

Stronger electoral legal framework: Crucial for next election

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It was reported in *The Daily Star* (Jan 10 & 11) that the Election Commission (EC) has revised the Representation of People's Order (RPO) for the consideration of the government. This is a praiseworthy initiative as the current Commission primarily thought there was no need to revise the law after reviewing the reform proposals submitted by the previous Commission led by Dr. A.T.M. Shamsul Huda (*Prothom Alo*, June 21, 2012).

The RPO, the main electoral legal framework (ELF) of Bangladesh, was first promulgated on December 26, 1972, and has been amended at least in 185 areas during the period 1973-2009. In many countries of the world, election management bodies (EMB) review the ELF after each election to incorporate the lessons learnt from the last election as well as to integrate the best practices from other elections around the globe. The Huda Commission did exactly so as it comprehended the necessity of a stronger ELF, but it is unfortunate that its proposals had been kept aside for long. There is no doubt that the current ELF of Bangladesh is one of the best electoral frameworks in the world, but still it needs some reforms and revisions which are crucial for the next parliamentary election.

Firstly, deployment of the army is still essential to maintain law and order in elections. The army was deployed in all the parliamentary elections in Bangladesh since 1973. In addition to the army, the navy was also deployed in the parliamentary elections held during 1991-2008. The 2008 version of the RPO included "Defence Services of Bangladesh" in the definition of "law enforcing agency." Later in 2009, the defence services was dropped from the definition. Even, in the reform proposals submitted by Huda Commission defence services was not included.

Due to the political culture of the developing democracies, many countries of the world, such as Ghana, Nigeria, Pakistan are deploying the army to avoid anarchy in the electoral process. In Bangladesh, the presence of the army works as a "violence-preventing agent," which helps greatly in making the elections free and fair. So, the EC should consider the issue.

Secondly, the pre-registration criteria for registering political parties described in Article 90B (1)(a) of the RPO have some limitations. The law has made provision for registration of new parties that have established a functional central office with a central committee, district offices in at least one-third administrative districts, and offices in at least 100 upazila or metropolitan *thanas*. During the time of registration, a party may establish such number of offices/committees, but



ALAM TITTO/DRUK NEWS

Transparency and credibility of an electoral process depends much on the Electoral Legal Framework. Therefore, it must be structured so as to be unambiguous, understandable and transparent, and should address all components of an electoral system necessary to ensure democratic elections.

later if it is found that it does not have such number of offices, will the ECB cancel the registration of that party?

Moreover, the law doesn't cover the definition of "political party office." Can the party set up such kind of office in a residence of a party activist? Or in a roadside government property? Or in a shop? Does the office need a signboard or not? Answers to these questions have not been included in the RPO. Although, in order to implement these RPO provisions, the EC promulgated Political Party Regulations in 2008, it is very weak and malfunctioning. The ELF should include a provision that would empower the EC to review the status of the parties registered before each election, and if any party fails in the review process its registration should be cancelled.

Thirdly, neither the RPO nor the regulations have any monitoring and enforcement mechanism regarding post-registration conditions described in Article 90B

(1)(b) of the RPO. As a result, many parties violate these conditions. The leaders of the parties are being selected instead of being elected by the direct votes of the councilors. The students' fronts, labour fronts and other professional bodies are working or behaving as if they are parts of the parties, which is illegal. Sometimes party high-ups interfere in the formation of the committees of those front/bodies. RPO must have a clear provision on this.

Fourthly, the 2008 version of the RPO made a mandatory provision that the parties' central parliamentary board had to finalise candidates from the list of panels prepared by the concerned grass-root committees. After the 9th Parliamentary election this provision was changed in 2009 and now parties are not bound to do so. "The quality of candidates selected determines the quality of the deputies elected, of the resultant parliament, often of the members of government and to some extent of a country's politics." So it is very impor-

tant to see who are coming to the parliament. Since a legal framework works as an external regulatory tool to regulate the internal working of the parties, the revised RPO should include some provisions to ensure democracy in candidate selection.

Fifthly, the RPO has made it compulsory for every contesting candidate to submit his/her educational, professional and criminal records, as well as assets and liabilities, and the promises made by him/her before the previous parliamentary election. The law also has provision for disclosure of election expenditure by the parties and the candidates. Again, there is no mechanism to verify the information provided by the candidates and the parties. Even the expenditure returns are not audited, either by the candidates/parties or the EC. This limitation of the law encourages parties and candidates to provide false information. A good law is useless when it cannot be implemented.

Sixthly, electoral dispute resolution in Bangladesh is not so strong compared to that in many developing democracies. Although, during the time of elections, the process of hearing and adjudication of any complaint, challenge, claim or contest relating to elections does not take time, the post-electoral disputes take a long time -- sometimes 3-4 years. This delay in judgment is a violation of the rights of the candidates. In order to resolve this issue a separate tribunal/court could be established with specific competence on electoral matters.

Finally, a strong and comprehensive ELF is the most important tool to make an election credible, transparent and fair. An all-inclusive law provides the structure, functions and responsibilities of an EMB, and also defines the powers and independence of this body. Transparency and credibility of an electoral process depends much on the ELF. Therefore, it must be structured so as to be unambiguous, understandable and transparent, and should address all components of an electoral system necessary to ensure democratic elections.

The EC has a legal affairs wing led by a joint secretary deputed from the judicial cadre. It could arrange issue-based workshops or hold group discussions on all the above-mentioned issues. Participants could be drawn from the registered political parties, relevant NGOs/CSOs, officials of the EC and other stakeholders. A revised electoral legal framework produced through this process of involving all the stakeholders would not only be accepted by all quarters but also build confidence in the electoral process.

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TRIBUTE

SAMSON H. CHOWDHURY:

Eulogy for an esteemed entrepreneur

MUHAMMAD ABDUL MAZID

SAMSON H. Chowdhury had been in the hearts of the people because of his sixty years of hard work, dedication and research for excellence in entrepreneurship. As a self-made man, he could be a role model for young entrepreneurs, who would learn about innovation, leadership and perseverance from his laudable life. His successful endeavour to build a business company maintaining highest ethical standard will always be remembered.

Samson H. Chowdhury was one of those very rare individuals who touched the hearts and souls of those he came across for his fatherly and friendly loving care. I had the honour of meeting him many times in my official capacity. Like a father, friend and philosopher he used to advise me to be pro-business, pro-investor, pro-taxpayer to promote business and accelerate economic development. He used to share his ideas with me on how the tariff regime could prop up a self-supporting economy, and help shift from trading to industrial base.

Samson H. Chowdhury was honoured by the National Board of Revenue as the country's biggest tax payer on the first National Income Tax Day, September 15, 2008.

Mr. Chowdhury was an embodiment of creativity and simplicity, an icon for good practices of ethics and maintaining best quality in all business affairs; a pioneer in vertical integration and horizontal diversification in an industrial conglomerate; a keen learner; a good employer; a straightforward, friendly, honest, philanthropist. With his innovative ideas, tireless effort and dedication Samson H. Chowdhury led Square Group from the front to become the leading manufacturer of quality medicine, toiletries, health care products, textiles etc.

Good practices and ethics were very much embedded in him. No one forced him to be honest, maintain good practice and ethics, and be upright in dealing with others. These were internal traits that comprised his character. He was extremely passionate when he spoke on ethics in entrepreneurship at North South

University's School of Business in April 2010. Every bank felt honoured to give loans to such a transparent and committed customer.

Samson served as the Chairman of Transparency International Bangladesh in 2004-2007. He always respected the laws of the country. He had been always straightforward and was never afraid of speaking the truth, even on the face of powerful people. He was a man of prayer. "Quality, quality and quality" was his motto.

Samson also cared for his employees. Labour strikes never took place in his factories. All of his employees get a good lunch everyday, and he used to eat with them. They get regular salaries, bonuses and perks. Samson Chowdhury had no enemies although his company became one of the biggest conglomerates in the country. According to Dun and Bradstreet Rating Agency Bangladesh, Square Group had an annual turnover of \$781 million (over Tk 6,000 crore), and over 33,000 employees in 2009-10.

Samson H. Chowdhury had a firm devotion to developing his work. The prolific business magnate had participated in innumerable executive training courses around the world, including a Management Training Course jointly conducted by the University of Dhaka and Harvard University. He was a recipient of ICAB National Award for Best Published Accounts and Reports 2006 in the manufacturing sector. Due to his significant entrepreneurship he received recognition with Best Business Personality Award in 2007.

With all humility I salute and pay highest tribute to this great son of the soil.

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Welcome to the Karma Cafe

AKHTER IMAM

THE recent killing, beheading and mutilation of Indian soldiers in disputed Kashmir (LoC) has created an uproar in India, and rightly so. The matter has escalated and a tense build-up of army activities has ensued. Shots have been exchanged with both sides being on red alert. Pakistan uses a 60-year plus tried and tested formula "not us Guv'nor, we know nothing!"

One wonders, what does it feel like to be at the receiving end of such treatment? Ask the Bangladeshis, they know.

Now, let us look at another scenario. In the Indo-Bangladesh border area, the Border Security Force (BSF) continues to beat up and kill cattle traders and other "infiltrators" with complete impunity.

These "beef eating morons should be taught a lesson," disrobe and beat these idiots to a pulp! Month after month, year after year, column inches in newspapers cover these stories, and the following day those stories become paper bags for *channa dal*.

The Bangladesh foreign and home ministries get into action. One must not forget the stern letters from the Bangladesh foreign ministry, calling the Indian high commissioner for seeking an explanation (coffee and a chat) and handing over (photo opportunity) such missives. There are pronouncements by the home and foreign ministers of both countries. Regular meetings take place between BSF and Border Guards Bangladesh (BGB). One is also offered a side dish of the LGRD minister's shrugging off "insignificant incidents of the odd killings" as run off the mill events.

Meetings and pronouncements produce "regrets." Investigations are started and some token transfers take place of some BSF personnel. Delhi hangs its head in deep sadness at these "unfortunate incidents," which are mere euphemisms for callous disregard of human lives. For the poor Bangladeshis these have so far produced a fantastic fat "zilch."

One reads in the papers that "border forces are allowed to shoot in self defence." Are we to assume that the border areas between Bangladesh and India are hostile? Can one really take this comment seriously? Isn't one stating the glaringly obvious?

Imagine this scenario, BSF feel threatened by "terrorist activities" of the cattle traders across the border. An internationally financed and highly conspiratorial man armed to the teeth with half a dozen bullocks and 3 calves and 3 milking cows approaches the border, and instructs his head bullock to carry out the pincer movement he had so steadfastly trained his herd for. He whispers "attack." BSF guard feels insecure and fears for life and limbs (protected by barbed wire fence and powerful searchlights). He opens his self defence manual, lifts his rifle and shoots the cattle trader dead. He can breathe easy now. Close manual.

Carry out some "pretend investigation," fill out some paper work and zap it off to BSF media centre. Send the body back and regret the incident. Job done.

On the other side, BGB guards never use guns as they never feel threatened, their guns are well polished and kept in tip-top condition. Indians never infiltrate, they never smuggle. They don't wear *jamdanis* and don't like the taste of



One may argue that cross-border smuggling is the main cause, no one sane would deny this. But surely, both countries have courts, laws and systems to deal with it.

Padma *hilshal*!

This may be a load of bullocks story, but the fact remains that the BSF continues to kill. One may argue that cross-border smuggling is the main cause, no one sane would deny this. But surely, both countries have courts, laws and systems to deal with it. In 21st century international relations one should not need to resort to being "trigger happy rednecks."

Now that their own are being brutally killed, the Indians might, just might, know how it feels. It's not just the monkeys, but the organ grinders also may well have had their conscience jolted to stop unlawful killings of Bangladeshi nationals.

The writer is a British entrepreneur of Bangladesh origin.