

Democratic Process: Election and Parliamentary

Recommendations made for October 2001

On the eve of the last general election on October 1, 2001 the CPD Task Force came up with the following recommendations with a view to make the election free, fair and credible :

1. In order to make its proceedings transparent, the Election Commission should be made a Deliberative Body - a body that takes all its decisions pertaining to elections in consultations with all its Members and other stake-holders like the representatives of different Political Parties.
2. The Returning Officers and the Assistant Returning Officers should be appointed by the Election Commission from amongst its permanent officers and the members of the Judicial Service. Like-wise, in the interest of making the proceedings at the polling station level more fair and neutral, the polling personnel like Presiding Officers and Polling Officers should be recruited from amongst the members of the Civil Society discarding the practice of appointing such officers only from amongst the employees of the Government, Semi-Government and Autonomous Bodies.
3. The names of Presiding Officers should be published through newspapers, TV and Radio.
4. The Secretariat of the Election Commission should be independent of the Government and it should be under full administrative control of the Commission. The Commission should enjoy full independence in the preparation and operation of its budget without any interference of the Government.
5. The authority for the declaration of the election results should vest in the Election Commission. The Commission should be delegated with power to withhold or nullify any result if it is convinced that the result in question has been procured fraudulently or by manipulation.
6. All political parties participating in the election must be brought under a legal framework through registration so as to make them internally democratic and externally accountable to some authority as to their fund, expenditure, etc.
7. The list of polling stations where voters will vote shall be published in the newspapers at least 15 days ahead of the polling day.
8. The independence of the Election Commission and its image should be enhanced so that it commands respect of all. The Commissioners inducted to the office must be respectable, impartial, non-controversial and well known in the society as competent man of character and integrity. To achieve the objective, the following principles were suggested for adoption:

- a) The number of Commissioners should be specified in the Constitution.
 - b) The term of $\frac{1}{2}$ of the Members of the Election Commission, other than the Chairman, should expire with the expiry of the term of the Members of Parliament or on dissolution for reason other than the expiry of the term.
 - c) The term of the Chairman of the Commission should expire with the expiry of the term of the Members of Parliament.
9. Fund raising by the Political Parties must be regulated by law to be framed by Parliament.
10. A scheme of funding of the Political Parties by the State should be introduced. In order to ensure fair election, the government should provide such facilities to the contesting candidates and the Political Parties as it may deem fit.
11. Limit of election expenses by the candidate should be enhanced so as to make it realistic and the limit on the expenses of the Political Parties in connection with the election must be imposed. The Election Commission should ensure submission of returns of election expenses by the candidates and the accounts statement by the Political Parties showing the fund raised and the expenditure incurred by them in connection with the election. Further, candidates should be bound down to submit weekly report to Commission in prescribed form with respect to the expenses incurred by them and the Commission be made subject to verify or audit those statements and award punishment for submission of false statement.
12. The existing Code of Conduct for observance by the Political Parties and the candidates should be made more elaborate, rigid, meaningful and part of the law (RPO). It should be enforced strictly and punishment including debaring from the contest in future election should be awarded by the Commission to its violators. If the penalty is imposed on the violator, the amount should not be less than Tk. 50,000/=.
13. In order to create a “level playing field” for the Political Parties as well as for the candidates the state owned media, namely TV. and Radio must be brought, during the election period, under the control of the Election Commission so that it can allocate time for campaigning to the contending Political Parties according to the number of candidates nominated by them for election.
14. For speedy disposal of election petitions, more Tribunals should be constituted and the time limit or not more than 180 days should be fixed for the disposal of an election petition. The law exempting MPs to appear before the Count or Tribunal during the period of fourteen days preceding the day of commencement of the session, during the session and the period of fourteen days following the

conclusion of the session should be rendered ineffective in relation to the trial of election petitions.

15. Law should be enacted providing legal coverage to the entry of the poll observers into the polling station for observing the proceedings of taking poll and the counting of results at the polling station. Further, a copy of the count should be posted and the voters list should be hung at conspicuous place of the polling station.
16. The law permitting a candidate to contest the election from five constituencies should be amended allowing contest only from two constituencies.

Reviewed the Foregoing Recommendations

The Task Force on Democratic Process (Election and Parliament) has since reviewed the status of the foregoing recommendations. The review reveals that out of 17, 12 recommendations have been ignored by the authorities concerned. Of the remaining 5 recommendations one (Sl no. 16) had been fully and the remaining four was partially implemented by amending the Representation of the People Order, 1972 on the eve of the last general elections held in October 2001.

The Task Force recommended vide serial 7 that all Political Parties participating in the election should be registered with the Election Commission. The Non-party Caretaker Government had amended the Representation of the People Order, 1972, providing for the Registration of the Political Parties, but it has not been compulsory and thereby rendered the measure meaningless.

The Task Force vide serial number 12 recommended for raising the limit of election expenses of the contesting candidate. This has been done raising the limit to taka Five lakhs from Taka three lakhs. The Task Force also recommended that the Election Commission should ensure timely submission of return of election expenses by the contesting candidates and that of the expenditure statement by the political parties participating in the election. Though legal provision exists, the Commission has failed to enforce the provisions.

The recommendation of the Task Force vide serial number 13 to make provision enabling the Election Commission to disqualify violators of the Code of Conduct from contesting the election and increase the amount of fine from Taka 5,000/= to 50,000/=. The Caretaker Government by an amendment of the law raised the penalty from Tk. 5,000/= to Tk. 20,000/=: but did not empower the Election Commission to disqualify violators from election.

The Task Force also recommended vide serial number 15 to increase the number of Tribunals and fix the time limit for disposal of the election petitions. The Caretaker Government has instead of increasing the number of Tribunals has by an amendment of the law reposed the responsibility in the High Court Division for the disposal of the election petitions. But it has not fixed any time limit for the disposal of the petitions. As a result the status of the disposal of the election petitions has not improved.

The following recommendations aim at making the Parliament more efficient and effective and thereby strengthen the democratic governance.

At the final review meeting of the Task Force on Democratic Process (Election and Parliament) held on May 8, 2003, one recommendation (at serial no 2) was modified and the recommendations (at serial no 4, 6, & 11) have been dropped by the members of the Task Force. The Task Force however has given priority for implementation of some of the recommendations and added to the list some additional recommendations for serious consideration.

Reforms to Strengthen the Electoral Process:

The Task Force deliberated upon the issues involved and has finalised the following recommendations:

1. The Election Commissions Secretariat should be independent of the Government and it should be under full administrative control of the Commission. The Commission should enjoy full independence in the preparation and operation of its budget without any interference of the Government.
2. The Returning Officers and the Assistant Returning Officers should be appointed by the Election Commission from amongst its permanent officers.
3. The existing Code of Conduct for observance by the Political Parties and the candidates should be made more elaborate, rigid, meaningful and part of the law (RPO). It should be enforced strictly and punishment including debarring from the contest in future election should be awarded by the Commission to its violators. If the penalty is imposed on the violator, the amount should not be less than Tk. 50,000/=.
4. For speedy disposal of election petitions, more Benches should be constituted and the time limit not more than 180 days should be fixed for the disposal of an election petition. The law exempting MPs to appear before the Court or Tribunal during the period of fourteen days preceding the day of commencement of the session, during the session and the period of fourteen days following the conclusion of the session should be rendered ineffective in relation to the trial of election petitions.
5. The law permitting a candidate to contest the election from five constituencies should be amended allowing contest only from two constituencies.
6. In order to make its proceedings transparent, the Election Commission should be made a Deliberative Body - a body that takes all its decisions pertaining to elections in consultations with all its Members and other stake-holders like the representatives of different Political Parties.
7. All political parties participating in the election must be brought under a legal framework through registration so as to make them internally democratic and externally accountable to some authority as to their fund, expenditure, etc.
8. The independence of the Election Commission and its image should be enhanced so that it commands respect of all. The Commissioners inducted to the office must be

respectable, non-controversial and well known in the society as competent man of character and integrity. To achieve the objective, the following principles were suggested for adoption:

- a) The number of Commissioners should be specified in the Constitution.
 - b) The term of $\frac{1}{2}$ of the Members of the Election Commission, other than the Chairman, should expire with the expiry of the term of the Members of Parliament or on dissolution for reason other than the expiry of the term.
 - c) The term of the Chairman of the Commission should expire with the expiry of the term of the Members of Parliament.
9. Fund raising by the Political Parties must be regulated by law to be framed by Parliament.
 10. Limit of election expenses by the candidate should be enhanced so as to make it realistic. The Election Commission should ensure submission of return of election expenses by the candidates and the accounts statement by the Political Parties showing the fund raised and the expenditure incurred by them in connection with the election. Further, candidates should be bound down to submit weekly report to Commission in prescribed form with respect to the expenses incurred by them and the Commission be made subject to verify or audit those statements and award punishment for submission of false statement.
 11. In order to create a “level playing field” for the Political Parties as well as for the candidates the state owned media, namely TV. and Radio must be brought, during the election period, under the control of the Election Commission so that it can allocate time for campaigning to the contending Political Parties according to the number of candidates nominated by them for election.
 12. Loan defaulters, their guarantors and dependents should be disqualified from contesting elections. Rescheduling of bank loans should not also qualify a person to contest the election.
 13. A person convicted for a crime for not less than 6 months should be disqualified from election instead of 2 years as at present.
 14. In addition to other qualifications provided for in Article 66 of Constitution, a candidate for election must be a voter in the country.
 15. Proposers and Seconders of a candidate for Parliamentary election should have the same qualification as the candidate himself.
 16. The current restriction on transfer of DCs/SPs may be extended from 15 days to 3 months after publication of result on the basis of recommendation of the Election Commission.

17. ACRs of ROs/AROs/SPs/OCs deployed on election duties from the EC should be taken into cognizance by respective authority while writing ACR.

The recommendations made hereinbefore aim at strengthening the existing electoral process of the country. The following recommendations are now made to make the Parliament more efficient and effective and thereby strengthen the democratic governance.

Reforms for Strengthening Parliament

1. The post of Deputy Speaker should be held by a Member from the opposition.
2. The Speaker on election to the post should resign from the political party Provision should be made in the constitution so as enable him to be elected to the next parliament unopposed.
3. In Prime Ministers question hour maximum time should be allocated to opposition members.
4. The Chairman of the public Accounts Committee should invariably be a Member from the opposition.
5. The number of members of the Standing Committees as well as those of Chairmen should be in proportion to the strength of the parties in the Parliament.
6. The sessions of the Parliamentary Committees should be open and civil society organisations specialized in respective areas and other stake holder may be invited to present their views on matters of national importance.
7. The Parliamentary Committees should be further strengthened, equipped and supported so as to enable them to work effectively.
8. All efforts should be made by the authorities to implement the recommendations of the Committees.
9. The existing article 70 of the Constitution should be suitably amended to allow the members of the Parliament to express their views in the Parliament according to their own judgment except on no-confidence motions and on issues which are contrary to the basic positions taken in the respective election manifestos of the parties.
10. The Reserved seats for women in the Parliament should be increased and those should be filled up through direct election.