

Electoral Management in South-Asia: An Appraisal

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Abstract: This is a study on electoral management of South Asian countries, mainly emphasis on Bangladesh, India, Pakistan, Nepal and Sri Lanka. The main question of the study is “how does Electoral Management Body (EMB) of South Asian countries perform, despite having a same colonial legacy?” The present study focuses on performances of the EMB of South Asian countries and this article reveals that the defectiveness in the functioning of the Election Commission in most of the South Asian countries. Like many aspects of politics, electoral politics of South Asian countries is more or less the same. It is broadly observed that free and fair elections are indeed rare in South Asian countries.

Keywords: post-colonial politics, democracy, election, electoral management, Bangladesh, India, Pakistan, Nepal and Sri Lanka.

Introduction

Democracy is inconceivable without free and fair election. Free and fair election can be ensured by the truly mature institutional mechanism. But such institutional mechanism of election did not evolve. On that account a workable democratic system could not be achieved. The colonial ruler in order to prolong their rule in colonies introduced their own pattern of electoral mechanism. In the post-colonial states the political elite thereof maintained the same pattern to ensure continuity of their grip of power. Some post-colonial states are democratic, yet claims of irregularities are common during elections. Some leaders of these illiberal democracies are accused of trying to violate the basic principle of democracy by rigging elections (Rahaman, 2014). Some incumbent political parties will not hesitate to manipulate the election results in order to extend their term in office. Therefore, major opposition party participating in an election refuses announced results and they resort to extra-legal mechanism to dispute electoral outcomes. Such mechanism turns in to violence, which hampered political stability and the process of democratization in the post-colonial states.

The modern nation states have adopted or adapted a variety of electoral systems. Each system has some advantages or disadvantages. As modern state shortly after the independence most of the post-colonial states adopted or adapted the ‘Anglo-American Electoral System’ (Rahman, 2014:7). This system is popularly known as ‘simple majority system’. According to that system, the winning candidate is the one who gains more vote than any other candidate. However, this ‘Anglo-American Electoral System’ has failed

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failed in the most of post-colonial states. Because, the effects of a particular type of electoral system depend on the socio-political context of a country in which it is practiced. The socio-political context of post-colonial states and the west are not the same (Akther, 2001). That is why; some people propose to change from the 'simple majority system' to 'proportional representation' in post-colonial states (Ali, 1996: 205). It is time to critically review the 'simple majority system' of election. Because, this system of election has failed in many way to fill up popular will in parliament in the post-colonial democracies, like South Asian countries.

Conceptual Clarification of Electoral Management

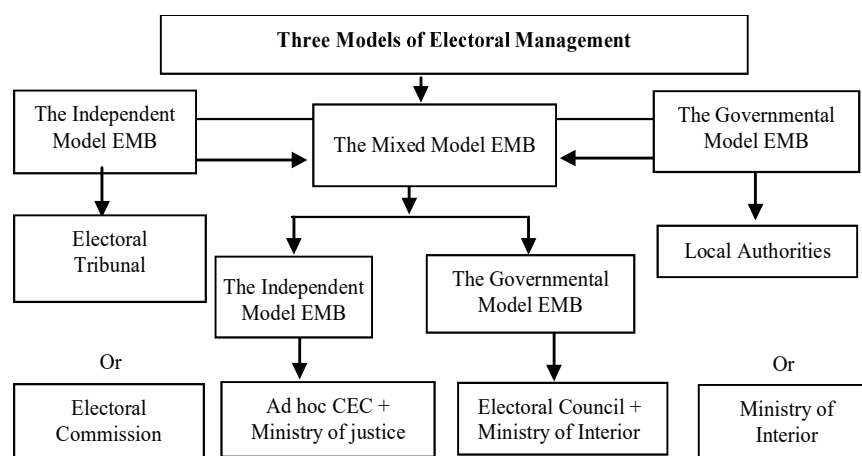
Elections are complex and specialized processes (Rahaman, 2014). This process is managed by a body or bodies with specific electoral management responsibilities. So, specialized skills are necessary for electoral management bodies. Thus electoral management means bringing together the knowledge and expertise relating to electoral activities of EMB, their roles and functions, their organization, financing and management of election administration. It also focuses on the institutional structure of EMB, their administrative infrastructure and their external environment. Electoral management refers to three types of models such as: The Independent Model of Electoral Management, the Government Model of Electoral Management and the Mixed Model of Electoral Management. The Independent Model of Electoral Management exists in those countries where elections are conducted and managed by an EMB which is institutionally independent and autonomous from the executive branch of government, and which has managed its own budget. An Independent Model EMB is not accountable to a government ministry or department. It may be accountable to the legislature, the judiciary, or the head of the state (President). The Governmental Model of Electoral Management exists in those countries where elections are conducted by the executive branch of the government through a ministry, such as the Ministry of the Interior or through local authorities. This EMB operates under the executive branch at national level and is answerable to a Cabinet Minister. The Mixed Model of Electoral Management has dual structures, one is supervisory component EMB that is independent of the executive branch of government (as Independent Model) and the other is an implementation component EMB that is located within a department of state or local government (as Governmental Model of EMB).

The EMBs is not always clearly defined in legislation or correctly interpreted by the constitution. To facilitate the relevance and applicability, each of the three models is flexible enough to focus on what is relevant in a particular country and in a particular electoral management context. Some countries follow Independent Model, some Mixed Model and some Governmental Model of electoral management. Bangladesh and India constitutionally follows the Independent Model of EMB. From the way they are functioning it seems that they follow the Mixed Model. Three models are given in the figure 1 below:

The EMB is responsible for administering elections. It must honestly and impartially implement the procedures specified in the legal framework. This involves dealing

with technical issues and making decisions. In some cases, it must also draft electoral regulations, and it usually develops procedures for voter and candidate registration, voting, and votes counting. To fulfill its primary role of holding free, fair and creditable elections, an EMB must carry out the following tasks. Such as: (1) administer the process in accordance with the law (2) maintain a professional, neutral and transparent administration (3) adopt procedures to protect the integrity of its operations (4) identify and assess integrity risks (5) take corrective action where necessary (6) promote voter awareness of electoral integrity issues. The relationship between component EMBs is not always clearly defined in legislation or correctly interpreted by the stakeholders. The electoral management should be certain that it can ensure legitimacy of the processes for which electoral management is responsible.

Figure 1



Source: This figure has been modified from “Electoral Management Design, An Overview of the International IDEA Handbook,” (2006), IDEA, Stockholm, p. 5.

Legacy of Election in South Asian Countries

The concept of democracy was not totally unknown in ancient India. However, the ancient Indian democracy was different in form and nature as it was direct, but modern democracy is indirect or representative in character. In this respect, some historians believe that “it was India sub-continent which gave mankind the earliest concept of democracy and the necessary institutions for its appropriate expression” (Ali, 1996: 27). Even, the root of democracy was invented first in the ancient India and great republican states also flourished here long before the Greek democracy. Indian indigenous democracy was a “growth from within the realities of collective life. It became imperative and there was no escape from it for any people anywhere. Democracy thus developed like a force of nature itself, compulsive and inescapable. Its onward march even today grips every people in every part of the world”(Ali, 1996: 27). In lieu of flourishing and exercising this indigenous democracy, the British first introduced and developed “western type of democracy” like modern representative democracy in British-India. It is needless to say

that under the changed circumstances, new socio-economic and political realm needs nothing to be imported and borrowed from abroad. The political systems and political institutions evolve out of history, tradition and culture of the society in question and this has to be practiced for its advancement. This is what explains way the western type of democracy and political institutions have failed in their course of functioning. Rather it is a continuity of the same tradition during Pakistani internal colonial rule(Muniruzzaman, 1971:29). The pattern of Pakistani internal colonial rule that became firmly established in Pakistan influenced the course of the political development of independent Bangladesh.

Electoral Management in South Asia

India Perspective

India is the largest democratic country in the world. Shortly after the independence, India adopted a democratic parliamentary form of government (Rahaman, Hasibur, 2014). Democratic system of government is sustained and strengthened through election. As such, since the very beginning of independence, more or less free and fair elections have been held at regular intervals as per the principles of the constitution. Election is properly viewed by the electoral management process (Rahaman, Hasibur, 2014). The EC is belonging to the top of this process. Therefore, a centralized election commission was established in accordance with the constitution on 25th January 1950 to regulate both central and provincial election (Rahaman, Hasibur, 2014). One of the main problems faced by the constitution makers when they were to decide whether to “have a centralized election commission as in UK or to allow the states to have their own separated election commissions as in the USA”(Ali, Rehana, 2001: 20). Finally, they decided in favor of the centralized election commission for the sake of uniformity of the election process and practices.

In India the Election Commission is an independent electoral management body. The EC also functions as a quasi-judicial body in solving the matters of electoral disputes. The EC was established in accordance with the Constitution of 1950 with its separate Secretariat at New Delhi. According to Article 324(2) of the Constitution, the EC shall consist of the CEC and such number of EC if any, as the President may from time to time fix--(Rahaman, Hasibur, 2014). Originally the commission was consisted of only one CEC. However, in 1993 the President passed an ordinance and converted the election commission in to a multi-member election commission. It currently consists of CEC and two other ECs. They have tenure of six years, or up to the age of 65 years, whichever is earlier. All three Commissioners including CEC have equal right and power so that decisions can be taken by majority vote. After the retirement of CEC, a Commissioner holds in the office of CEC for the consistency of electoral process. The CEC can be removed from office only through impeachment by the parliament in like manner and on the like grounds as a Judge of the Supreme Court and other Commissioners can be removed by the President on the recommendation of the CEC. The EC of India has a wide-range of power. For example, Article 324(1) of the Constitution of India vests residuary power (whenever law is silent

on any electoral aspect then the decision of EC is final) to the EC to deal with any situation. The constitution makers of India were very much enthusiastic about free-fair election. Therefore, they intended to establish a competent, effective, impartial and independent EC with such powers. This clause also vests power to the EC with the ‘superintendence, direction and control’ of the preparation of the electoral roles in conducting the elections to Parliament and Legislature of every State and to the offices of President and Vice-President of India. Therefore, the Supreme Court of India said that the Article 324 is “a reservoir of powers” for the EC (Ali, 2001: 44). The EC also exercises the supplementary powers by the RPO Acts, 1950 & 1951 and the Rules and Order made there under (Ali, 1996). According to the RPO Act 1950, it is the duty of EC to prepare the voter list for the conduct of election and thus, the electoral roles for every constituency is prepared under the superintendence, direction and control of the EC. Therefore, during the elections, both central and state government machinery including para-military forces and the police is deemed to be on deputation to the EC. The RPO Act 1951 deals with all aspects of elections and post-election disputes. In solving such disputes, the constitution of India vests power in a Judicial Tribunal with Article 136. Besides, the Supreme Court of India has held that where the enacted laws are silent or make insufficient provision to deal with a given situation in the conduct of elections, the EC has the residuary powers under the Constitution to act in an appropriate manner. In the backdrop of such power of Election Commission, the principal functions are given below: demarcation of constituencies, preparation of electoral rolls, recognition of political parties and allotment of symbols, scrutiny of nomination papers, conduct of polls and scrutiny of election expenses of candidates.

The Constitution of India has vested power in the ECI for superintendence, direction and control of the entire process for conduct of elections to both House of Parliament and both Houses of the State Legislature and to the offices of President and Vice-President of India. The Election Commission of India is currently consisting of CEC and two others Election Commissioners. According to Section 13A of the Representation of the People Act 1950, Section 20 of the Representation of the People Act, 1951, the Chief Electoral Officer (CEO) of a State Territory is authorized to supervise the election related work in the State Territory subject to the overall superintendence, direction and control of the EC (Rahaman, Hasibur, 2014:18). The ECI nominates or designates an Officer of the government of the state territory as the CEO in consultation with that state government administration. The State Election Commissions constituted under the Constitution Amendments Act, 1992 is vested with the powers of conducting of elections to the Corporations, Municipalities, Zilla Parishads, District Panchayats, Panchayat Samitis, Gram Panchayats and other local bodies. As per Section 13AA of the Representation of the People Act 1950, subject to the superintendence, direction and control of the Chief Electoral Officer, the District Election Officer supervises the election work of a district. The ECI nominates or designates an Officer of the State Government as the District Election Officer (DEO) in consultation with the State Government. The district and constituencies level of EC comprising

District Election Officer (DEO), Electoral Registration Officers and Assistant Electoral Registration Officers, who are assisted by a large number of junior functionaries. The institutional set up of the EC of India is given below.

The Institutional Setup of ECI

(Central Level)	1	Chief Election commissioners(CEC)
(State Level)	2	Other Election Commissioners (EC)
(District and Constituency Level)	3	Chief Electoral Officer (CEO)
	4	District Election Officer (DEO)
	5	Electoral Registration Officers
	6	Assistant Electoral Registration Officers
	7	Junior Functionaries

Article 326 of the Constitution lay down that elections to the House of People and to the Legislative Assemblies of states are to be held on the basis of adult suffrage. All citizens of India who are citizen of India and not less than 18 years of age as on 1st January of the year for which the electoral roll is prepared and entitled to be registered as a voter in the constituency where he or she ordinarily resides (Ali, 2001: 44). The citizen will be disqualified to be a voter if he or she is disqualified under any law made by the appropriate legislature on the ground of non-residence, unsoundness of mind, crime or corrupt or illegal practice. However, the non-resident Indian citizens who are employed under Government of India in a post outside India are eligible to be registered as voters in terms of Section 20 (8) (d) read with Section 20 (3) of the RP Act, 1950. As per Article 326 of the constitution and Section 19 of the RPO Act 1950 indicates the minimum age of a voter is 18 years but before the 61st Amendment Act, 1988 of the constitution the minimum age of a voter was 21 years. The stages of preparation of electoral rolls of ECI are given in the box below:

Stages	Preparations of Electoral Rolls of ECI (Ali, 1996:92-96).
Stage-1	Preparation and publication of draft electoral roll by the Electoral Registration Officers' (ERO).
Stage-2	Claims and objections to inclusion of any name as elector.
Stage-3	Inquiry and decision to disposal of claims and objections to inclusion.
Stage-4	Appeals from decision of Electoral Registration Officer (RO).
Stage-5	Preparation of supplements to include and delete of names before finalization.
Stage-6	Publication of final electoral roll and it should be come into force as early as possible.
Stage-7	Correction of entries and inclusion of names in the final electoral roll.
Stage-8	No change in electoral role after the last date for making nomination.

Under Article 327 of the Constitution, a delimitation commission has been setup for demarcating the boundaries of the parliamentary constituencies according to the delimitation act. The parliament of India is empowered to enact legislation from time to time to provide for the delimitation of constituencies for elections to parliament and to the

State Legislatures (Ali, 1996:267). The CEC has also functions as an ex-officio member of the delimitation commission (Ali, 1996) as and when such commission is setup under the law. In India, such delimitation commissions have been setup 4 times-in 1952 under the Delimitation Commission Act, 1952, in 1963 under Delimitation Commission Act, 1962, in 1973 under Delimitation Act, 1972 and in 2002 under Delimitation Act, 2002. The present delimitation of constituencies has been done on the basis of 2001 census. The allocation seats in Lok Sabha depend on figure of population so that every state gets equal representation.

According to the Article 29A (1) and (2) of the Representation of Peoples Act 1951, registration of political parties with EC is mandatory. It is not necessary for every association and body of individual citizens to get registered by the EC. Only those associations or bodies calling themselves political parties have to submit application to the EC for registration within thirty days following the date of its formation. To ensure democracy inside the political parties there should be a specific provision in the constitution of the party regarding organizational elections at different levels and the periodicity of such elections and terms of office of the office-bearers of the party. It is also apparent that the Section 29A of RP Act 1951 “makes it mandatory for the political parties to provide in their party constitution they poses true faith to the principles of secularism, socialism and democracy to the constitution of India, to gain registration by the Election Commission” (Ali, 1996:178). What are the benefits registered parties will get from the EC? According to the Election Symbols (Reservation and Allotment) Order, 1968, registered political parties, in course of time, can get recognition as ‘State Party’ or ‘National Party’ subject to the fulfillment of the conditions prescribed by the Election Commission in such order, as amended from time to time.

There was no provision in Indian election law to enable the Chief Election Commissioner (CEC) to appoint DEC or other officers. In absence of such provision, CEC has to pass the orders for appointing DEC being notified by the Secretary to the Commission to do the routine matters. But at the constituency levels, the DEO, ERO and RO are assisted by a large number of junior functionaries in performing election works. They all perform their functions relating to elections in addition to their other responsibilities. During election, however, they are available to the EC, more or less, on a full time basis. The gigantic task force for conducting a countrywide general election consists of nearly five million polling personnel and civil police forces. This huge election machinery is deemed to be on deputation to the commission and is subject to its control, superintendence and discipline during the election period, extending over a period of one and half to two months.

The ECI at State Level: According to Section 13A of the Representation of the People Act 1950, read with Section 20 of the Representation of the People Act, 1951, the Chief Electoral Officer (CEO) of a state territory is authorized to supervise the election related work in the state territory subject to the overall superintendence, direction and control of the EC³⁶. The ECI nominates or designates an Officer of the government of the state

territory as the CEO in consultation with that state government administration. The State Election Commissions constituted under the Constitution Amendments Act, 1992 for each State are vested with the powers of conduct of elections to the Corporations, Municipalities, Zilla Parishads, District Panchayats, Panchayat Samitis, Gram Panchayats and other local bodies.

The ECI at District Level: As per Section 13AA of the Representation of the People Act 1950, subject to the superintendence, direction and control of the Chief Electoral Officer, the District Election Officer supervises the election work of a district. The ECI nominates or designates an Officer of the State Government as the District Election Officer (DEO) in consultation with the State Government. The district and constituencies level of Election Commission comprising District Election Officer (DEO), Electoral Registration Officers and Assistant Electoral Registration Officers, who are assisted by a large number of junior functionaries.

The ECI Secretariat: The Commission has a separate Secretariat at New Delhi consisting of two or three Deputy Election Commissioners in the Secretariat assist the Commission. They are appointed from the national civil service of the country and are selected and appointed by the Commission. Directors, Principal Secretaries, and Secretaries, Under Secretaries and Deputy Directors support the Deputy Election Commissioners in doing the work. There is functional and territorial distribution of work in the Commission. The work is organized in Divisions, Branches and Sections; each of the last mentioned units is in charge of a Section Officer. The main functional divisions are planning, judicial, administration, information systems, media and secretariat co-ordination (Ali, Rehana, 2001:27). The administrative setup of Election Commission Secretariat of India is given below.

The Administrative setup of EC Secretariat of India

The Administrative setup of ECI Secretariat	1	Deputy Election Commissioners
	2	Directors
	3	Principal Secretaries
	4	Secretaries
	5	Under Secretaries
	6	Deputy Directors (to assist the Deputy Election Commissioners)

Nepal Perspective

In Nepal the position of EC was created after the 1950 revolution, and was legally established in 1951. However the functions of EC were changed by law over time. The EC of Nepal is considered to be a powerful EMB. It is constitutionally an independent body which is solely responsible for the conduct of elections. Article 129(1) of Interim Constitution and the Election Commission Act 2063 (2007) have clearly defined the EC's role and responsibilities. The EC consists of CEC and other four Election Commissioners

to run the administration of the Commission. If apart from the CEC other election commissioners are appointed, the CEC shall act as a Chairman of the Commission. The members serve for 6 year terms as appointed by His Majesty the King and recommended by the Constitutional Council. The interim constitution further amended the body's composition in 2006. Under this Constitution the CEC and other Election Commissioners were appointed by the Prime Minister.

The Election Commission has its own secretariat over which it has full executive authority and the process of establishing offices in every district of the country is going on for supervision and monitoring purposes. The secretary implements the decisions of the Election Commission. The EC has full executive authority to issue orders to supervise, direct and control over the conduct of elections to Parliament and local bodies at the village, town and district levels. It has power to direct the government to provide personnel and other necessities to the Commission in "pursuit of its duty to conduct, supervise, direct and control elections in accordance with the constitution and existing laws. It would be the duty of the government, government institutions, corporations, semi-government and non-government institutions, political parties and their officials, candidates and representatives and persons involved in the election process to obey these orders"(Mendis, 2008: 242). It is important to note here that the EC can request for the support of any government agency but much of the administrative support of elections is coordinated through the Ministry of Home Affairs and its district officials such as the Chief District Officers (CDOs). During election these officials are placed under the 'jurisdiction' of the Election Commission (Rahaman, 2014: 22).

The EC has power to prepare a code of conduct for government and semi-government officers and employees, political parties, candidates and persons involved in the election. The code of conduct prepared by EC is strict and these are enforced rigorously by the EC. According to the Election Code of Conduct, 1996, violation of code of conduct is an offence, and those who violate are liable to punishment. The Election Commission of Nepal has a special power to control governmental influence on election. The EC may impose restrictions on the government "against proclaiming new policies and programs, mobilizing human and materials resources, and using government owned media for election campaigns" (Mendis, 2008: 218).

The act relating to electoral rolls is Electoral Roll Act, 2063(2006). Preparation, procedure, correction, final printing and reservation of electoral rolls, is envisioned in this Act. The process of the roll is traditional method of enumerating voters visiting door to door. The Election Commission of Nepal prepares and updates the electoral rolls every year. The Constitution of Nepal provides that Nepali citizens of the age of 18 years and above are entitled to be registered as voters. It is the responsibility of the Election Commission to register the names of the voters from every household in the constituency where he or she ordinarily resides. Under the Electoral Act, 1991 mentally disordered persons and those who are sentenced to imprisonment and have not completed one year after release are

prohibited from being registered as voters. Registration of voters is done every year by Chief District Officer (CDOs). Enumeration of voter's names and updating of the electoral rolls is conducted every year commencing the month of April. One month is allocated for enumeration and updating. The entire process is completed by mid-August.

The Election Commission of Nepal has to depend on government to recruit government officials as returning, presiding and polling officers. The EC appoints a returning officer for each constituency. For the election of House of Representatives, the judges of law courts or officials of the judicial service are appointed as returning officers. In local bodies' election, the CDOs are appointed as returning officers for their respective districts. The returning officers appoint his or her subordinate staff such as presiding and polling officers.

Sri Lanka Perspective

Sri Lanka has a background of elections over seventy years under various forms of government. Election was held in 1972 under first Republican Constitution. President as head of the state was nominated by the Prime Minister under parliamentary system. Sri Lanka adopted Executive Presidency and a parliamentary legislative in 1978. Prior to the 17th Amendment to the Constitution made in 2001, unlike other regional countries Sri Lanka had a government controlled Electoral Management Body known as Department of Election headed by a Commissioner of Election and a Deputy Commissioner of Election and supported by secretariat. Under Article 103 of the Sri Lankan Constitution, the Commissioner was appointed by the President. Now the overall authority for the conduct of the elections is vested in the Commissioner General of Elections under the Parliamentary Elections Act as amended, and is vested in the Election Commission in terms of the 17th Amendment to the Constitution. This amendment introduced a set of new provisions to the Constitution described as Chapter XIV A. Article 103 (1) of this Chapter provides that there shall be an Election Commission consisting of five members appointed by the President on the recommendation of the Constitutional Council. This constitutional Council has exclusive power to make appointments to centrally important institutions such as the higher judiciary, and the police and Election Commission, taking the power away from the executive president. The President is also empowered to nominate one such member as the Chairman of the Commission, also on the recommendation of the Constitutional Council. The Commissioner General of Elections continues to exercise the powers and functions vested in the Election Commission. In Sri Lanka, presidential election and referendum are conducted on the basis of direct vote. For this purpose of the system entire country is considered to be a single electorate. The conduct of the election in respect of each electoral district is entrusted to a person designated as the "Returning Officer" who, in turn appoints a Presiding Officer to be in charge of each polling station within his electoral district. The Returning Officers of the respective electoral areas manage the conduct of poll with the assistance of Assistant Returning Officers.

Pakistan Perspective

The Election Commission of Pakistan is an independent and autonomous constitutional

body. The Election is charged with the function of conducting transparent, free, fair and impartial elections to the National and Provincial Assemblies. Article 218 of the Constitution of Pakistan provides: “for the purpose of election to both houses of Mijlis-e-Shoora (Parliament), Provincial Assemblies and for election of such other public offices as may be specified by law or until such law is made by the Majlis-e-Shoora (Parliament) by Order of the President, a permanent Election Commission shall be constituted in accordance with this Article.”(The Constitution of Pakistan, Article 18) Under the existing laws the conduct of Local Government Elections is also the responsibility of the CEC. According to the Election Commission Order, 2002, the EC consists of the CEC and four Members each drawn from the sitting judges of the High Courts of their respective Provinces. The CEC is appointed by the president under Article 213 of the Constitution. The other ECs are appointed by the president in consultation with the chief justice of the relevant High Court and CEC. As per the Articles 52 of the Constitution, “the CEC was, up to the time of the changes announced in the constitutional package of 2002, appointed for a term of three years, that being liable for extension by a resolution of the national assembly for a period not exceeding one year. The package of July 2002 however has made the term of office of the CEC a five year one” (Mendis, 2008: 242).

The EC of Pakistan is financially independent. The budget is provided by the federal government. The EC also enjoys administrative autonomy and works independently of all government control. The EC performs its functions without interference of the executive. The election schedule for the conduct of general elections as well as for the by-elections is decided by the EC or, as the case may be, by the CEC. The Constitution of Pakistan and the laws lay down certain powers and functions which are to be exercised solely by the CEC. These powers and functions of the CEC vis-à-vis the EC make the CEC an institution. The CEC is charged with the duties of: preparing and updating of electoral rolls of eligible voters annually throughout the country; delimitation of constituencies for the election of members of the national assembly and provincial assemblies (Mendis, 2008: 242) The preparation of polling schemes, the appointment of polling personnel, assignments of voters and arrangements for the maintenance of law and order are under the control; supervision and directions of the EC for elections of the national assembly and provincial assemblies and also holding of elections to vacant seats as and when necessary and appointing Election Tribunals. The Election Tribunals provide the final adjudication in all election disputes. The Election Tribunal’s role in Pakistan is more important in its impact in the overall elections situation.

Bangladesh Perspective

Bangladesh as a 3rd World country has been affected by such a juncture where political forces and political dynamics have proved to be incompetent and dysfunctional. As such political terrains were filled with various kinds of unelected regimes, including military, one-party, and personalized dictatorships. In this situation, Bangladesh has failed to build viable political institutions after 40 years of her independence. In absence of viable political

institutions democracy did not become institutionalized. Right or wrong allegations are raised against the Bangladesh government and Bangladesh Electoral Management Body (BEMB) for rigging election and abusing power to influence election results. Usually, the incumbent party embarks on this kind of illegal act. Political parties can unlawfully make the results be in their favor in order to retain power. For example, the Awami League (AL) held a factious election in 1973 with horrific party assertion over electoral process. From 1975-90 Bangladesh was ruled by military or civil-military government. In the period of military and civil-military governments, most of the elections were held for legitimizing or demilitarizing power. Even in the democratic regime the party in power rigged elections followed by violence which has far reaching negative political consequences.

The EC of Pakistan established in Islamabad in 1956 with a regional office in Bangladesh. After independence, the regional office of EC shifted to Agargaon with a larger set up on the basis of 1972's Constitution. The Bangladesh Constitution gives the provision for setting up an Independent Election Commission to conduct elections in the country. As Article 118 of Bangladesh Constitution established an Independent Electoral Management Body that operates the legal functions of election law. Article 118 (1) mentioned that "there shall be an Election Commission for Bangladesh consisting of the Chief Election Commissioner (CEC) and more than four Election Commissioners. The appointment of the CEC and other Election Commissioners (if any) shall, subject to the provisions of any law made in that behalf, be made by the President"(Rahaman, Khatun & Bilkis, 2013: 95). When the EC consists of more than one person, the CEC is to act as its chairman. The term of office of an Election Commissioner shall be five years from the date on which he enters upon his office. Article 118 (3) of the constitution clearly states "a person who has held office as CEC shall not be eligible for appointment in service of the Republic and any other Commissioner shall, on ceasing to hold office as such, be eligible for appointment as CEC but shall not be otherwise eligible for appointment in the service of the Republic"(Rahaman, Khatun & Bilkis, 2013: 95).

Since 1972, the EC conducted a number of elections. However, the BEC has rarely been considered as a credible institution. Right or wrong allegation against BEC is having some irregularities in the way of holding elections and partial attitude to the political parties. Therefore, only three CEC completed their tenure. Someone argues that despite a good number of laws and rules, the EC still lacks legal provisions in respect of enabling law for its establishment and structure like other constitutional bodies(Akram & Das, 2008). Behind such lacking of Election Commission, they mention that the EC does not have authority to control over the political parties, financial independence and proper mechanism of processing electoral disputes(Hussain, 2008). The making of electoral laws time-befitting and consonant with the demand of various quarters, the Election Commission would talk to political parties before making any amendment to the existing laws. Electoral laws cannot be applicable without the help of political parties. As in modern representative democracy, political parties considered to the heart of the political process.

In Bangladesh, the EC is the guardian to conduct the election. However, EC is responsible for it. Therefore, electoral law and procedures are vested in the Constitution and Representation of People Order (RPO), 1972. Here should be mentioned that the rule making power now is vested in the EC by recent amendment (Hussain, 2008). As per the Constitution and RPO, 1972, the power, functions and duties of EC is described with the article 118(4) and 126 of the Constitution and in the article 4 of the RPO, 1972 in different nature. The RPO, 1972 is the basic law under which the election rules were made by the government. It also provides a logical and apparently complete basis for the conduct of parliamentary elections but has a few unusual features that have created difficulties with respect to public perception about the neutrality of the EC. Article 118 (4) of the Constitution provides that “the EC shall be independent in exercising of its functions and subject only to this constitution and any other law”. Article 126 of the Constitution and Articles 4 and 5 of the RPO, 1972 also provide that “it shall be the duty of all executive authorities to assist the EC in the discharge of its functions.” The EC has a power to require any persons or authority to perform such functions in the election. In the interest of holding free and fair election, it would not appear that the incumbent government has the power to discharge and replace member of the EC, since EC members are appointed to five-year terms can only be removed through impeachment (Edgeworth & Finn, 2000). However, the incumbent government can make requests that the President appoint additional members or request the resignation of chairman or other members under other constitutional provisions (Edgeworth & Finn, 2000). Except constitutional provisions, the second important law regarding the functions of EC is the RPO, 1972. The RPO has been amended in 1972, 1976, 1982, 1991, 1996 and 2001. Currently three amendments to this order were made namely, RP (Amendment) Act, 2008, RP (Second Amendment) Act 2008 and RP (Amendment) Act, 2009. Under these ordinances, Political Parties Registration Rules, 2008, the Code of Election Rules 2008, the Code of Conduct for Parliament Elections 2008, and the Electoral Roles Rule 2008 were made. Another currently active laws relating to election are the Reserve Women Election Law 2004 for parliament election and Election Commission Secretariat Act 2009. Under these Rules, Acts and Amendments, the main functions of the EC are delimitation of constituencies, preparation of electoral rolls, recognition of political parties and allotment of symbols, scrutiny of nomination papers, conduct of polls and scrutiny of election expenses of candidates and dissolve the electoral disputes.

As per the Constitution, the responsibility for the preparation of the electoral roles is on the EC. Electoral rolls means the final electoral rolls prepared under the existing Electoral Rolls Act 2008. According to the act, the EC appoints required numbers of AROs, and one supervisor for every five enumerators and one enumerator for every 300-400 voters. The Election Commission has to also appoints a Registration Officer (RO) for each constituency for the purposes of ‘preparation, correction, amendment and revision’ of the electoral roll. According to the Article 121 and 122(2b) of the Constitution indicates electoral rolls also means there is a single voter list for every constituency and minimum age of a voter is 18

years, of sound mind and deemed by law to be resident of the constituency respectively. The stage of preparation of electoral rolls of BEC is given below:

The Stage of Preparation of Electoral Rolls	
Stage-1	<ul style="list-style-type: none"> • Functions of preparation of area-based primary estimation of voters • Recruitment of required numbers of assistant registration officers (AROs) • Publishing advertisements for the recruitments of area based data entry operators
Stage-2	Re-scrutinizing the forms to collect the voter's information.
Stage-3	Data collection and identity scrutiny at registration centers.
Stage-4	Registering the Physically Challenged, Jail Inmates, Missed-out Voters and Ailing People following the process described in Third Phase.
Stage-5	Data processing, scrutinizing and improving at Upazila Server.
Stage-6	• Finalizing draft voters list
	• Exhibiting the draft voters' list, accepting objections on draft voters' list
	• Hearing on the objections and ordering of corrections by revising authority
	• Correcting the errors in draft voters' list in accordance to such orders
	• Preparing and authenticating the final voters' list by registration officer

Source: BEC Website

The delimitation of constituencies is prime function of Election Commission (EC) and it is executed in accordance with the Delimitation of Constituencies Ordinance 1976. This Ordinance has been made to provide for delimitation of constituencies for election to parliament. In this Ordinance, delimitation of constituencies means “the constituencies shall be so delimited having regard to administrative convenience, that each constituency is a compact area and in doing so due regard shall be had as far as practicable to the distribution of population as given in the latest census report”(Rahaman, Khatun & Bilkis, 2013: 99). According to Article 6(1) of this Ordinance, the Commission shall, for the purpose of elections to the seats in parliament, divide the country in to as many as single territorial constituencies as number of members to be elected under Article 65(2) of the Constitution (Rahaman, Khatun & Bilkis, 2013). After the delimiting of constituencies, the new constituencies are to the gazette specifying area. The objections about the new constituencies are heard but the verdict of EC is final. For the first time in the electoral history of Bangladesh the constituencies delimited in 1973 have remained subject to minor adjustment (Mendis, 2008: 164). Subsequently, the constituencies are delimited in 1979, 1984, 1991 and 1995. The last major delimitation of the constituencies was held in 2008 in the ahead of the ninth parliamentary election.

Delimitation of Constituencies

Year	Conducted Method
1973	Complete by visiting Constituency
1989	Partial by visiting Constituency
1984	Complete by visiting Constituency
1991	Partial by selected Constituency
1995	In certificate only by BEC
2008	300 Constituencies (by use of GPS system)

(Source: Bangladesh Election Commission Secretariat)

There have been almost no obligations on party forming in Bangladesh. The Constitution of Bangladesh allows the citizens for freedom of speech except those in government service. But the registration of political parties with EC is obvious in democratic process. As such, three amendments namely, Representation of the People (Amendment) Ordinance 2008, Representation of the People (Second Amendment), Ordinance 2008 and Representation of the People (Amendment) Act 2009 to the RPO 1972 were made recently. In 2008, an ordinance was passed involving registration of political parties with the EC. According to this Ordinance, conditions relating to registration have been laid down. But registration of political parties in Bangladesh is voluntary. It may be mentioned here that political parties willing to take part in the Parliamentary elections must be registered with the BEC. In same way Representation of People (Amendment) Act 2009 states that “if any political party desires to be registered, it shall fulfill one of the conditions” (Hasanuzzaman, 2009:30) that laid down in Article 90(B). However, this call for voluntary registration of political parties did not make any impact among the political parties of Bangladesh.

The EC of Bangladesh appoints the Returning Officer (RO) for each of the parliamentary constituencies. In addition, the EC also appoints Assistant Returning Officer (ARO) for each constituency to assist the RO in the performance of his functions in connection with the conduct of elections. However, the EC has the power to withdraw any officer for the sake of neutral election. The RO prepares the list of polling stations and appoints the PO, APO and Polling Officers. The PO with the assistance of APO and Polling Officers conduct the poll at a polling station. The main responsibility of PO are, to setup polling stations and enable the security forces and those monitoring the election to keep law and order and ensure that voting during the election is fair. The free and fair election mainly depends on field level officers like PO, APO and Polling Officers as they are actively involved in the electoral process.

The EC’s Secretariat: An EC’s Secretariat has been established under the provision of 118(4) of the Constitution. Therefore, EC has its own full-fledged Secretariat headed by a Secretary to the EC to render all assistance to execute the decisions and orders of the commission. There are ten regional offices at Dhaka, Cittagong, Khulna, Rajshahi, Barishal,

Sylhet, Comilla, Mymensingh, Rangpur and Faridpur headed by Chief Election Officer (CEO). The main function of this office is, to communicate between the Secretariat and the subordinate field level offices. The secretariat is situated in Dhaka with having field offices in regional level, district level and Upazila level. The secretariat performs all the duties relating to election management. To assist the EC in conducting election, the functions of EC secretariat are: (Rahaman, Khatun & Bilkis, 2013) (a) preparation of electoral rolls for use in all national and local bodies' elections (b) delimitation of territorial constituencies for the purposes of election to Parliament (c) conduct of referendum and elections (including bye-election/re-election) to the office of President, Parliament, Pourashavas, City Corporations, Union Parishads and three Hill Districts Councils etc. (d) reservation and allocation of symbols to political parties/candidates, when required (e) supervision of polling arrangements throughout the country on the eve of each election and appointment of polling personnel, namely ROs, AROs, POs, APOs and Polling Officers (f) printing and supply of ballot papers to all polling stations located all over the country (g) procurement of election materials including ingredients for the manufacture of indelible ink and their distribution amongst the polling stations (h) procurement, supply, storage and maintenance of ballot boxes throughout the country (i) setting up of elaborate machinery throughout the country for collection and dissemination of result of elections (j) consolidation of all election results and their formal publication in the official gazette, as required by law (k) constitution of Tribunal for the disposal of election petitions and performance of such other functions in this regard as may be prescribed by any other law (l) framing and publicity pertaining to the elections and their implementation (m) collection and compilation of election data for research, reference and records (n) preparation and publication of comprehensive reports of all types of elections (o) regulation and control of officers and staff of the Election Commission Secretariat and its field offices.

There are 64 District Election Offices in the 64 District Headquarters headed by Sr. District Election Officer (SDEO)/District Election Officer (DEO). The SDEO/DEO has to carry out all work relating to registration of voters, printing of voters list, management of national and local level elections, training of polling personnel and all logistical arrangements for elections as directed by the ten regional election offices from time to time.

There are 508 Upazila election offices in the country. It is lowest level of election offices headed by Upazila Election Officer (UEO) in all Upazila. The main functions of the Upazilla Election Officer are “to assist regional and district offices in the discharge of functions relating to elections” (Rahaman, Khatun & Bilkis, 2013: 103).

Electoral Enquiry Committee (EEC): The Committee shall consist on the basis of complaints received from the contesting parties and candidates in the election about any matter or situation or any pre-poll irregularities by the EC's initiative. After conducting an inquiry, the Committee shall inform about the inquiry report to the EC within three days of the inquiry and may make a recommendation which may include “(a) proposals for any order, directive or instruction to be made by the Commission to any person responsible for

any act to stop such act forthwith; or (b) in the case of any omission, to perform any specific act, including, if necessary, the appropriate correction of any false information”(Rahaman, Khatun & Bilkis, 2013: 103). According to clause (6a) of the RPO (Amendment) Act, 2009, after justifying this recommendation received from Inquiry Committee, under clause (6), “the EC may give necessary order and instruction to the concern person or registered political party to implement the recommendation”(Rahaman, Khatun & Bilkis, 2013: 103).

The Election Tribunals: The Election Tribunals have been setup for the disposal of election petitions and performance of other functions in this regard as may be prescribed by any other law. It has been setup in the Divisional Headquarters’ headed by Judges of the level of a district Judge. The main function of this tribunal is to solve the electoral dispute which was occurred in the election.

Electoral Training Institute (ETI): The ETI has been established in 1995 under the project funded by UNDP, Asia Foundation and Government of Bangladesh (GOB) at the aimed of creating an efficient election management system as well as for making the election free, fair and impartial through efficient group of election personnel. The main objective of this institution to give training to stakeholders such as different stratum of election personnel, Returning Officer (RO), Asstt. Returning Officer (ARO), Presiding Officer, Asstt. Presiding Officer, Polling Officer, Election Agents, Poling Agents, Voter Registration Officer, Member of Electoral Enquiry Committee, Law Enforcing Agencies, Magistrate in charge of election duties, Officers and staff of Headquarter, Regional, District, Upazila and so on. The training program mainly deals with the matters of “preparation of voter list, election materials, election management, voting system, election rules, laws, acts, code of conduct rule, electoral law and order, office management, financial management” (Rahaman, Khatun & Bilkis, 2013:104). The ETI is operated under the supervision of Secretary of BEC. There is 13 officers’ level of DG to Assistant Programmer and another 40 subordinating staff at ETI.

Conclusion

A kind of defectiveness has been observed in the functioning of the Election Commission in most of the South Asian countries. Like many aspects of politics, electoral politics of South Asian countries is more or less the same. It is broadly observed that free and fair elections are indeed rare in South Asian countries. For holding free and fair election, the prerequisites are to have democratic competition in political parties, neutrality of media in election campaigning, non-partisan administration in electoral process and politically educated. The Election Commission of India has only long tradition for holding regular elections. Since its inception, free and fair elections have been held at regular intervals according to the principles of the Constitution. Conducting election periodically does not wholly indicate that it has an effective democracy. Other necessary factors are the way elections are held, the quality of the people elected, their performances that make democracy effective.

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