



TRANSPARENCY INTERNATIONAL BANGLADESH

Social Movement Against Corruption

Progress Tower (3rd, 5th & 6th Floors), House # 1, Road # 23, Gulshan-1, Dhaka-1212, Bangladesh

Tel +880 2 988 7884, 885 4456, 882 6036, Fax +8802 9884811 ex-129

e-mail: info@ti-bangladesh.org, website: <http://www.ti-bangladesh.org>

Tracking the Election Process: An Analysis of the Violations of Electoral Code of Conduct by the Candidates of the Postponed Ninth Parliamentary Election

***Shahzada Akram
Shadhan Kumar Das***

Executive Summary

The Context

A multi-party parliamentary democratic system has been established for the last 15 years (1991-2006) following the mass upsurge in 1990 against the military rule. Public opinion is directly reflected through this kind of parliamentary system, for which a free and fair election is a prerequisite. High level of integrity and sincerity from the candidates along with the roles and responsibilities played by the Election Commission (EC) is crucial in the electoral process. However, in the previous national elections questions were raised regarding the roles played by the EC, the integrity of the candidates, and the competence of those who later became Members of the Parliament.

The concept of a non-party caretaker government (CG) was introduced through the Constitution as the credibility of organising free and fair elections by the civil government raised concern. The CG is supposed to hold an election participated by all the political parties. The CG is to ensure a neutral administration and an ideal violence-free environment for organising the election. However, it has been observed that neither the EC nor the CG took any step to address the violations of electoral laws and rules violated by the candidates as well as the political parties.

Over the last one and half decade the election culture of Bangladesh has grown where a candidate's acceptability depends upon the candidate's party symbol, successes and failures of the previous government, his/her party's activities, and his/her monetary and cadre power. In the last few elections the trend of winning elections by nominating candidates with monetary and muscle power became more and more prominent. Now the political parties give nominations to people who are owners of black money, terrorists, and industrialists. These candidates often take extra-legal steps violating the electoral laws and rules in order to win in elections by any means. Such violations include violating the electoral code of conduct, vote rigging, influencing vote counting, creating environment for vote rigging, and exploiting administrative set up.

According to law one can be considered as a candidate only after the finalisation of nomination. Only after that one candidate can start election campaigning. However, it is observed that the candidates start campaigning long before the declaration of the election schedule. They do it through poster, graffiti, public relations, processions, and motor-cycle rallies. They do these in order to draw attention of the people along with the party for getting nominations.

In Bangladesh election expenditure is one of the major reasons of corruption. Such large election expense has adverse impact upon the structural development, investment environment and the development process of the country. Such election expenses have been limited to a maximum Tk five lac for one candidate. However, the EC has so far failed to monitor such expenditure. One of the main reasons is that no effective mechanism has been developed to monitor and check such expenditure.

Although a large number of national and local level organisations conduct election day observation, they largely cover issues relating to the activities of the caretaker government, law and order situation before and during election, voter turn out, election results and political trends. There is a dearth of research on the electoral behaviour of candidates and its impacts.



At this backdrop Transparency International Bangladesh (TIB) brought the issue of tracking the election process under its research agenda. This research was initiated in 40 constituencies located in the districts where the Committees of Concerned Citizens (CCCs), formed with the support from TIB, operate. Information on the nature and amount spent for election campaign incurred by the candidates was collected from these constituencies, selected through purposive sampling based on the lowest difference of vote cast between the top two contestants in the last national election. However, considering the quality of data, this report is prepared based on information collected from 38 constituencies. These constituencies are located all over Bangladesh in six administrative divisions. The main objective of this study is to come up with an analysis of the nature and extent of electoral rules violated by the candidates. This study aims to contribute to the efforts in developing a guideline on monitoring the violations of electoral codes of conduct by candidates in future national elections.

In this study, information has been collected from both secondary and primary sources. Secondary sources of information included election related publications, published and unpublished research reports, election monitoring reports, and reports published in newspapers, broadcasted in electronic media and posted in websites. Primary sources of information included field level observation and investigation in the concerned constituency.

Key Findings and Analyses

A total number of 122 candidates conducted election campaigns in 38 constituencies. These candidates started their campaign prior to the declaration of election schedule. Among them 61 (50%) were from Bangladesh Nationalist Party (BNP), and 42 (34.4%) were from Bangladesh Awami League (AL), while others were from Jamaat-e-Islami, Jatiya Party (Ershad) and Liberal Democratic Party (LDP). Most of these candidates started their campaign three months prior to the election schedule declaration.

Up to the last date of withdrawal of nomination (3 January 2007), these 122 candidates spent a total amount of Tk 18 crore 55 lac 45 thousand 350. Accordingly each candidate spent more than Tk 15 lac 20 thousand on an average. In these constituencies, 15 candidates of AL (35.7%) and 31 candidates of BNP (50.8%) spent more than Tk 5 lac each, which is the maximum amount one candidate is allowed to spend according to law.

Major heads of such expenditure included organising rallies and processions, establishing and maintaining election camps, expenses for workers and transportation. For these activities, on an average over Tk 5 lac were spent by the candidates.

A total amount of Tk 11 crore 40 lac 32 thousand 950 (Tk 18 lac 69 thousand 393 on an average) was spent by the 61 BNP candidates, whereas Tk 5 crore 86 lac 28 thousand 300 (Tk 13 lac 95 thousand 911 on average) was spent by 42 AL candidates. Among the BNP candidates, the highest amount spent by one candidate was Tk one crore 94 lac 9 thousand, while the highest amount spent by an AL candidate was Tk one crore 67 lac 8 thousand 500.

Among these 122 candidates, all the candidates from leading political parties violated electoral code of conduct. Most of them spent on printing four-colour posters (59%), graffiti (60%), using microphones more than the allowed number (53%), erecting gates (24%), motor-cycle rally (21%) and car/truck rally (5%), which are directly violation of the electoral code of conduct.

Role of Stakeholders

For violation of similar codes of conduct, there are inconsistencies in imposing penalties in the Representation of the People Order, 1972 and the Electoral Code of Conduct, 1996. The role of the EC in this regard is also not clear.

The EC is given the sole responsibility of holding a free and fair election. However, the EC alone cannot fulfil this duty. In the process of conducting elections there are different stakeholders that include the non-party caretaker government, political parties, candidates, development partners, local and national level civil society, election observation organisations, the media and common people.



The recently disposed of caretaker government which took power in October 2006 to hold the ninth parliamentary election in January 2007 could not ensure participation of all political parties and alliances, a neutral administration acceptable to all, and improvement of law and order situation which were the prerequisite for participation of all the political parties. The then caretaker government did not take any initiative in addressing the issues of using black money, excessive money, politicisation of administration, and violation of electoral laws and code of conduct.

The EC as an independent constitutional body cannot implement the electoral code of conduct and other election-related laws properly. The election expenditure of all the candidates exceeds the maximum limit of Tk Five lac, but the EC did not take any action against them. No effective mechanism has been developed by the EC to monitor and investigate on the election expenditure incurred by the candidate.

Black money owners, businessmen, industrialists, terrorists were nominated as candidates by almost all political parties. However, they do not show any respect to the electoral laws. The candidates do not get any warning from their respective parties to refrain from violations of the code of conduct. The topmost leaders do not take action against such violations because they also violate the rules and regulations. The political leaders do not practice intra-party democracy and even they do not want to be accountable to the people. For this the political parties are not eager to register with the EC.

The development partners are keenly interested to observe the elections so that the elections are conducted in free, fair and well-acceptable manner. The donor agencies and donor-funded local non-governmental organisations (NGOs) spend huge amount of money in voter education, election day observation, and training of the observers for election observation. However, any research-based specific strategy to the government and the EC from the development partners was absent.

A large portion of the civil society is involved to the donor-funded NGOs. These organisations also do not have any research or investigation scheme on the expenditure of election campaigning. Although concerns are regularly raised from different segments of the civil society for political and electoral reforms, any long-term activities to stop such irregularities are not observed.

A number of satellite television channels under private ownership started broadcasting programmes in the last five years. It is evident that some of them broadcast news have political indulgence. News and reports covering election mainly focus on political party and leaders, party-hopping, voter perspectives, political activities, election campaigning by candidates, the EC, role of CG to conduct election and so on. However, how the candidates violate electoral rules and regulations, how much they spent for campaigning, from where they get such huge amount of money, and how they influence the people are not investigated and focused in the media.

Recommendations

1. Action should be taken to observe and investigate incidences of violations of electoral conduct rules and maximum limit of expenditure for campaigning by the candidates. A committee may be formed with Deputy Commissioners and Upazila Nirbahi Officer (who will become Returning Officer and Assistant Returning Officer respectively during election) of respective constituencies, tax officials, District and Upazila Election Officers, local journalists and locally accepted persons.
2. This Committee may initiate its observation one year prior to the election and send monthly reports to the EC, on the basis of which the EC will take necessary step. The same reports must be published locally and nationally.
3. The names of loan defaulters and those who whitened black money last year among the expected candidates along with the amount of whitened money must be made public.
4. The Representation of the People Order, 1972 and Electoral Code of Conduct, 1996 must be amended to facilitate stern action against those who start campaign before the declaration of election schedule. To do this, a panel comprising of electoral law experts may be constituted.



5. The High Court Order for disclosure of personal information including income and expenditure of the candidates must be made obligatory and included as a law through a Presidential Order.
6. Registration of the political parties must be made obligatory.
7. A Task Force consisting of civil society members who have been advocating for political and electoral reforms may be formed. The CG will have the responsibility to implement the recommendations proposed by this Task Force.
8. It is essential for the mass media to focus on the amount spent for campaigning by the candidates during election. For this the correspondent of the electronic and print media should increase investigative reporting. The media should play the role of making people aware through focusing on how laws are violated by the candidates.
9. Controlling election expenditure by the candidate and preventing violation of electoral laws must be ensured in the electoral process. Development partners should take steps in providing research-based information to the government, EC and the CG apart from funding excessively for election day monitoring.
10. The civil society organisations working on election activities should be vocal against the violation of electoral codes of conduct by the candidates. They should also initiate various activities for mass awareness.