

Electoral Management in Bangladesh and Nepal: A Comparative Perspective

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Abstract

This is a review of the electoral management of Bangladesh and Nepal. The principal question of the review is "the way does the Electoral Management Body (EMB) of Bangladesh and Nepal perform, despite having a similar socio-political setting?" The socio-political setting of Bangladesh and Nepal is pretty much something very similar. The current review focuses on the performances of the EMB of Bangladesh and Nepal according to a comparative viewpoint. This examination attempts to analyze various parts of the electoral management process of Bangladesh and Nepal and uncovers the achievement or deficiencies in the working of the electoral management process. In this way, the electoral management process of Bangladesh has rarely been considered credible for holding an election. However, sometimes working with the EMB of Nepal has been substantiated as a sound establishment.

Key Words: Democracy, Election, Electoral Management, Third World Politics.

Introduction

Democracy is incomprehensible without a free and fair election. A free and fair election can be guaranteed by a genuinely experienced institutional instrument. Be that as it may, such an institutional component of the election didn't develop. On that account, a serviceable democratic framework couldn't be accomplished. The colonial ruler to prolong their rule in colonies introduced their pattern of electoral mechanism. In the Third World nations, the political elite thereof maintained the same pattern to ensure continuity of their grip on power. Even though just a few Third World countries are democratic, election-time complaints about irregularities are common. Some of these illiberal democratic leaders are accused of attempting to rig elections in order to breach the fundamental tenet of democracy (Rahaman, 2014:1). Some ruling political parties won't think twice about tampering with the election results to prolong their hold on power. Therefore, a major opposition party participating in an election refuses announced results and resorts to extra-legal mechanisms to dispute electoral outcomes. Such an instrument transforms into brutality, which hampered political steadiness and the course of democratization in the Third World nations.

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Third World countries have been affected by such a juncture where political forces and political dynamics have proved to be incompetent and dysfunctional. As a result, a variety of unelected governments, including military, one-party, and individualized dictatorships, dominated the political landscape. In this situation, Third World countries have failed to build viable political institutions. In absence of viable political institutions, democracy did not become institutionalized. Right or wrong allegations are raised against the government and Electoral Management Body (EMB) of Third World countries for rigging elections and abusing power to influence election results. This sort of criminal conduct is typically started by the ruling party. In order to maintain their position of power, political parties may illegally influence the outcome. Most of the elections were held in the military regimes for legitimizing power. Even in the democratic regime, the party in power rigged elections followed by violence which has far-reaching negative political consequences in these countries.

Significance of the Research

The modern states have adopted or adapted a variety of electoral systems. Each system enjoys a few benefits or impediments. Shortly after the independence most of the post-colonial states adopted or adapted the 'Anglo-American Electoral System' as a modern state (Rahman, 2014:7). This system is popularly known as the 'simple majority system'. According to that system, the winning candidate is the one who gains more votes than any other candidate. However, this 'System' has failed in Bangladesh. Because the results of a specific voting system depend on the socio-political environment of the nation in which it is used. The socio-political setting of Third World nations and the west is not something similar (Akther, 2001). That is why; some people propose to change from the 'simple majority system' to a 'proportional representation system' in Third World countries (Ali, 1996: 205). It is time to critically review the 'simple majority system' of the election. Because this system of election has failed in many ways to fill up popular will in parliament in Bangladesh. To some extent, Nepal changed its election system from a 'simple majority system' to a 'proportional representation system'. Nepal has a parallel electoral process. Voters cast a second ballot to elect a Member of Parliament using the party-list proportional representation system. First Past the Post elections elect one Member of Parliament from each constituency.

Conceptual Clarification

Democracy

Defining democracy is a great challenge. It is subjected to a variety of interpretations. However, there is no controversy; democracy is first invented in Greek. Greek democracy was direct. But in the modern world, direct democracy is impossible due to the rise of big states or nation-states. Even if there has been also a representative democracy in ancient times, particularly in Germany, Holland, and Hungary. Someone argued representative democracy originated in the Middle Ages as a device to be selected the members of certain bodies consulted by the king on some important issues. As per the idea of

representative democracy, it contains such a vote-based system and hypothesis of civics wherein voters pick (in free, secret, multi-party elections agents to act to their greatest advantage, however not as their intermediaries i.e., not really as guided yet with enough power to practice activity inside the substance of changing conditions. Modern liberal democracies are significant examples of representative democracy. It very well may be contended that this term is inseparable from "republic." In characterizing representative democracy, Madison said that by designating government to somewhat several citizens "whose insight may best perceive truth interest of their country-the public voice, articulated by the delegates of individuals, will be more consonant to the overall public good than if articulated by individuals themselves" (Ali,1966). By defining representative democracy, W. F. Willoughby makes a valuable comment- "representation in government is regarded today as a process whereby individuals within the state can upon discussion and position to those in office. Instead of government officials being virtual representatives, they are considering 'responsible' representatives" (Willoughby, W. F., 1936:13). In this article, representative democracy implies a sort of government chosen by individuals or their agents. Viable portrayal in politics is pivotal in many developing nations. Youth are regularly underestimated in the formal electoral cycle. For example, youth are less inclined to be an individual from ideological groups, and they are less inclined to be enrolled as a citizen and to decide on polling day. Be that as it may, compelling portrayal or participation is vital to democratic advancement throughout the planet. Professionals, including EMBs, political parties, civil society organizations, and aid providers, are becoming more and more dependent on engagement in the democratic process generally and in elections in particular. The hullabaloo would have occurred without sufficient participation, among other things.

Election

Depending on your nation of origin, an election can have multiple meanings. But only in places where there is genuine democracy can the word's true meaning be realized. As a result, an election is a procedure used to choose candidates for public office. It is the process by which elective positions in the legislature are filled in a democracy. Both a broad and a specific definition for the word "election" have been given. In the specific sense, it refers to the final selection of a candidate who may accept the poll's findings while polling or the return of a certain candidate without opposition when there is no poll. In its broadest definition, the term refers to the complete procedure that ends with a candidate being proclaimed elected (Rahman, 2001:8). Harrop and Miller defined "election as a force of party activities and intensify political awareness of the people. As such the educate voters, provide the foundations for representation and grant legitimacy to the government" (Harrop & Miller, 1998: 245). The phrase "free and fair" has a unique significance in politics, particularly electoral politics. It serves as an adjective to describe an election's legitimacy. The ability of voters to exercise their right to vote in an environment free from all forms of pressure, intimidation, obstruction, influence, force, coercion, violence, or any other means that could unreasonably influence their decision to vote or to cast their votes for a particular candidate is what it means for an election to be

free and fair. Free and fair also refers to how the authorities conduct an election. Its scope includes the entire election-related process. Each stage of the election process should be by law, or in the absence of law, by past precedents or tradition, and must be free, fair as well as transparent (Karim, 2004). In this research, election means making political choices by voting in free fair means. It is accommodative of the individuals' share in the power process and thus the governmental process.

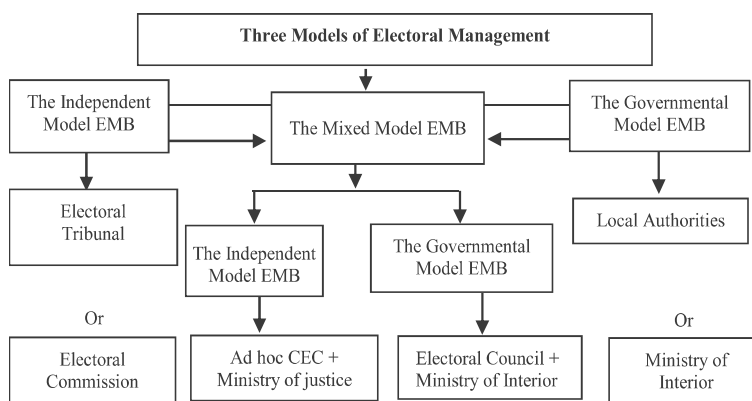
Electoral Management

Elections are specialized, complicated procedures (Rahaman, 2014:9). An entity or entities with specialized electoral management responsibilities are in charge of overseeing this procedure. So, specialized skills are necessary for electoral management bodies. Electoral management should be viewed by some guiding principles, such as independence, impartiality, integrity, transparency, accountability, efficiency, professionalism, and rule of law in the process. Therefore, electoral management entails bringing together the knowledge and experience pertaining to the electoral operations of EMB, their responsibilities and tasks, and their organization, financing, and management of election administration. The institutional makeup of EMB, its support systems, and its surroundings are also covered. Three different models are referred to as electoral management. The three types of electoral management are: The Independent Model, the Government Model, and the Mixed Model. The Independent Model of Electoral Management is used in nations where an EMB that is institutionally independent, autonomous from the executive arm of government, and that has controlled its budget oversees and manages elections. An Independent Model EMB is not answerable to a ministry or department of government. It may answer to the legislature, the court system, or the President. In nations where elections are managed by the executive branch of government through a ministry, such as the Ministry of the Interior, or by local authorities, this model of electoral management is used. At the federal level, this EMB functions under the executive branch and reports to a Cabinet Minister. The Mixed Model of Electoral Management consists of two distinct structures: an implementation component EMB housed within a department of state or local government, and a supervision component EMB that is separate from the executive arm of government

The EMBs are not always accurately interpreted by the constitution or specified in legislation. To facilitate relevance and applicability, each of the three models is flexible enough to focus on what is relevant in a particular country and a particular electoral management context. Some countries follow the Independent Model, some Mixed Model, and some Governmental Model of electoral management. Bangladesh and Nepal constitutionally follow the Independent Model of EMB. From the way they are

functioning it seems that they follow the Mixed Model. Three models are given in figure 1 below:

Figure: 1



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

The EMB is in charge of overseeing election administration. It must carry out the legal framework's prescribed procedures in an honest and impartial manner. Making decisions and resolving technological challenges are involved. It may also be required to design election regulations, and it typically creates rules for registering voters and candidates, casting ballots, and tallying votes. An EMB must perform the following duties in order to fulfill its primary responsibility of holding free, fair, and credible elections, including: (1) administering the process in accordance with the law; (2) maintaining a professional, impartial, and transparent administration; (3) adopting procedures to protect the integrity of its operations, (4) Recognizing and evaluating integrity threats, (5) acting to address them when appropriate, and (6) raising voter awareness. In order to effectively do this assignment, the following issues will be used to compare the EMB of Bangladesh and Nepal: (1) The make-up of the EMB, (2) Its laws and processes, (3) How it prepares for its electoral tasks, (4) How it defined the constituencies, (5) How it handles the registration of political parties, (6) How it assigns electoral functions, and (8) How it is institutionally set up.

Integration of the Concepts

The election is defined as “a form of procedure, recognized by the rules of an organization, whereby all or some of the members of the organization choose a smaller member of a person or one person to hold the office of authority in the organization” (Mannan, 2005:2). For holding the office of authority, a person is elected or chosen through particular institutional mechanisms. This mechanism can be properly viewed by the electoral management process. Electoral management can be ensured by democracy in a country. Electoral system selection and election layout, for instance, depend on

democratic governance. Elections and democracy are fundamentally about distributing and regulating political power and influence. While political elections alone are not a guarantee for democracy, on the one hand, democracy is impossible without them. To put it another way, one cannot support elections without being a democracy, but one can administer elections without being a democrat. Elections are crucial in promoting participation, accountability, and transparency, three characteristics of democracy, which in turn can only be ensured by democracy. Elections that are regularly held may be the main tool for advancing this democracy. Election quality is dependent on EMB. Free and fair elections could operate as a check on government, making sure that policies reflect the desires of the governed. Therefore, it is safe to say that there has been a link between the notions that are interdependent.

Objectives of the Study

This is a study on the electoral management of Bangladesh as well as Nepal. The main question of the study is “how does the EMB of Bangladesh and Nepal perform, despite having the same societal status?” To attain this main objective other substitute objectives can be mentioned here below:

1. To examine the electoral management process in Bangladesh and Nepal in the context of Third World countries.
2. To know the legacies and legal framework of both the electoral management process of Bangladesh and Nepal.
3. To measure the election management process of Bangladesh and Nepal based on some parameters.
4. To reveal the successfulness or defectiveness in the functioning of the electoral management process of Bangladesh and Nepal.

The Methodology

The methodology applied in this research is a combination of both historical and analytical approaches. As a historical approach, the development of the electoral management process of Third World countries is analyzed in this research. An analytical approach was used based on qualitative data. In the course of analysis, this research has taken into consideration developing a credible electoral management body to hold a free and fair election. By reviewing the performance of EMB in Third World countries, we have got different contradictory ideas. The present research tries to investigate how EMB can ensure a free, fair, and credible election in Bangladesh and Nepal despite having the same societal status.

The period of data collection for this research ranges from December 2021 to January 2022. Sources of data collection were both primary and secondary. The primary source of data included interviews of selected representatives of different stakeholders of the EMB. In this connection, as many as 20 people, who come from different stakeholders, were

interviewed. Secondary sources of data included documents on the legal framework. In the first phase of secondary sources, a wide range of literature was reviewed to conceptualize the subject. In this phase, data were collected through intellectual writings, different books, journals, and research papers relating to the electoral management process of Bangladesh and Nepal to build the framework for the research. In the second phase of secondary source, data was collected from reports of governmental institutions and agencies. The lack of reliable and impartial sources of data was not an easy task to complete the research. At such juncture of the study, daily newspapers were widely used as the source of data.

Electoral Management of Bangladesh and Nepal: A Comparison

Organization

This section intends to set out the framework of the electoral process in Bangladesh-Nepal and also examine how this framework was undermined by the functioning of the democratic structure.

The EMB of Pakistan was laid out in 1956 with a provincial office in Bangladesh. After independence, the local office of the Election Commission moved to Bangladesh with a bigger arrangement in view of 1972's Constitution. The Bangladesh Constitution gives the arrangement for setting up an independent election commission as an EMB to conduct an election in the country. Article 118 of the Bangladesh Constitution laid out an Independent EMB 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 and the appointment 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, & Others, 2013:95). The CEC will serve as the Election Commission's chairperson when there are multiple members. An Election Commissioner's tenure in office is set at five years beginning on the day he assumes that position. 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 & Others 2013:95). The Commission's key responsibilities include overseeing, directing, and controlling the process of creating the electoral rolls. However, the Election Commission Secretariat is headed by a Secretary who is appointed by the Election Commission (Officer and Staff) Rules 2008. The Election Commission Secretariat is now functioning under its own control. Before the enactment of the Election Commission Secretariat Law 2009, the Secretariat of the Election Commission was under the control of the Prime Minister's Office (PMO). The Election Commission's Officers and Staff Rules 1979 also provides the procedure for the recruitment of the officers and staff for the Election Commission Secretariat. Moreover, article 120 of the Constitution also states that "the President shall, when so requested by the Election Commission, make available to it such staff as may be

necessary for the discharge of its functions.” The appointment of first-class officers (Upazila Election Officers), the responsibility vests upon the Ministry of Establishment, and the selection procedure is conducted by the Public Service Commission (PSC).

In Nepal, the EMB is regarded as a separate constitutional entity with sole responsibility for the administration of elections. It was conceived as a result of the Nepalese revolt in 1950, and it was enacted into law in 1951. After some time, the guidelines adjusted it somewhat. In 1966, the commission was declared legally independent from the government. The members of the commission were chosen by the King once it was formed. The composition of the EMB was further altered by the constitution in 2006. The interim constitution for Nepal adopted in 2007 attests to this. Article 129(1) of the Interim Constitution of Nepal 2063 (2007) clearly outlines the duties and roles of the EMB. "There will be an Election Commission in Nepal consisting of a CEC and four other Election Commissioners," the Constitution states. The CEC will serve as the Election Commission's chair. The Constitutional Council shall recommend that the President appoint the CEC and the Election Commissioners. The CEC and the Election Commissioners have a six-year term of office starting on the day of their appointment. The management of the Commission is comprised of the CEC and four Election Commissioners. The EMB maintains a separate secretariat over which it exercises complete executive control. The secretary carries out the commission's decisions. The electoral court plays a crucial role in the electoral process. Any employee who engages in behavior that compromises the election's impartiality may be fired by the EMB (Hussain, 2008:3). A deal was reached in December 2007 to end the monarchy and transform the nation into a federal republic with a prime minister serving as the head of the executive. With only four of the 6001-seat Constituent Assembly voting against the reform, which ended Nepal's 240-year monarchical history, a federal republic was founded in 2008. The first Constituent Assembly of Nepal had only one chamber. Following the first Constituent Assembly election on April 10, 2008, it was established. The majority of observers described the election results as trustworthy, despite isolated incidents of political intimidation, violence, and vote anomalies. Currently, Nepal's politics are conducted within the framework of a multi-party, parliamentary republic. The Prime Minister and his or her cabinet are in charge of exercising executive authority, and the Nepali Parliament is responsible for exercising legislative authority.

Law and Procedures

The Constitution and Representation of People Order (RPO), 1972, both contain provisions governing Bangladesh's electoral laws and procedures, and the Election Commission currently has the authority to enact new legislation. According to the Constitution and RPO, 1972, the power, responsibilities, and duties of the Election Commission are in different ways outlined in articles 118(4) and 126 of the Constitution and article 4 of the RPO, 1972, respectively. The RPO of 1972 is the fundamental statute that served as the basis for the government's creation of the election rules. It also offers a rational and seemingly full foundation for the conduct of parliamentary elections, but it

also has a few peculiar characteristics that have complicated the public's impression of the impartiality of the Election Commission. Additionally, "it shall be the obligation of all executive authorities to support the EC in the fulfillment of its powers," according to Article 126 of the Constitution and Articles 4 and 5 of the RPO, 1972. Any person or organization may be required by the Election Commission to carry out such tasks during the election. The RPO of 1972, which relates to the duties of the Election Commission, is the second significant law. In 1972, 1976, 1982, 1991, 1996, and 2001, the RPO was revised. The RP (Amendment) Act of 2008, the RP (Second Amendment) Act of 2008, and the RP (Amendment) Act of 2009 each made three revisions to this order. The Political Parties Registration Rules, 2008, the Code of Election Rules, 2008, the Code of Conduct for Parliament Elections, 2008, and the Electoral Rolls Rule, 2008 were all created in accordance with these legislations. The Reserve Women Election Law 2004 for Parliament Elections and the Election Commission Secretariat Act 2009 are additional legislation pertaining to elections that are still in effect today. The Election Commission's primary responsibilities under these rules, acts, and amendments are to define constituency boundaries, create electoral rolls, recognize political parties and assign them symbols, conduct elections, examine nomination papers, conduct polls, examine candidates' election expenses, and settle electoral disputes.

In Nepal, a constitutional EMB is known as the Election Commission of Nepal (ECN). The Nepalese Constitution's Section 24 and Articles 245 to 247 make decisions about the Election Commission. The competitive multiparty democratic system, adult voting rights, and regular elections have all been embraced by the constitution as essential tenets of democracy. According to the constitutional provisions, the Commission is in charge of holding elections for various federal, provincial, and local entities in accordance with the established electoral systems. The Election Commission Act of 2017, the Electoral Roll Act of 2017, the Election (Offense and Punishment) Act of 2017, the Political Party Registration Act, and the Local Level Election Act of 2017 are the current election-related laws that are in effect.

Preparation of Electoral Rolls

The Election Commission in Bangladesh is accountable for creating the electoral rolls. The final electoral rolls created in accordance with the current Electoral Rolls Act 2008 are referred to as electoral rolls. The Election Commission is required by law to assign the necessary number of Assistant Registration Officers (AROs), one supervisor for every five enumerators, and one enumerator for every 300–400 voters (Rahaman & Others 2013:96). For the "preparation, correction, amendment and revision" of the electoral roll, the Election Commission must also appoint a Registration Officer (RO) for each constituency. According to Articles 121 and 122(2b) of the Constitution, electoral rolls also mean that there is only one voter list for each constituency and that a voter must be at least 18 years old, of sound mind, and a resident of the constituency in order to cast a ballot. Box 1 below displays the stage at which the Election Commission is preparing its electoral rolls:

Box: 1: The Stage of Preparation of Electoral Rolls.	
Stage-1	Taking all necessary procedures to get voter data. The development of the area-based primary estimation of voters, the hiring of the necessary number of AROs, the publication of advertisements for the hiring of area-based data entry operators, and other data gathering tasks are all included in this stage.
Stage-2	Re-scrutinizing the forms to collect the voter's information and data.
Stage-3	Gathering of information and identity verification at field registration centers.
Stage-4	Following the procedure outlined in the Third Phase, the physically challenged, prisoners, missed voters, and ill persons are registered.
Stage-5	Data processing, scrutinizing, and improving at Upazila Server Office.
Stage-6	Printing and finalizing a draft voter list. This stage involves displaying the draft voters' list, accepting objections, hearing the objections, ordering corrections from the revising authority, fixing the errors in the draft voters' list in accordance with the orders, preparing the final voters' list, and having the RO authenticate the final voters' list.

Since 1971 preparation of electoral rolls has been done seven times in 1973, 1976, 1983, 1989, 1995, 2000, and 2006.

Every year, electoral rolls are created and updated by the ECN. According to the Nepalese Constitution, every person who has achieved the age of 18 or older is eligible to vote. His or her name must be registered on the voter list in order to cast a ballot. Every household must provide ECN with the names of voters (biometric data) who are at least 16 years old and have obtained citizenship certificates. When s/he turns 18 years old, this registration immediately updates the voter list. *The Electoral Rolls Act of 2017* stipulates that registered voters must also have permanent residence in any constituency in addition to being Nepali citizens. Registration on the voter list requires the submission of a Nepali Citizenship Certificate. The person who wishes to register must be present because pictures and thumbprints of the voters are also taken when they register to vote. Every year, the District Elections Officer (DEO) registers voters. The Chief District Officers (CDOs) are in charge of counting the names of the voters. The Assistant Registration Officer (ARO) for each ward of the municipalities will count the names of registered voters. Every year, beginning in the first months of the Nepali calendar, which begins in mid-April, the electoral roll is conducted. By the middle of August, the whole process is finished. Box 2 provides information on the entire electoral roll process.

Box-2: Step for Preparing Electoral Rolls

Steps	Activity Process	Days Allocated
1	Collection and updating	30 Days
2	Publication	30 Days
3	Addition and correction	15 Days
4	Publication of added and corrected names	15 Days
5	Hearing of claims and protests	15 Days
6	Publication of final rolls	15 Days
Total		120 Days

Delimitation of the Constituencies

The delimitation of constituencies is the prime function of the Election Commission of Bangladesh and it is executed in accordance with the *Delimitation of Constituencies Ordinance 1976*. This ordinance has been made to provide for the 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.” According to Article 6(1) of this ordinance, the Commission shall divide the country into as many single territorial constituencies as there are members to be elected under Article 65(2) of the Constitution for the purposes of elections to the seats in parliament. After the delimiting of constituencies, the new constituencies are to be gazetted specifying area. The objections about the new constituencies are heard but the verdict of the Election Commission is final. For the first time in the electoral history of Bangladesh, the constituencies delimited in 1973 have remained subject to minor adjustment. Subsequently, the constituencies are delimited in 1979, 1984, 1991, and 1995. The last major delimitation of the constituencies was held in 2008 ahead of the ninth parliamentary election. The constituencies conducted since 1972 are given in box 3 below.

Box: 3 Delimitation Conducted Since 1972

Done in Year	Conducted Method
1973	Complete by visiting the constituency
1989	Partial by visiting the constituency
1984	Complete by visiting the constituency
1991	Partial by selected constituency
1995	In certificate only by EMB of Bangladesh
2008	300 constituencies (by use of GPS system)

(Source: Bangladesh Election Commission Secretariat)

In Nepal, geography and population make up the two fundamental pillars of representation, and each district of the state (province) must have at least one election seat. The population, geographic convenience, administrative and transportation convenience, geographic specificity, communal and cultural elements of the constituencies, as well as the density of the population, must all be considered when defining electoral constituencies. According to Article 286 (1) of the 2015 Constitution of Nepal, the Boundary Commission is the entity in charge of drawing the boundaries. The Election Commission of Nepal has sped up voter registration in advance of the provincial and federal elections, which are scheduled for November 26. On July 20, the Government of Nepal approved the creation of the federal Election Constituency Delimitation Commission (ECDC), which has been given a 21-day deadline to submit its final report. According to the constitution, the ECDC must designate 330 constituencies among the seven provinces to elect the seven Provincial Assemblies, and 165 single-member

constituencies (instead of the current 240) to elect the House of Representatives. The Election Constituency Delimitation Commission's decision cannot be contested in court, and the constituencies are subject to revision every 20 years.

Political Party Registration

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 the democratic process. As a result, the RPO 1972 has undergone three amendments: The Representation of the People (Amendment) Ordinance 2008, the Representation of the People (Second Amendment) Ordinance 2008, and the Representation of the People (Amendment) Act 2009. In 2008, an ordinance was passed involving the registration of political parties with the Election Commission. According to this Ordinance, conditions relating to registration have been laid down. But registration of political parties in Bangladesh is voluntary. It should be noted that political parties wishing to run in the parliamentary elections must register with the Election Commission. In the 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" laid down in Article 90 (B). However, this calls for voluntary registration of political parties did not make any impact on the political parties of Bangladesh.

In accordance with the Nepali constitution, they are now "inviolable," required to register with the ECN, and encouraged to act transparently and democratically. But contrary to what most people think, "Politics in Nepal is still more based on personalities than institutions; leadership positions within the government and parties are personalized and unaccountable, and when crises mount as a result of weak institutions and leaders, elected officials are left powerless in the face of the situation. Such functional and behavioural issues greatly impede the nation's processes of institutionalization and legitimization." (Baral and Rose 1998, p. 213). Four requirements must be met before a national political party can be registered with the EC: it must be democratic; office holders must be elected on a regular basis every five years; 5% of the candidates for the House of Representatives must be women; must have received 3% of the vote in the House of Representatives election. Only those parties that meet the aforementioned requirements are eligible to receive uniform national symbols for their candidates. Free symbols are offered to independent candidates and those who don't fit these requirements. Furthermore, political parties still need to maintain a democratic candidate selection procedure that helps the local populace choose their representatives by giving them more choices. Although the constitution forbids parties founded on the basis of regional, ethnic, religious, and communal considerations, some of these parties are registered with the Election Commission, and there are numerous small, ideologically radical, and issue-specific parties that are not registered but are active on the national scene. How to put them under constitutional control is the Election Commission's dilemma. Alternately, is Nepal able to

imitate the German Basic Law's democratic feeling, which forbids the registration of anti-democratic parties?

Delegations of the Functions

In Bangladesh, Election Commission's Secretariat has been established under provision 118(4) of the Constitution. Therefore, Election Commission has its own full-fledged Secretariat headed by a Secretary to the Election Commission to render all assistance to execute the decisions and orders of the commission. The secretariat is situated in Dhaka having field offices at the regional level, district level, and Upazila level. The secretariat performs all the duties relating to election management. There are ten Regional Election Offices located in Dhaka, Chittagong, Khulna, Rajshahi, Barishal, Sylhet, Comilla, Mymensingh, Rangpur, and Faridpur regions headed by Chief Election Officer (CEO). The main function of this office is, to communicate between the Secretariat and the subordinate field level offices to coordinate the work of all types of electoral roles such as registration of voters and preparation of electoral rolls including day-to-day amendment, and as a time to time directed by the Election Commission. 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, the 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 the lowest level of election offices headed by the *Upazila* Election Officer (UEO) in all *Upazila*. The main functions of the UEO are "to assist regional and district offices in the discharge of functions.

The Election Commission of Bangladesh appoints the RO for each of the parliamentary constituencies. In addition, the Commission also appoints ARO for each constituency to assist the RO in the performance of his functions in connection with the conduct of elections. However, the Commission has the power to withdraw any officer for the sake of a 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 conducts the poll at a polling station. The main responsibility of the PO is, to set up 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. A free and fair election mainly depends on field-level officers like the PO, APO, and Polling Officer as they are actively involved in the electoral process.

The Electoral Inquiry Committee shall also 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 Election Commission's initiative. After conducting an inquiry, the Committee shall inform about the inquiry report to the Election Commission 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 Election Commission to any person responsible for any action 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 & Others, 2013:103). According to clause (6a) of the *RPO (Amendment) Act, 2009*, after justifying this recommendation received from the Electoral Inquiry Committee, under clause (6), “the Election Commission may give necessary order and instruction to the concerned person or registered political party to implement the recommendation.” Election Tribunals have also been set up 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 set up 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 (Rahaman & Others, 2013:103).

The Election Commission of Nepal (ECN) oversees, directs, and controls the election of the President, Vice-President, Federal Parliament, Provincial Assemblies, and municipal authorities in accordance with other laws and the Constitution. For the purposes of the election, the ECN is in charge of creating the voter list. In accordance with the provisions of this Constitution and Federal legislation, the ECN must convene a referendum on a matter of national significance. The CEC, Election Commissioner, or any other employee of the Government of Nepal may receive any of the ECN's functions, duties, or powers in the course of performing their duties. The ECN demands complete supervision over the security personnel and election officials in this situation. But it depends on the government in areas of people and finances. The ECN is trusted with the unprecedented electoral operation, and the entire administrative apparatus is deployed throughout all constituencies. According to the Constitution, the government must give the ECN staff and supplies.

The Ministry of Home Affairs and its district officials, such as the CDO, manage a large portion of the administration of elections, despite the fact that the ECN can request assistance from any government department. During the election time, this staff is placed under the ECN's control and is answerable to it. According to the Constitution and current laws, the ECN has the power to issue orders in the course of performing its duties. For electoral purposes, the ECN may purchase real estate, structures, cars, furnishings, and other items from the public sector, private sector, and educational institutions. Any Returning Officer, Polling Officer, or other election-related official sent out by the ECN may enlist the aid of the local police or other government security agencies.

Each constituency's returning officer is chosen by the ECN. The CDOs are appointed as the returning officers for their respective districts during the election for local bodies. It is a legal requirement that judges of the courts of law or members of the judicial service be appointed as returning officers for the election of the House of Representatives. The chief judges/registrars of appellate courts are designated as returning officers for elections to the Upper House of Parliament, while the secretary-general of Parliament is designated as the returning officer for elections to the Upper House from members of the Lower House. The returning officer has the power to choose his assistants and staff who report to them.

The central and district government bureaucracies typically extend their support security arrangements. As a result, the Ministry of Home Affairs is crucial to the successful conduct of elections that adhere to the norms set by the ECN.

On the day that the voters' list is prepared, the electoral management procedure starts. According to electoral regulations, there is only one electoral roll system in the nation, and it is released in advance of the election. This gives them the opportunity to file requests for the inclusion of names of legitimate voters and the deletion of those non-voters. Every year, the ECN refreshes the voter list. The Member of the House of Representatives Election Act of 1990, the Election Constituencies Delimitation Act of 1990, the Election Offense and Punishment Act of 1990 and 2017, the Local Bodies Election Process Act of 1991 and 2017, the Voters Identity Provision Act of 1997, and the Anti-Defection Act of 1997 are just a few of the acts and laws that govern the election management process. In terms of regulating the election process, these acts are crucial legislative tools.

The Election Offense and Punishment Act of 1990 and 2017 both include provisions for the creation of a Special Election Court to handle electoral infractions. An appeal against the judgment of the Returning Officer and the ECN may be submitted to the election tribunal headed by a judge. On the advice of the ECN, the government will establish the tribunal. These are crucial measures to stop political meddling and electoral fraud, but they by no means go far enough to guarantee true representativeness. The administration of free and fair elections requires the responsible participation of political parties, candidates, political parties, voters, and all other democratic stakeholders.

For inspections, investigations, or supervision of voting, counting, or any other electoral process, the Election Commission of Nepal (ECN) may appoint observers. On the basis of its conclusions about complaints or information of irregularities, the ECN may call off an election in the entire constituency or polling at the polling place. On the basis of reports made by poll workers alleging disturbances on election day, the ECN may take action. Re-voting and recounting are decided upon by illegal booth capturing, tampering with the ballot boxes, and errors made during the counting.

To carry out the duties of the Election Commission in accordance with this Constitution, the Government of Nepal, the provincial government, and the local government shall give other cooperation as may be necessary. To make all election-related operations freely accessible to the general public, the Election Commission created Provincial Election Offices in 7 provinces and District Election Offices in 70 districts. In the Provincial Election Office, arrangements have been made for the Head of Administration Service, General Administration, Second Class Provincial Election Officer, and in the District

Election Office, for the Head of Administration Service, General Administration, Third Class District Election Officer, of the Government of Nepal. Under the direct supervision of the Commission, plans have been prepared to conduct the task from the State/District Election Offices.

Box-04: Electoral Management of Bangladesh and Nepal at a Glance

Bangladesh	Nepal
The constitution suggests the appointment of the CEC and other ECs under law.	The CEC and other ECs are appointed by the President on the recommendation of the Constitutional Council.
Most of the appointments of ECs have been challenged by political parties. Sometimes a politically controversial person is appointed.	The appointment process of the CEC and other ECs, has been criticized because the Constitutional Council which recommends their names is not free from party politics.
The age of the CEC must be at least 50 years old.	At least forty-five years of age is required for the CEC.
The age of the other ECs must be at least 50 years old.	The other ECs had to be at least forty-five years old.
The Chief Election Commissioner and the Election Commissioners have no upper age limit and their terms of service are for five years from the date of appointment.	The Chief Election Commissioner and the Election Commissioners each have a six-year tenure of office starting on the day of their appointment. However, they do reach 65 years old.
The Election Commission has partial control over the EC Secretariat.	The Election Commission has full control over its Secretariat.
They are not required to have a degree; they only need to have at least 20 years of experience working in significant government, semi-government, private, judicial, autonomous, and other institutions.	They must to hold a bachelor's degree from an accredited institution.
The First Past the Post (FPTP) system of election is used in all levels of elections. Only to ensure women's participation in Parliament, 50 seats has reserved that each party fills proportionately to their percentage of the vote. This voting system can be defined as Proportional Representation (PR).	There are now three electoral systems in use: first past the post for municipal elections, parallel voting for the National Assembly and provincial assemblies, and single transferable vote for the House of Representatives.

The delimitation of constituencies is the prime function of EC and it is executed in accordance with the <i>Delimitation of Constituencies Ordinance 1976</i> .	The responsibility for the delineation of the electoral constituency is vested in the Election Constituency Delimitation Commission (ECDC).
The EC has its own field staff up to the Upazila level but is largely dependent on government officials	The EC is dependent on the government for personnel decisions while having no own staff of its own.
Budgetary allocation (but sometimes not gets as it requires)	The EC has no financial autonomy. The EC has to depend on the government.
The Code of conduct for candidates Is a separate rule in Bangladesh	The Code of conduct is not a separate act in Nepal. The EC can prepare the election code of conduct.
Expenditure for parliamentary election in each constituency Tk. from 5 lakhs to 15 lakhs.	Depending on the electoral strength of the constituencies, the EC has classified election expenses into four different categories, with the first category having a cap of Rs. 275,000, the second having a cap of Rs. 253,000, the third having a cap of Rs. 165,000, and the fourth having a cap of Rs. 115,000.

Electoral Management in Bangladesh and Nepal: Challenges and Reforms

The EMB is not only responsible to hold a free and fair election. When EMB fails to hold a free and fair election just because of its lack of credibility, other agencies and their social and political capital can play a pivotal role to hold free and fair elections. But it is a great regret that the role of such agencies is not up to the mark. Of course, there are some causes behind such a role, such as undemocratic state institutions, lack of viable political systems, undemocratic political parties, political use of religion, undeveloped judiciary, and overdeveloped colonial bureaucracy. The challenges for the EMB to hold a free and fair election are not the same. Considering overall challenges for the EMB of Bangladesh and Nepal in the way of holding free and fair elections, the following areas are mentioned for requiring reforms to strengthen the EMB of Bangladesh and Nepal:

SL	Bangladesh	SL	Nepal
1	To ensure independence consideration should be given to the EMB by making it responsible for the management of its all-level offices separately from the executive branch so that it may conduct and supervise the election independently and	1	When the number of Election Commissioners was increased to six to serve the political interests of the in-office government, their independence and impartiality lost some of their lusters. Therefore, it is suggested that the total number of Election Commissioners, including the CEC, should not exceed

	smoothly.		three. It is also suggested that their appointment be based on public and parliamentary hearings.
2	The consolidated fund of the republic will be used to pay for the EMB's budget allotment because it will have financial autonomy. The Finance Ministry shouldn't have any authority over the distribution of such an allotment. The budget allocation should be disbursed as early as possible so that it does not hamper the functions of EMB.	2	One significant area of change lies in preparing voter's list. The instances of disenfranchisement of electors, ID cards not counting voter list, residency prerequisites denying destitute and rural people working in metropolitan regions, distance factor, particularly in slopes and mountains, propensities of major parties to abuse the set of rules, particularly enjoying savagery, controlling media, including in enrollment and move of personnel connecting with security and the rule of law, abuse of money, and so on.
3	The political parties must be consulted before appointing the Election Commissioners, including the Chief Election Commissioner. It will be very challenging to hold free and fair elections if the administration appoints its own nominations to the Election Commission without consulting the political parties.	3	The "fleeting trend impact," or the tendency to vote in favor of parties and candidates who have a chance of winning, is one fundamental mental factor that influences voting behavior in Nepal. Declaring someone to be the next prime minister and making a general judgment as necessary don't forecast well in this particular circumstance. Multiple party chief candidacies thus contradict the representational issue. Following their victory in multiple elections, they withdraw from one and deceive the voters there.
4	The Election Commission shall have complete independence in announcing the election timetable, rescheduling the election, and establishing any guidelines or rules for the election.	4	The cost of election campaigns has been reduced since the vast majority of Nepalis are living below the poverty line. It has become essential to monitor and expose campaign spending in order to curb the influence of money in politics and establish real, societal control. The design of rules for political parties and candidates should also form part of the guidelines, along with the accounting of election expenses.
5	The RO plays a key role in	5	It has become crucial to strengthen the

	<p>conducting elections. The DC is usually chosen as RO for Parliamentary elections. As the DC is a government official, the government can influence election results by placing partisan DC in this post. Therefore, BEMB should consider establishing district base field offices. The chief of this office would be chosen as RO.</p>		<p>relationship between the EMB, the judiciary, guard dog offices, media, and general society in order to detect violations of the set of principles. At the same time, these organizations can aid in keeping democratic values alive by providing purposeful support and unrestricted drive outside of the political establishment.</p>
6	<p>The EMB's Secretariat should be accountable to the EMB and EMB should be made accountable to the common people and also to the Parliament for their activities. In this respect, the necessary law may be enacted.</p>	6	<p>The government charged with overseeing elections shouldn't make any major arrangements, promote or move public officials, pursue major policy decisions, or commit the nation to financial use unless a terrible crisis occurs.</p>
7	<p>Any punishment or disciplinary action taken by the EMB for any electoral laws and regulations broken throughout the course of conducting elections by the employed workers. In this regard, a prosecution branch of the EMB should be established to handle various election irregularities. The ability to bring legal action against candidates, parties and poll workers should likewise be granted to the EMB.</p>	7	<p>The employees of the EMB are drawn from the administrative and judicial branches of government. Much depends on the administration's impartiality and the integrity of its personnel when they are working on elections. Government employees are split along party lines. Only when there is a political connection between election officials and party insiders is misbehavior plausible. These employees are in charge of the election and are situated under the jurisdiction of the EMB. If they fail to perform their responsibility, the EMB must use its authority to take action.</p>
8	<p>The rule should be so framed as to ensure that retired army officers and bureaucrats and other government officials cannot readily after retirement begin to take part in active politics. They must wait for at least five years before that. Their official position may be unduly used in</p>	8	<p>The exclusion of candidates who have been linked to criminal activity, offenders, or socially divisive elements should be permitted in plain sight. This is the way to preserve peace and order, protect politics from thugs, and prevent citizens from feeling alienated and uninterested in how power is exercised.</p>

	politics to distort the same.		
9	Every ten years the election symbols of political parties need to be changed so as to bring clarity of understanding of the personal quality of candidates. Otherwise, common voters become victims of confusion to elect the best candidate in the elections.	9	According to an unofficial source, there are more than a million Nepalese living in India alone. According to the current electoral laws and procedures, all of these Nepalese citizens who are not residents are denied voting rights. The new law ought to be written to permit franchises to be granted to Nepalese who are not residents.

Conclusion

The election process in Bangladesh has been used for legitimizing the regimes since her independence. Therefore, the election could not be deemed completely free and fair. Due to the absence of its guiding principles, impartiality, honesty, independence, transparency, efficiency, professionalism, and the rule of law, the BEMB has not been seen as a reputable institution in this regard. In actuality, the EMB must rely on government officials for the appointment of the CEC and other commissioners, the hiring of workers for the BEMB Secretariat, and the management of other financial matters, such as budget allocation and money disbursement. It is painful fact that no successive government has taken measures to strengthen the EMB for its meaningful independence. In terms of political reforms, the political parties and civil society always demanded meaningful independence of EMB. In recent days, various reform proposals are placed by civil society. In response to the demands, the EMB has prepared new voters' list with photographs and National Identity cards with the support of the Bangladesh Army. The EMB has no rule frame to appoint the CEC and other EC, recently the government framed the rule to appoint them. The EMB has also announced some reformation of the election rule and regulation, intended to remove the influence of muscle power, black money, rigging, fake voting, and other malpractices. The application of these rules is still a far cry. In principle, the EMB as a democratic institution performs its functions. But required institutionalization of EMB is still far away.

The election process in Nepal is more or less free and fair to its election laws and procedures, implementation measures, and the roles played by major actors including political parties and government bodies. The voters, candidates, party leaders, and various other stakeholders appraise whether or not an atmosphere conducive to free and fair elections exists in Nepal. The necessary prerequisites for free and fair elections are present. There were no complaints from political parties and candidates when asked about restrictions on political activities, including the recruitment of new members and the freedom to assemble and conduct public meetings and processions. Necessary efforts have always been taken by the EMB of Nepal to ensure free and fair elections. Both the political parties and the electors have confidence and appreciation regarding the

impartiality of the EMB of Nepal. During the 2008 elections for the Constituent Assembly, the commission received some criticism for not carrying out its proper responsibilities. Additionally, it did not adequately inform voters about the election. Overall, though, it handled the elections well.

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