



**REPORT OF THE NATIONAL DEMOCRATIC INSTITUTE (NDI)
PRE-ELECTION DELEGATION TO BANGLADESH'S
2006/2007 PARLIAMENTARY ELECTIONS**

Dhaka, September 11, 2006

I. INTRODUCTION

This statement is offered by a multinational delegation organized by the National Democratic Institute (NDI, or the Institute). From September 8 through 11, 2006, the delegation assessed the political environment in Bangladesh in advance of the January 2007 parliamentary elections. Among its activities, the delegation conducted a series of meetings with a broad spectrum of Bangladeshi political and civic leaders, governmental and electoral authorities and representatives of the international community in Dhaka.

NDI is an independent, nongovernmental organization that has conducted more than 100 nonpartisan pre-election, election day and post-election observer delegations around the world. This delegation conducted its activities in an impartial manner in accordance with Bangladeshi law and international standards for election monitoring. The delegation followed the Declaration of Principles for International Election Observation which was adopted in 2005 at the United Nations headquarters and endorsed by more than 20 intergovernmental and nongovernmental organizations.

NDI intends to organize an international observer delegation for the election and will continuously monitor the electoral process through the post-election period. NDI does not seek to interfere in or to certify the election process. NDI recognizes that it is the citizens of Bangladesh who will ultimately determine the credibility of the 2007 elections.

Over the past 10 years, NDI has conducted a series of parliamentary, civil society and political party programs in Bangladesh, and has been active in providing technical support and monitoring for the country's elections. NDI currently conducts programs to initiate dialogue on governance issues and works with political party leaders to promote leadership development skills and encourage cooperation among parties in parliament.

The methodology of NDI for monitoring elections is based on the premise that all aspects of the election process must be considered to accurately understand the nature of the elections. These include 1) the legal framework for the elections; 2) a number of important elements of the pre-election period related to fair competition and the freedom of citizens to make informed political choices at the ballot box; 3) the voting process itself; 4) the counting of ballots; 5) the tabulation

of election results; 6) the investigation and resolution of any complaints that might be lodged; and 7) the conditions surrounding the formation of a new government. Moreover, elections cannot be separated from the broader political process of which they are a part, and the elections themselves constitute just one step in Bangladesh's democratic development. The present statement therefore does not seek to reach a conclusion about the nature of the election process.

II. THE DELEGATION AND ITS WORK

The delegation included: Tom Daschle, former Majority and Minority Leader of the United States Senate; Mike Moore, former Prime Minister of New Zealand and former Director-General of the World Trade Organization; Mu Sochua, former Minister of Women's and Veteran's Affairs of Cambodia. The delegation was assisted by Thomas Barry, NDI Asia Deputy Director; Owen Lippert, NDI/Bangladesh Resident Director; and Deborah Healy, NDI/Bangladesh Senior Program Manager.

The purposes of the delegation are to demonstrate the interest and support of the international community for a peaceful and democratic election process in Bangladesh; to provide an impartial report on the environment surrounding the upcoming elections and the state of electoral preparations; and to offer recommendations on measures that can improve the process.

III. OBSERVATIONS ON THE ELECTORAL CONTEXT

The mission takes as its starting point of reference the fact that Bangladesh has held three recent elections considered to have met international standards and which led to a transfer of power between parties. The delegation in choosing that point of reference does not assume that either the domestic or international communities should be complacent about the future of genuine democracy in Bangladesh.

The political climate of Bangladesh remains polarized, marked by inherent difficulties brought on by a lack of communication and cooperation among parties and prone to both partisan and police violence. The political parties are locked in their own internal and external conflicts and, in the eyes of many, appear estranged from the real-world challenges and needs of the 140 million people of Bangladesh.

The delegation observed that after three elections the parties remain locked into disagreements over electoral issues that overwhelm the debate over public policy issues. Even then, the discourse on electoral issues deals less with the institutions themselves than with the appointments, both made and pending, to Election Commission and to the position of Chief Advisor to the Caretaker Government.

The delegation believes it is important that legitimate questions as to the fairness of the election process be fully investigated, discussed and resolved and, at the same time, asserts that the election should not be held hostage to the intransigent positions held by either the government or any political party.

The delegation heard during its discussions that a troubled election could reduce politics to the lowest common denominator of street violence and intimidation.

The delegation found that many individuals blame the current impasse on the inability of senior political leaders to enter into discussions and to reach necessary compromises. The oft-voiced complaint was that elections were about political ambition and not the future of the country and the public welfare. The delegation observes that leaders who seek genuine dialogue and compromise may, in fact, gain not lose public support.

There is an immediate and urgent need for greater dialogue and cooperation between party leaders at all levels starting with the heads of the parties. The delegation understands and accepts that the two leaders and the two major parties have a long history filled with many difficult moments. The delegation also acknowledges that the fault lines of Bangladesh's political conflict are complex and can sometimes appear intractable. *That said, the leaders of two major party coalitions have a higher obligation to strengthen democratic practice and to improve parliamentary governance.*

As a special observation, the delegation stresses the need to remove the barriers to women and minorities to full participation in the electoral and political party processes.

A. Caretaker Government

Bangladesh's Caretaker Government is a unique institution in the development of democracy. Bangladeshis have reason to take pride in this innovation. The Caretaker Government arose out of the specific conditions of the 1991 and 1995/96 elections. Its purpose is to ensure no one party has access to state resources, physical and human, in such a way as to influence the outcome of the election. The Caretaker Government model in the past has succeeded in instilling public confidence in the electoral process and results.

The delegation notes that controversy has arisen following the government's decision to change the retirement age of High Court justices from 65 to 67 years of age. The change altered the succession of who was first offered the position of Senior Adviser to the Caretaker Government. The government should have been more sensitive to the predictable political reaction. Specifically, the change puts first in the order of succession the current Chief Justice of the Supreme Court. Objections have been raised because he served the BNP early in his career.

Having examined the issue, the delegation concluded that while the concerns raised are legitimate objections, past service to a political party should not be an automatic disqualification to public service. The credentials of a candidate for an important position must be examined in their entirety.

Furthermore, several safeguards should help satisfy those fears of biased Caretaker Government. First, the Chief Advisor to the Caretaker Government does not act on his or her own. The Constitution provides for 10 other Advisors who, the delegation notes, could be appointed in consultation with the Opposition. This needs to be handled with sensitivity to build confidence in the process. The Chief Advisor, as well, operates under intense domestic and international

scrutiny. Any partisan decisions would be apparent to the public and cause for concern as to fairness of the election. The tenure of the Caretaker Government will be carefully observed by the international community.

B. Violence

Bangladesh faces a difficult challenge in confronting rampant and escalating violence too often triggered by political intimidation and confrontation.

An election cannot meet international standards unless the authorities create conditions in which candidates and their supporters can campaign freely, without official interference, harassment or intimidation, and citizens can cast their votes without fear of reprisal. Many of those who met with the delegation asserted that intimidation is widespread and that political activists routinely face harassment. Political violence in Bangladesh is often both inter-party and intra-party.

The consequences for the electoral process of intra-party as well as inter-party strife lie in the potential for escalating corruption and violence. Members of both parties complain that nominations and elections are dominated by “money and muscle”. Politically influenced killings happen frequently within and between parties. *The responsibility for reducing violence does not rest alone with the police authorities. The leaders of the political parties, themselves, must exercise stronger party discipline over their members. The exploitation of youth for political purposes is reportedly common and disturbing.*

The delegation also received reports of incidences of intimidation and violence against women and religious and ethnic minorities. These reports are of particular concern to the delegation. If left unaddressed, such actions may undermine the reputation of Bangladesh as a tolerant society.

The delegation also heard from many citizens that police react violently and disproportionately to public demonstrations. As well, the delegation notes reports of mass detentions occurring before Opposition rallies and marches.

A more recent factor has emerged in the form of violence. Beginning in the late 1990s, extremist groups have carried out an escalating series of bomb attacks. These have included an assassination attempt on the life of the British High Commissioner, a multiple grenade attack on an Awami League rally that killed 24 people and injured Sheik Hasina and other top leaders, a fatal grenade attack on a former Awami League Finance Minister, the suicide bombing of two judges and the simultaneous detonation of nearly 500 small bombs on August 17, 2005. A pamphlet released on the day of the bombing described elections as un-Islamic as they were “man-made.” The delegation is gravely concerned that terrorist acts by extremists groups may disrupt the coming election.

The delegation recognizes that the government has undertaken efforts to uncover and arrest members of banned terrorist organizations.

C. Election Commission

The Election Commission, headed by the Chief Election Commissioner, is responsible for all non-security-related election preparations. While the Election Commission is designated as an independent body under the Constitution, its budget and appointments are controlled by the Prime Minister's Office, a situation which inevitably leads to perceptions of bias.

C.1. Confidence in the Election Commission and Chief Election Commissioner:

Confidence in the expertise and impartiality of the Election Commission plays an important role in the ability of a country to hold an election acceptable to the voters and the political parties. The perception of inefficiency or bias, may seriously erode confidence in not only the electoral process but also the electoral outcome.

An Election Commission should act as a service organization that reaches out to political parties, civil society, the media and the voters. In fact, it should build a sense of citizen ownership of the electoral process. An Election Commission should anticipate issues before they become problems, work to instill confidence both in its operations and the broader electoral process and provide solutions in a transparent and accountable manner. Unlike the judiciary where the judges wait for cases to be brought before them, an Election Commission should take the initiative to consult with political participants and the general public to better understand and respond to their needs and concerns.

The delegation was deeply concerned to hear from a broad cross-section of parties, civil society, media and independent observers of a widespread lack of confidence in the Election Commission and, specifically, the Chief Election Commissioner. When the delegates raised the issue with the Commissioner, he did not acknowledge that a problem existed and later reported to the media that the delegation had been misinformed. The delegation has identified a perception of incompetence and bias as a serious problem that requires being addressed.

The delegation believes that the CEC may be able to correct the situation, but only if the problem is acknowledged and dealt with. In the absence of a strong, corrective and urgent response, confidence in the Chief Election Commissioner will continue to deteriorate to the point that he should not continue his duties. The delegation calls upon all political parties to engage in good faith to assist in the process of enhancing the credibility of the electoral process and those charged with administering it.

C2. Technical Issues related to Election Commission:

The administration of the electoral process consists of a number of separate activities that, individually, would not pose an insurmountable barrier to the proper conduct of an election, but if deficiencies accumulate then strong administrative actions may become necessary.

The delegation notes that virtually all of the topics brought to its attention were also voiced to the previous NDI pre-election assessment mission in August 2001.

The topics include:

- Voters' List;
- campaign spending;
- electoral complaints;
- counting of votes and transmission of results;
- domestic monitors and international observers; and
- sufficient polling booths for women/women and minorities.

C.2.a. Voters' List:

The delegation is deeply concerned that the new Voters' List runs to over 93 million names, a size that is substantially inconsistent with the 2001 census data. A Voters' List containing two-thirds of the population strains credibility. Questioning the accuracy of the census did not appear to the delegation as a helpful response to a difficult situation.

Registration of voters is compulsory in Bangladesh; as a result, it is important that the number of persons registered correspond to the official published voting age population.

Part of the problem with the current Voters' List, the delegation acknowledges, originated in the convoluted process by which it was assembled. In December 2005, the Chief Election Commissioner announced that the Election Commission would conduct a completely new voter enumeration. Opposition party lawyers challenged this decision in the High Court and won a stay order against the Election Commission in January 2006. The Election Commission then launched a series of appeals while continuing to collect and tabulate the "new" voters' list. When the size of the "new" voters list, with over 90 million voters, was announced, the media pointed out that the Bangladesh Bureau of Statistics reports that, on the basis of 2001 Census, the voting age population was approximately 80 million people.

In July 2006, the Supreme Court instructed the Election Commission to conduct its enumeration with reference to the 2001 Voters' List. After a few weeks, the Chief Election Commissioner announced that a new Voters' List referencing the old list would be compiled. The enumeration period has now ended and the results have been posted, though several groups and individuals have pointed out that the Voters' List was unavailable in many locations.

C.2.b. Campaign Spending:

While the law requires the reporting of campaign spending, the Election Commission has not devised an enforcement plan to date nor signaled that it would put any additional resources into this responsibility.

A group of civil society organizations in cooperation with a newspaper and a television station has initiated a series of public meetings to promote "clean" and "competent" candidates. The response of both political parties appears to be lukewarm at best. While the delegation applauds such initiatives by civil society, it does encourage the participants to clarify their intended program.

C.3.c. Electoral Complaints:

The quality and impartiality of the highest courts in Bangladesh has remained generally high and consistent since 1991. Access-to-justice, cost and delay are difficulties as they are in many other countries. Greater challenges to the Rule of Law exist in the lower courts as they are not separated from government administration. The politicization of the lower courts remains a concern despite 18 High Court rulings to separate the courts from the administration. Of the 26 known cases filed alleging election fraud, none has ever reached open court.

C.3.d. Transparency of Counting and Transmission Procedures and Publication of Results:

Several individuals described to the delegation situations in which the counting of ballots were irregular, voting results were altered during transmission from the polling center to the district election office and that polling center officials and polling agents had signed off on implausible election results.

NDI Bangladesh has collected the polling center election results for the 1991, 1996 and 2001 elections. This information is available to interested parties and researchers. Preliminary analysis has found a sufficient number of polling centers in which voter turnout exceeded voter registration to warrant concern.

C.3.e. Domestic Monitoring:

Domestic monitors and international observers have made a contribution to the integrity of parliamentary elections in Bangladesh and around the world.

In the last election, serious issues arose as to the accreditation of inappropriate domestic monitors. Similar allegations concerning the partisanship among domestic monitors have arisen again in advance of the upcoming election. It is important to note that non-partisan election monitors can instill confidence and transparency in the election process.

The delegation is appreciative of the Foreign Minister for his statement that assistance would be made available to international observers.

C.3.f. Women's Polling Booths:

Women's groups, domestic election monitors and female party activists all testified to the delegation of the urgent need to increase the number of polling booths available to women in the polling centers.

VII. RECOMMENDATIONS

The delegation makes the following general and specific recommendations:

General Recommendations:

- The Caretaker Government should be formed according to the rules provided in the Constitution and discharge its duties in a transparent, impartial and non-partisan manner.
- National and local authorities, the police agencies, the military forces, the political parties and civil society should discuss and devise strategies to curb the rampant violence that threatens to destabilize not just the electoral process but also society, itself.
- The Chief Election Commissioner should undertake immediately to take the necessary steps to address the perceptions of incompetence and bias which are undermining public confidence in the electoral process. He can enter into a dialogue and work cooperatively with the political parties, civil society and the media to devise and implement a strategy to address concerns such as the improvement of the registration process and the correction of the Voters' List.

Specific Recommendations:

- Caretaker Government:

The additional Advisers to the Caretaker Government should be appointed through a process of dialogue and consent between the major political parties.

- Violence:

National and local authorities should urgently take steps to ensure a free and open political process in which all participants can operate without interference or fear of reprisal. Confidence in the election process will increase if requests for rallies and meetings are routinely approved and all legislated political rights upheld.

A high-level committee should be formed in order to review police behavior before, during and after the election. The committee would be empowered to hear witnesses and make recommendations.

Election monitors and human rights groups should be encouraged to play an important role in the prevention, documentation and investigation of political violence.

The Bangladesh authorities should continue their vigilance and work with international law enforcement authorities in confronting terrorism while fully respecting fundamental human rights.

It is essential that all appropriate measures be taken to ensure the safety of the media, particularly in rural areas.

- Election Commission:

Technical teams from the major political parties should discuss and resolve the following issues and frame the options for approval by the senior leaders of the respective parties:

1. The Voters' List be electronically compiled and published in order to allow for a more extensive revision of the names. If this task is done expeditiously and transparently, then it will provide an opportunity for political parties and civil society to work cooperatively with the Election Commission to correct the Voters' List. The Chief Election Commissioner should meet frequently with the political parties and civil society on this issue.
2. The Election Commission must update its regulatory campaign spending limits and put into place more effective audit procedures to enhance the enforceable spending limitations.
3. The Election Commission should move swiftly to put into place an impartial electoral complaint and appeal process. The Election Commission should publicize the penalties for violation of the laws related to the election process and be prepared to implement such penalties when appropriate.
4. Alleged violations of the law during the election campaign should be promptly investigated and prosecuted, and the results distributed widely to participants in the process and through the news media.
5. The Election Commission should publish on their Website detailed election results down to the polling station level. This undertaking will contribute to transparency and voter confidence, particularly if it is done within 24-48 hours after the end of voting. Such detailed information should also be made available to party poll agents, observers and the media in hard copy format immediately at the Election Commission in case there are problems with the Internet or the website.
6. The Election Commission should devise a streamlined process of accreditation that respects the right of domestic monitoring groups and international observers to monitor elections but is also cognizant of the responsibility of such monitors and observers not to contribute to difficulties of officials as they manage often congested polling centers.
7. The Election Commission should ensure that there are sufficient polling booths in the polling centers are for women.

National and local authorities, the police agencies, the military forces, the political parties and civil society should discuss and devise strategies to curb the rampant violence that threatens to destabilize not just the electoral process but also society, itself.

V. CONCLUSION

The delegation believes that in the long term interests of Bangladesh, its security, stability and progress, a mechanism should be considered after the election to provide a vehicle for the reconciliation and peaceful resolution of the deep entrenched political differences between the major participants that has so polarized the country.

The delegation concludes that despite the challenges they have identified that there is sufficient time for government, political parties and civil society to work together to address the deficiencies and build confidence in the electoral process and electoral outcome.

The delegation wishes to extend its thanks to all the individuals and organizations which assisted in the completion of this mission.

VI. CONTACT INFORMATION

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