjoy similar electoral rights and privileges. These rules were applied in an impartial manner but not entirely enforced because of having a short span of time. The BEC presented an authentic and complete digitalised voter list. Discontent with previous voter list was a major point of grievance in 2006. This grievance had been addressed in the voter registration process, resulting in greater public and political confidence in the process and providing key safeguards for the voting process. But inconsistencies were observed in the application of national ID cards while most election officials followed the correct procedures of applying the voters list with photographs as proof of identity, some insisted on the national ID card as proof. If this voter list can be regularly updated, it will be a high quality voter list for future elections and inconsistencies in the application process will be removed. The BEC also managed the political party registration in an equitable manner, offering parties that initially failed to meet the requirements the opportunity to resubmit their

application having made necessary changes. Moreover, it provided an opportunity the party which was challenged to be heard.

At the level of rule adjudication, most of irregularities of candidates and political parties were resolved through negotiation and mediation, and very few cases were actually filed. This flexible approach of the BEC to the offenders had a positive effect on the campaign period.

The second research question was that what is the performance of the NCG in terms of its role in securing that the ninth Parliamentary Election be free, fair and credible by applying these electoral measures? The 2008 Parliamentary Elections were of crucial importance for the further democratic development of the country of Bangladesh. The elections were free, fair and credible, and met most of the benchmarks for democratic elections to which Bangladesh had committed itself. Collectively, electoral law reform facilitated to create a more independent election management body, and provided the basic conditions for genuine elections, such as the right of political parties and candidates to participate, and a level playing field for conducting the campaigns. This resulted in a calmer and more manageable campaign than previously experienced and helped keep campaign expenditure (expenses of money) to more modest proportions. Although some incidents of financial means for vote buying were reported and some incidents of violence happened, these did not affect the quality of the elections. The RPO made registration of political parties taking part in the election compulsory for the first time in Bangladesh. This effort has facilitated democratic practice, and to bring financial transparency within the political parties.

On the day of election, about 87 percent of voters exercised their right to vote, the largest turn out in the country's history. According to described figures, women comprised some 51 percent of the 81 million registered voters and for the first time, more women registered to vote than men. Moreover, there was a notable increase in the number of women contesting and winning seats compared to the 2001 and 1996 elections. Therefore, it can be said that, considering all of these indicators, the effort of the NCG has made the ninth parliamentary elections 2008 more transparent and credible than previously held elections.

This NCG has served its purposes fairly well for which it was created but the NCG concept can not be a permanent arrangement because it casts doubt on the ability of an elected representative government to protect the institution of free elections. It undervalues the credibility of a democratic government to uphold democratic values and points to the failure of the political community to accept 'certain rules of the game which structure and limit the struggle of power' (Massicottee, et al., 2004: 158). While electoral democracy is in place, its

efficacy will be established only when an elected party government may perform its democratic rites with probity and sincerity (Zafarullah and Akhter, 2000: 369). However, if present practice of parliamentary elections under the supervision of NCG continues for a decade or two, ultimately a culture of fair elections under partisan governments is very likely to develop.

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Appendix

Participation of Women

Even though there are no legal obstacles to women's participation as candidates they remain under-represented in parliament. There is a positive promotion for women's representation in the form of the 45 indirectly-elected reserved seats for women in the Parliament (the Bangladesh Constitution, Article 65) and the new requirement for political parties to reserve at least 33 percent of all committee positions for women, including the central committee, by the year 2020 (RPO, 2008, Article 90 B). For the first time, more women have registered to vote than men (New Age, October 15, 2008). Still, only 59 of the 1555 candidates in 64 constituencies who contested the election were women: 16 candidates from the AL, 14 from BNP, four from Gono Forum, two from Jatiya Party, three from Biklapodhara Bangladesh, and one each from Bangladesh Samajtantrik Dal, JP-Manju, Krishak Sramik Janata League, National Awami Party, National People's Party, Jatiya Samajtanik Dal (Daily star, December 30a, 2008). In addition, seven candidates ran as independents (ibid). Ultimately, 18 women in 22 constituencies were elected to the Parliament, with AL President Sheikh Hasina and BNP Chairperson Khaleda Zia in three seats each. They would be joined 45 women elected by Parliament to fill the reserved seats (ibid). Therefore, the election results indicated that there was a notable increase in the number of women winning seats compared to 2001, with 18 women elected to the 9th parliament compared to six in the 8th parliament (the Commonwealth Observer Group, 2008: 14).

Table-1 Elected Women's Members to the Parliament (1973 – 2008)

Year of Election	% of Women Candidates	Won in Direct seats and By-elections	Total elected Women	Reserved Seats	% of Women in the Parliament
1973	0.3	0	0	15	4.8 (out of 315 seats)
1979	0.9	0 + 2	2	30	9.69 (out of 330 seats)
1986	1.3	5+ 2	7	30	11.21 (out of 330 seats)
1988	0.7	4	4	0	1.33 (out of 300 seats)
1991	1.5	8+ 1	9	30	11.81 (out of 330 seats)
1996	1.36	13+2	15	30	13.03 (out of 330 seats)
2001	1.79	6	6	0	2.0 (out of 300 seats)
2008	3.79	18	18	45	18.26 (out of 345 seats)

Source: EU EOM, 2009: 30

In the October 2001 parliamentary elections, 41 female candidates contested in 50 constituencies with Hasina and Khaleda in five each (Daily Star, December 30a, 2008). They

won in 13 constituencies with Khaleda in five and Hasina in four (ibid). It means that, apart from the two leaders, only four female candidates were able to win in the elections. However, at the same time, women represented just four percent 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 (the Commonwealth Observer Group, 2008: 14).

On the day of election, observers noted that the lines of women waiting to cast their votes were much longer than those of men. Women and men voted at separate polling Booths in order to facilitate women's vote. Women voters had an overwhelming presence in the polling centres contributing to a very high turnout (EU EOM, 2008: 31).

Complaints Relating to Election Results

Election results can be challenged through an election petition (RPO, 2008, Article 49). Only a contesting candidate can file an election petition within forty five days from the publication of the results (the Code of Election Rules, Article 33). The election petition is submitted to the High Court and any trial should follow the Code of Civil Procedure, 1908 (EU EOM, 2009: 35). Only one election petition contesting the election results in the constituency of Sirajganj-5 had been filed at the High Court with a court hearing still pending (ibid).