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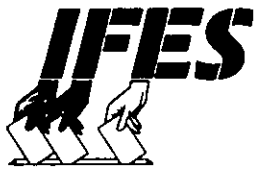
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Bangladesh

Pre-Election Technical Assessment

January - February, 1995

Linda Edgeworth
Scott Lansell

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**PRE-ELECTION TECHNICAL ASSESSMENT
REPUBLIC OF BANGLADESH**

**For the Sixth Parliamentary Elections
Projected for Winter 1995-96**

January - February 1995

**Linda Edgeworth, Consultant
Scott Lansell, Program Officer, Europe and Asia**

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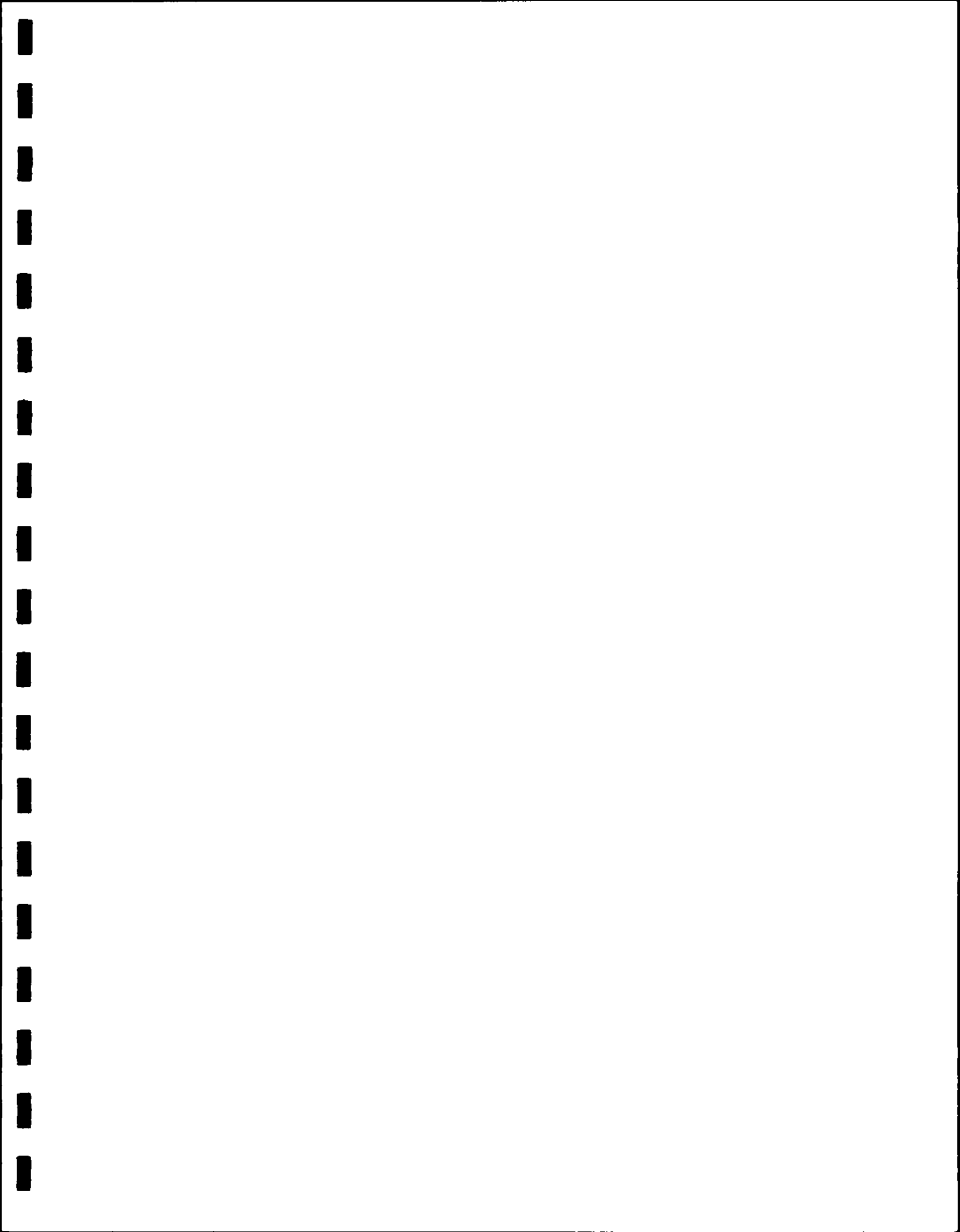
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I. ORGANIZATIONAL OVERVIEW

The International Foundation for Electoral Systems (IFES) is a private, nonprofit foundation that was established in September 1987. IFES is governed by a 13-member, nonpartisan and international Board of Directors. Since its inception, IFES has worked in over 70 countries with a mandate to monitor, support and strengthen the mechanics of the election process in emerging, evolving, and established democracies and to undertake any appropriate education activities which contribute toward free and fair elections.

With nonpartisan programs ranging from election law analysis and election implementation, to supporting organizations dedicated to education of the electorate and the building of civil society, IFES has a proven record of success working in a variety of fast-paced transitional environments.

IFES deliverables can be divided into two categories: project activities and information services. The project activities include pre-election and technical assessments; on-site technical assistance; election commodity procurement; voter and civic education; and election monitoring and observation. IFES information services include the establishment of the F. Clifton White Election Resource Center; conferences and election official exchanges; and development of in-country Resource Centers.

II. MISSION OBJECTIVES

In January 1995, IFES was asked by the United States Agency for International Development to evaluate Bangladesh's administrative systems for the delivery of electoral services such as constituency delimitation, voter identification and registration, balloting and election administration, poll worker training, vote tabulation, voter education, campaign practices, media and civic participation prior to upcoming parliamentary elections. We were also tasked to identify feasible areas for short-term technical assistance in anticipation of the parliamentary elections and provide a framework for public- and private-funded assistance projects and recommend longer term improvements to Bangladesh's election process as well as concrete actions which could be taken by USAID and the NGO community in strengthening democratic institutions.

The following technical evaluative report provides an overview of the strengths and weaknesses of the electoral process and recommends specific areas of support where the services of IFES and international donors may be useful both before and after the yet-to-be-scheduled parliamentary elections. On this mission, IFES collected information and insights from public officials, members of the legislature, election officials, political party representatives, media

representatives, civic groups, and third party groups working in Bangladesh.

On the basis of this initial evaluation, IFES submitted a technical assistance project proposal based on priorities established by the Bangladeshi Election Commission, USAID/Dhaka, and IFES mission conclusions which includes a three-fold program focusing on a pyramidal poll worker training program with development of appropriate instruction manuals, and a voter education component utilizing the Bangladeshi mass media. IFES is prepared to provide this on-site technical election assistance depending on availability of funding and a memorandum of understanding from the Government of Bangladesh and Election Commission.

III. COUNTRY PROFILE

A. Geography

Bangladesh is a country characterized by its wide alluvial plain criss-crossed by a significant system of rivers impacting the country's entire social, cultural and economic life-style. The river systems include: 1) the Meghna and Surma river system; 2) the Brahmaputra and its adjoining channels; 3) the Ganges, or Padma, the united streams of the Ganges and Brahmaputra and their deltaic streams; 4) the rivers of the Chittagong Hill Tracts and the adjoining plains; and, 5) the North Bengal rivers. Altogether, 54 rivers flow into Bangladesh through India. During monsoon season the soil is enriched by heavy silts deposited by the vast river systems as they flow into the Bay of Bengal.

The country's low average elevation at approximately 30 feet, is broken only by minor hills along the east and southeast. In fact, 60% of the country is less than 20 feet above sea level. Its highest point is Keokradang rising to an elevation of 4,034 feet, near the Burmese border.

Bangladesh experiences a tropical climate marked by warm temperatures, high humidity and rain-bearing winds. The summer season from May through June is followed immediately by the annual monsoons which generally last through September. Together, these seasons typically bring tropical cyclones, storms and tidal bores. Rainfall is heavy throughout Bangladesh ranging from 80 to 100 inches annually. Only the western part of the country receives slightly less rain.

Situated with the Bay of Bengal to its south, Bangladesh is surrounded by India to its north, east and west. At its southeast corner lies Burma. Its unique geographical situation, low elevation and its occupation of the large part of the delta through which most of the rainfall and snow-melt of the Himalayan Mountains drain, makes Bangladesh one of the most disaster-prone countries of the world. Each year nearly 20% of the country is flooded. It is not unusual during more severe

flooding years for 36% of the entire country, including 60% of the cultivable area, to be flooded. The low-lying southern coast area is particularly vulnerable. In 1988, Bangladesh experienced flood waters engulfing 84% of its territory. Some 45 million people were directly affected by the devastation. It is an ironic contradiction that Bangladesh can also be vulnerable to drought.

Devastating cyclones also reek havoc. One of the most severe cyclones hit Bangladesh on May 1, 1991. Upwards of 150,000 people were estimated to have been killed while more than 10 million were left homeless. Crop and property losses were estimated in excess of \$1.5 billion.

The vulnerability of Bangladesh to the ravages of natural disasters has been heightened by the deforestation of the Himalayan regions of India and Nepal. The deforested areas are more susceptible to being washed away by wind and rain. The lack of appropriate planning and negligent land use have also contributed to the problem. Some improvements to an early warning system have been possible through the use of satellite technology. Programs have also been enhanced related to flood preparedness and disaster management. Ultimately, however, the forces of nature will continue to influence the resources, economic stamina, infrastructure, and overall social welfare of the country.

B. The Population

Estimates put the population of Bangladesh upwards of 122 million people. With a land mass slightly smaller than Wisconsin, Bangladesh is the most densely populated agricultural country in the world. The average density is between 725 and 750 people per square kilometer. Unless the population growth rate estimated in 1993 at 2.35% declines, conservative estimates project that the population could rise to 141 million by the year 2000. The average Bangladeshi is between 16 and 18 years of age; the life expectancy rate is about 55 (1993 est.) Excluding the population under the age of 15, the literacy rate among all adults is about 35%. Women trail behind men in literacy 22% to 47% respectively according to 1990 projections.

The country is ethnically quite homogeneous. Ninety-eight per cent of the people are Bengali and speak a common language. In addition to Bangla, English is spoken among the educated elite primarily in the urban areas. Urda-speaking, non-Bengali Muslim immigrants from India represent a scant 1%, while a variety of tribal groups make up the remaining 1%.

Bangladesh has the greatest proportion of Muslim inhabitants than any other country in the world with the exception of Indonesia. Approximately 86% of the population professes Islam; Hindus make up the largest religious minority at approximately 12%. Buddhists and Christians each represent less than 1%. There are also small groups of animists among certain tribal groups particularly in the Chittagong Hill Tracts in the southwest.

C. The Economy

In spite of its high population density, the majority of citizens are rural. Less than 20% of Bangladesh's people live in the major cities. Nearly 75% of the labor force works in agriculture. One of the primary crops is jute which is the country's largest export bringing in nearly 75% of export earnings. Bangladesh supplies nearly 50% of the world's jute supply, although ever-increasing competition from synthetic substitutes may eventually impact this industry.

The major food crop is rice which can usually be harvested three times a year. Wheat, tea, tobacco, sugarcane, lentils and spices also play a significant role in the country's agricultural economy. Surprisingly, in spite of unfavorable weather conditions, the country's rich soil, improved flood control and irrigation measures, use of high-yielding seed varieties and improved fertilizers, have helped Bangladesh achieve a general pattern of steady increases in food supplies. Contributing to certain successes have also been price incentives and improvements in distribution. For example, Bangladesh has demonstrated the ability to approach near self-sufficiency in rice production although certain deficits, especially of wheat, continue to require foreign assistance and commercial imports. The pressures of continued population growth, however, place an immense burden on productive capacity.

Except for about 13 trillion cubic feet of proven gas reserve, huge deposits of limestone in the Bogra area, deposits of coal in the northwest and a small oil find in Sylhet, Bangladesh has few mineral resources. Small but labor intensive industries have contributed to industrial development which has been a priority for successive Bangladeshi governments. Production of ready-made garments and jute industries have not only contributed to exports and provided a base for employment, they have also created a market for the country's primary cash crops. Cotton textiles, food processing, steel, fertilizer leather goods and pharmaceuticals are among the major industries. Shipbreaking has created the basis for meeting a major portion of the country's domestic demands for steel.

With a GNP per capita at approximately \$200 (FY92), Bangladesh is one of the poorest countries on earth. The high rate of illiteracy is, among other factors, attributed to the fact that youngsters are commonly called upon to contribute the earning capacity of the family around age ten.

In order to overcome impediments to growth which have traditionally characterized economic development, Bangladesh has slowly embraced improved policies which have shown some signs of positive movement. Policy reforms intended to reduce government regulation of private industry and promote public-sector efficiency have emerged, although progress has been sluggish. In an attempt to nurture new, productive industry, successive governments have sought to create attractive incentives for investment from abroad including tax holidays and repatriation of profit

and capital. Other policy modifications over the years have included denationalization of major portions of the public sector's jute and textile looms, a number of other industrial units and several banks. Several private banks have also emerged. Bangladesh has also established an export processing zone in the Chittagong area.

Since independence in 1971, Bangladesh has received approximately \$23 billion in grant aid and loan commitments from foreign donors including World Bank, the Asian Development Bank, the UN Development Program, the United States, Japan, Saudi Arabia and several West European countries. In addition to food and development assistance, U. S. programs have emphasized family planning and health, agricultural development and rural employment.

IV. BRIEF OVERVIEW OF RECENT HISTORY

When the British partitioned India in 1947, a part of their strategy was to bring the Muslim majority together under the State of Pakistan. The horseshoe shaped country with the mass territory of India separating its western and eastern wings was destined to split apart: the premise that a national identity would evolve on the basis of religion proved to be a false one. Rather, it was its unique language and culture that caused East Pakistan to resist the influences and control of its western half. In fact, it was the move of Mohammed Ali Jinnah's proposal to declare Urdu as the national language of all of Pakistan that proved to be the catalyst from which a separatist movement would eventually emerge in the territory which would become Bangladesh.

In the face of growing resistance, the Pakistani government decided to crush the movement. On February 27, 1952, student demonstrations in Dhaka were fired upon on by police resulting in the death of several protesters. Mass protest followed, and eventually plans to impose the Urdu language on East Pakistanis had to be retracted. In the years that immediately followed, the anniversary of the student bloodshed became a catalyst for broader movements of protest against the economic and political domination of West Pakistan over the Bengalis.

The liberation war that resulted in East Pakistan's independence was rooted again in the 1968-69 student protests against the military rule of Ayub Khan. All of Pakistan was swept up in the protests, but especially in the universities and high schools of East Pakistan where militant students developed their "Six-Point Program for Autonomy." At the same time the Awami League, led by Mujibur Rahman, was emerging as the main nationalist political party in East Pakistan. The extent of their growing base of support made itself evident during the 1970 elections. In fact, based on its massive victory, the Bengali Awami League would have actually become the ruling party for all of Pakistan had the election results been honored. In a strategy to prevent the party from assuming power, the meeting of the Assembly was indefinitely

postponed while the power base in West Pakistan tried to come to some kind of settlement with Mujibur Rahman. The tactics only raised the ire of the student movement in East Pakistan. The militant faction began to call for independence rather than autonomy.

By March of 1971, a military crackdown was aggressively focussed on crushing the movement. Mujibur was arrested and taken to West Pakistan. Intellectuals, professors, union leaders and others became the prime target for the onslaught. Altogether, estimates project that hundreds of thousands were killed.

A. Independence and the Leadership of Mujibur Rahman

In response, Bengali dissenters from the Pakistan army, police and paramilitary forces, militant students, and party radicals formed an armed resistance force. Ultimately, India intervened. Pakistan's military commander surrendered to India's military commander at a ceremony in Dhaka. Mujibur Rahman was released to return home duly recognized as "Bangla Pita," the Father of Bangladesh. Assuming leadership under a provisional constitution patterned after the British parliamentary model, Mujibur Rahman took the role of Prime Minister, while a new constitution was being drafted.

Under the new Constitution which was adopted in April 1972, the Awami League again swept the elections held in 1973. However, a split was emerging with a dissident faction supporting a one-party, socialist system. Ultimately, the break-away faction formed a new party, the Jatiya Samajatantrik Dal (JDS-National Socialist Party.) The JDS posed a particular threat because of their propensity for armed militancy and their revolutionary objectives.

Majibur Rahman's appeals and attempts at negotiation with the JDS were less than successful. His reaction was to push through an amendment to the Constitution which gave him the authority to declare a state of emergency thereby providing legal protections for taking executive actions which overturned certain civil liberties.

By 1975 Rahman took steps to create a one-party state. All other political parties were dissolved with his formation of the new Bangladesh Krishak Sramik Awami League (BAKSL--Bangladesh Peasant's and Worker's Awami League.)

The response of dissident factions, especially within the military, was swift and deadly. Just six months after the formation of the single party state, Mujibur Rahman, his family, and close associates were assassinated by a group of military officers. Kondaker Mushtaque Ahmend, a known right wing leader, became President of a military-controlled civilian government. One of his first actions was to declare Martial Law.

B. General Ziaur Rahman: Transition from Military to Civilian Rule

Two coups attempts were to follow in swift order. The first, led by Brigadier Khalid Musharaff, a Rahman supporter, was crushed quickly. Immediately thereafter, another coups took place initiated by a group of soldiers who opposed the right wing leadership of Kondaker Ahmed and the faction of military officers who supported him. This uprising had popular support. In the aftermath of what was to be called the "November 7 Uprising" General Ziaur Rahman, generally respected by the public and a large contingency of the military rank and file, emerged as chief of the military and leader of the new populist alliance of military and civilian forces. By April 1977, Zia had become President and the Chief Martial Law Administrator.

Zia recognized that although much of his power base rested on the shoulders of military support, it was also obvious that there were a number of splits within the military cadre. In fact there were two attempted coups in 1976 and 1977, both of which were summarily crushed. However, Zia was forced to recognize the need for a civilian, political base of support to ward off the dangerous threat of the growing factionalism within the military. In 1978 presidential elections were called, and Zia, forming his own political party, the Bangladesh Nationalist Party (BNP), was elected to a five-year term, giving his presidency the political "legitimacy" that he had sought. His party was equally successful in the Parliamentary elections held in 1979 securing 206 of the 300 seats.

Given the recent history that preceded his Presidency, Zia made some radical moves to further neutralize the influences of the military, and, at the same time negate pockets of opposition. Nurturing civilian support to supplant the military influence, he attempted to expand his following among the rural population with pro-peasant economic policies. He also moved to diffuse the radical elements in all quarters. The secret trial leading to the execution of Colonel Tahir, and an aggressive campaign against the JSD were integral to Zia's strategy. It is estimated that Zia was responsible for the killing of 400 military officers in his campaign to nullify potential opposition.

C. General H.M. Ershad: Autocratic Rule vs. United Opposition

Deep seated resentment within military ranks was not squelched altogether. Ultimately, in May 1981, Zia was assassinated. Vice-President Abdul Sattar succeeded him and was re-elected in the presidential election held in October. Within a few months, he too was overthrown by the military. General H. M. Ershad led the coup claiming that Sattar had not been able to adequately end the corruption in the public sector or end the factionalism within the ruling BNP. Instating martial law, Ershad assumed the title of "Public Administration Chief." In spite of his military background, Ershad focused primarily on economic issues, re-privatizing some key jute and textile industries and promoting private enterprise.

Like his predecessor, Ershad also recognized the need for nurturing civilian support and political "legitimacy," since he had come to power through a coup. He, too, formed his own political party, the Jatiya Party. His promise that parliamentary elections would be held in 1985 was not kept. Instead, the election became a referendum on his policies. Soon after the election was called all political activities were banned and martial law was once again imposed. When student protests ensued, Ershad closed the universities. However, opposition rose from many sides including the Awami League led by Sheikh Hasina, daughter of Mujibur Rahman, and the BNP, led by Khalida Zia, wife of General Zia.

Jointly the BNP and the Awami League boycotted the elections demanding an end to martial law, and the formation of a neutral government to hold the elections. Ershad, however, claimed a 95% victory in an election fraught with violence and allegations of impropriety.

In spite of their appearance of solidarity, an emerging breakdown in the opposition's unity served Ershad's purposes well. Elections were scheduled for 1986. The political alliances had scheduled a joint rally to promote their demands for a caretaker government. However, when the rally was postponed, Khalida Zia of the BNP, launched her own campaign announcing that unless Ershad stepped down and elections were called immediately the BNP would take direct action to oust the President. Elections were announced for late spring. He announced a partial lift to martial law, and ordered ministers contesting the elections to step down. The Awami League joined the election, however, amid violence and election violations, Ershad's Jatiya Party won 152 seats. Twenty-six independent MPs ultimately joined the party, strengthening Ershad's parliamentary majority.

By 1987, the opposition parties were drawn along new alliances. The Awami League led an "Eight Party Alliance," while the BNP led a "Seven Party Alliance". Another coalition emerged known as the "Five Party Alliance" that unified the leftist groupings. Jamaat-e-Islam remained alone. In the period that followed, the focus of opposition objectives went along two fronts. The BNP-led group aimed for the dissolution of Parliament, while the Awami League-led group wanted to force Ershad to resign. The divergent goals split the opposition even further apart since Awami League held seats in the Parliament and resented a move calling for its dissolution.

Ershad's plan for reorganization of the local administrative structure would provide the impetus to reunite the opposition forces for a single cause. Ershad introduced a Bill in Parliament which would increase the involvement of the military in local councils. If passed, the armed forces would exert control at the lower levels of the local administrative units. With this issue as the impetus for new unity among the opposition, a strategy was put in place calling for nationwide strikes (*hartals*) in protest to Ershad's policies. There also emerged strong popular resistance to the President's local government bill. Their united front paid off, and ultimately the government

was forced to withdraw their proposal. However, the rift continued on the issue of a dissolution of parliament as part of the anti-regime strategy.

As the opposition protests and *hartals* continued, both Hasina and Zia were ultimately put under house arrest. In spite of the government clamp down, the opposition's campaign continued. In retaliation, Ershad declared a state of emergency, suspending civil rights and censoring the press coverage of opposition activities. When the Jamaat-e-Islam resigned from parliament in protest, and the Awami League threatened to resign, parliament was dissolved. Hasina and Zia were released. However, their parties stood firm on their promise not to participate in any election conducted under an Ershad government.

The 1988 local elections were once again plagued with violence, with an estimated 150 people killed and 8,000 injured. The parliamentary elections which followed within a month gave Ershad's Jatiya Party 281 seats in the elections boycotted by BNP and Awami League. In the mean time, strikes continued to disrupt daily life. In the aftermath of the election Ershad once again banned all public rallies, closed educational institutions and called on the army, police and para-military troops to deal with the social unrest.

Soon, another issue gave a unified voice to opposition forces. Ershad proposed a bill which would have incorporated Islam as the state religion. The proposal was not only criticized by the political opposition, but also by religious leaders. Another onslaught of strikes were called.

But, the unity could not be sustained. Hasina accused the BNP of developing "secret ties" with the armed forces. The Awami League also developed its "four-point program," which among other things called for the end of the Presidential system and restoration of the 1972 Constitution. Their program also called for the trial of the assassins who had killed Hasina's father, Mujibar Rahman.

At about the same time Ershad's move to make Islam the state religion succeeded. On June 7, 1988, the Amendment to the Constitution was passed. In protest, the entire opposition bloc walked out. In 1989, Parliament voted to limit the tenure of the presidency to two five-year terms and to institute the office of an elected Vice President.¹

Ultimately, in the face of continuing strikes which consistently paralyzed the country, and the lingering questions about the legitimacy of his government in view of the improprieties

¹The Electoral System in Bangladesh: A Report of a Non-Governmental Group, International Center for Ethnic Studies, 23 August 1990. The author has drawn freely from this report in the providing the overview of Bangladesh's recent history.

surrounding the elections, Ershad's government collapsed. Ershad resigned and Parliament was dissolved on December 4, 1990. In the 1991 elections that followed, the BNP won the largest share of seats in the Parliament and Khalida Zia became Prime Minister.

The success of the long fought campaign to oust Ershad was insufficient to sustain opposition unity. The bitter rivalry between Hasina and Khalida has probably always been the single most significant source of disunity in the opposition. Hasina has openly accused Khalida's husband General Zia of involvement in the 1975 assassination of her father Mujibur Rahman. In reply, BNP accused Hasina of involvement in the assassination of Khalida's husband, President Ziaur Rahman. The personal enmity between these two powerful leaders continues to underscore their individual political agenda's.

D. Recent Political Events

The current political crisis in which Bangladesh finds itself began in earnest when opposition MP's began their boycott of Parliament in March of 1994. At issue was their demand for future parliamentary elections to be held under a neutral caretaker government. Their proposed election scheme would call for the government to stand down, and a non-partisan interim government to be set in place specifically to oversee general election cycles. The 1991 elections, generally recognized as the most free and fair elections in the nation's recent history, were conducted under such a scenario. The opposition, led by the Awami League and including Jatiya Party, and Muslim fundamentalist Jammāt-e-Islami Party, were united in their position that fair elections under Prime Minister Zia's government would be impossible.

Denying the charges, the government has consistently rejected the idea as "unconstitutional." Standing firm, the Prime Minister vowed that, in spite of the absence of the opposition force in parliament, the country would be run according to the constitution. In addition, she promised that "stern legal action would be taken against those creating obstacles to the process of development adopted by the present government."²

In order to counter the opposition's demands, the government worked on a bills which would significantly strengthen the independence and direct authority of the Election Commission, require the appointment of judicial officers to the posts of returning officers, and mandate the issuance of identification (ID) cards for all eligible voters to diminish opportunities for the abuses and fraud which consistently blemished virtually all prior elections (please refer to appendix A for several commentaries on the ID card projects underway).

²Zia: Country to be Run 'According to Constitution,' Dhaka Radio Bangladesh Network, FBIS-NES-95002, 30 December 1994.

Debates ensued even within the ruling BNP party and the cabinet of ministers over an additional provision which would have required Ministers to resign once they submitted nomination papers. Most of the cabinet members including the Law and Parliamentary Affairs Minister objected to the provision.³ Opponents of the provision argued that this requirement would be an endorsement of the exact justification underpinning the opposition's demand. Further, it was argued that should such a provision be included in the bill, the opposition would claim that the ruling party had admitted that the election could not be fair if Ministers contested the election while still in power. According to some reports the Prime Minister had expressed support for the inclusion of this measure. Ultimately, the provision was struck from the Bill that was adopted.

Ongoing attempts at negotiation between the two sides resulted in a lingering stalemate that still has not abated. In November 1994, attempts to bring about resolution of the bitter dispute took on a new dimension when Commonwealth envoy Sir Ninian Stephen was sent to Dhaka to try to arbitrate an agreeable settlement. Sir Stephen's intervention, it was hoped, would break through the prevailing atmosphere of confrontation and tension, and that through mediated discussions between the factions, normal political activity could be restored. In the end, the mission to resolve Bangladesh's eight-month political standoff failed.

As its final offer, the BNP offered a proposal that called for a ten-member interim government to oversee the election cycle comprising five MPs each from the treasury and the opposition benches with the Prime Minister as its head. In response to the compromise proposed by the BNP, opposition chief whip Mohammed Nasim stated that the government's proposal still did not accept the concept of a neutral, non-partisan caretaker government. However, he indicated that contrary to the government's original stand, their proposal was a direct admission that the constitution could be amended after all.⁴ The opposition countered with a demand that the Chief Justice, a retired judge of the Supreme Court, or any other nonpartisan citizen acceptable to both sides should serve at its head. Finally, neither side was willing to compromise further, and negotiations virtually ceased.

Meanwhile, a hearing of the writ petition challenging the validity of the continued boycott of parliamentary sessions by the opposition began in mid-November. Ultimately, on December 11, 1994, the high court bench ruled that the opposition's nine month old boycott was unconstitutional, and ordered opposition MPs to attend the parliament's next session. The issue presented in the case by Lawyer Anwar Hossain Khan noted the boycott was a protest action which violated the mandatory pledges that parliamentarians make to "adequately represent

³"Parliament: No Winners in Sight," Dhaka Courier, 1 July 1994

⁴"Bangladesh Opposition Gives No Concession," Kathmandu Post, 19 November 1994.

constituents' interests."

The case was particularly important because it tested the judiciary's rule on an outline of the separation of powers among the three branches of government. In question was also whether or not the legislators would recognize the court's authority to rule on issues related to the legislative branch. The opposition appealed for a stay of the order to return to the legislature. They also challenged the impartiality of one judge on the high court who had formerly been district chief of the BNP.⁵

E. Mass Resignations by the Opposition

Ultimately, the political crisis came to a head when opposition leader Sheikh Hasina Wajed announced on December 28 that unless the government met their demands, opposition lawmakers would resign en masse. The following day, the opposition MPs belonging to Awami League, Jatiya Party, Jamaat-I-Islami and the National Democratic Party submitted their resignations to Speaker Sheikh Razzak Ali, following separate rallies throughout Dhaka. Altogether 147 MPs resigned. In view of the vacancies caused by the deaths of four other parliamentarians for which by-elections were scheduled, over one-half of the 300 elected members of parliament had vacated their seats. This does not include the 30 "set-aside" seats reserved for women selected by the Parliament who remained at their posts under the umbrella of the BNP majority.

Interestingly, the absence of this number of members has not interfered with the ability of the Parliament to continue to function. Article 75 of the Constitution provides that decisions in Parliament is taken by a "majority of the votes of the members present and voting." Only if the number of members present is less than 60 must a meeting of Parliament be suspended. However, in order to amend the Constitution, a Constitutional Bill must be passed by not less than 2/3 of the total number of members to the Jatiya Sangsad.

The opposition's continued demands for the government to step down was fueled by their challenge that Parliament was no longer legal. They bolstered their argument by noting that the remaining BNP parliament only reflected 39% of the popular vote in the 1991 elections and was, therefore, no longer reflective of the people's will.

⁵"Political 'Crisis Deepens;' Martial Law 'Unlikely,'" Hong Kong AFP, FBIS-NES-94-238, 12 December 1994.

In a final plea for reconciliation, Prime Minister Khalida Zaiur conceded to the opposition demands saying that her administration would agree to step down ahead of new elections, leaving them to take place under a neutral caretaker government. Her offer was announced on the day following submission of the resignations. As outlined, the offer proposed that she and her cabinet resign 30 days prior to the elections. Her concession, however, did not include a call for premature elections. Rather, her compromise presupposed the fulfillment of the current regular terms followed by elections on their normal schedule in 1996. Her announcement came at a rally of her ruling party outside Dhaka, at which time she appealed to the opposition MPs to "rethink" their resignations.⁶ Analysts have suggested that had she made this concession before the resignations were actually filed, there might have been the opportunity to come to a resolution before the political crisis became irrevocable.

Even the resignations themselves have proved to be a source of legal and political debate. As written, the Law provides little guidance as to the manner in which such a situation should be dealt. The concept of mass resignations had clearly not been contemplated. Under the most literal interpretation of the Law, a resignation is effective upon its receipt, and a by-election is to be held within 90 days to fill the vacant seat. Confronted with the mass resignations, however, Speaker Sheikh Razzak Ali delayed their review or acceptance. First, there were questions raised as to whether they were properly submitted under the hand of the individual MPs as required by law, or whether they were somehow submitted on their behalf by the opposition leadership. In addition, conflicting court issues were raised: one case was advanced to test the grounds on which the Speaker might have any discretionary authority to reject the resignations at all; the second case tested the fundamental legality of mass or block resignations as a political option. Court involvement contributed to the Speaker's delay in making a decision. At the time of IFES's departure from Bangladesh, the issues had not yet been decided.

F. Impact on Timing of New Elections

The submission of mass resignations posed challenging questions as to how and when new elections would be scheduled. The compelling issue would be whether or not the Prime Minister would ultimately dissolve the parliament altogether, or call for by-elections to fill the 147 seats left vacant. If by-elections were called, they would have to be held within 90 days of the resignations. What wasn't clear was the point at which the clock would start ticking. The delay of the Speaker to officially accept the resignations left the triggering date in limbo. However, if it were to ultimately be decided that the resignations would have been effective on the date they were submitted, it would mean that by-elections would have to be held by the end of March,

⁶"Ziaur Agrees to Elections Under Neutral Rule," Hong Kong AFP, FBIS-NES-94-251, 30 December 1994.

*IFES Pre-Election Technical Assessment
of the Republic of Bangladesh
January-February 1995*

1995. Analysts generally expressed a view that a call for by-elections for the 147 seats would result in a boycott of the election by the opposition parties. As a result, it was presumed that public and political pressure would force the Prime Minister to ultimately advise the President to dissolve parliament altogether. A common view was that in order to forestall the conduct of elections as long as possible, by-elections would be called first. Then, before the scheduled election day, the Prime Minister would call for the dissolution of Parliament automatically starting the clock over again and buying another 90 days before the election would have to be held.

Under this scenario, elections would have to be held by late June. However, this would set the elections in monsoon season, the least desirable time for conducting such a massive exercise. Under the Constitution there is a provision which allows elections to be postponed beyond the period during which they would normally be required when their conduct would "be impossible, for reasons of an act of God." Under Article 123, section 4 of the Constitution, an election would have to be held within 90 days "following next after the last day of such a period." Therefore, it was speculated that utilizing the authority of this provision, the Prime Minister could forestall the elections for another 90 days stretching the time table out until late fall or winter.

At the time of IFES's departure, no decisions had yet been reached, and the time table for the election remained very much in question. Certainly, the final time table on which the elections will be held will have a major impact on the capacity of administrators to implement programs and strategies geared to improve the creation of voter rolls, initiate a new voter ID card program and strengthen general administrative procedures.

As of mid-March, 1995 IFES Washington was advised that the Speaker ultimately decided to reject the mass resignations of opposition members. No information was readily available as to basis of the decision or any influence which might have been brought to bear by rulings of the court. Without any constitutional requirement to do so and barring a new compelling event or crisis, it is unlikely that parliament will be dissolved in the immediate future. It is also unlikely that the opposition will rejoin parliament if a session is convened in late April. However, under the rules, if an MP is absent for 90 working days without giving any valid reason, he loses his seat. Their further absence of an additional 4 or 5 days would apparently place them in that window and would, therefore, automatically leave their seats vacated and restart a time table for by-elections.

There are speculations that the same delaying tactics described previously would come into play. In the extended period, it might be possible for the government to negotiate some agreeable concessions which would encourage the opposition to participate in the elections. Best guesses suggest that ultimately elections will most likely be held in November or December of 1995.

G. Pressure Tactics Employed by the Opposition

Periodically since their election in 1991, and especially since the boycott began in early 1994, the opposition has sought to apply additional pressure on the government to concede to their demands through a consistent series of *hartals* (strikes) and mass demonstrations which have successfully disrupted public and commercial life. In most instances, the strikes and demonstrations have resulted in violence causing injury and death to hundreds of participants and victims swept up in the events.

The opposition's plan for the "Dhaka Siege" in mid-September 1994, for example, called for activists and supporters to converge on Dhaka to halt traffic, disrupt work in factories and to demonstrate outside the main government secretariat. Nearly 50 people were injured in the fighting that erupted when opposition activists tried to persuade transport workers to join the strike.

Fighting also broke out at Dhaka's three main bus terminals. Participants on both sides fired guns and exploded home-made bombs. The intent was to bring Dhaka to a standstill to back demands for early general elections under a caretaker government.⁷

The blockade virtually cut off Dhaka from the rest of the country. Hundreds of picketers barricaded rail tracks outside Dhaka's Kamalapur Station and halted bus transportation moving from the city's three main terminals. Transportation across the country was affected. In the aftermath, a leader of the Awami League was shot and seriously wounded while leading a march of militant activists. The gunman was not apprehended.

In another example in late October, nearly 3,000 demonstrators demanded that Commonwealth envoy Sir Ninian Stephen leave Bangladesh under the threat of more protests against his efforts to end the country's political crisis. Then, in November, opposition forces threatened another call for a strike. Again, protesters set off dozens of small explosions in Dhaka and clashed with police. In this instance an 8 hour strike which had been called for by the Opposition Left Democratic Front, preceded a two day general strike planned by the country's three largest opposition parties lead by Awami League leader, Sheikh Hasina. Reportedly police used tear gas and batons in an attempt to prevent thousands of opposition protesters from marching on the office of the Prime Minister. At least 9 people were hurt in the clashes. Sheikh Hasina had vowed to lead a "massive push" through police barricades, despite the government's ban imposed on the

⁷"Dhaka Siege Injures 50", Reuters, Foreign Bureau of Information Service, 9 September 1994.

planned demonstrations.⁸

Nearly 40 people were injured in bomb blasts and sporadic clashes as another 30-hour strike was called for December 7-8, 1994. Much of the country was again paralyzed because of the *hartal's* focus on disruption of trains, planes and boats and general transportation. Thirty people were hurt in the northern town of Sirajganj in clashes between pro-government and opposition supporters. According to *Reuters* reports, two people were killed and an additional 100 people were wounded in battles between police and strikers in the southern Feni district. Four policemen were also wounded in bomb attacks by picketers enforcing the general strike. The violence apparently erupted when police tried to arrest an opposition member as he led a march by thousands of followers.

Another 8-hour strike was called to occur immediately following the mass resignations of the opposition members of Parliament. Riot police and paramilitary troops provided tight security to the Parliament in anticipation of the large rally planned to precede the actual submission of the resignations. Vehicles and pedestrians were banned from the immediate vicinity of the Parliament. Security forces were equipped with sub-machine guns, water cannons and other crowd control devices to ensure the security of the parliament. During the 8-hour strike that followed, which again stopped transport and disrupted trade and commerce, small homemade bombs reportedly exploded in Khulna. Cargo handling in the port of Chittagong was halted and roads outside the city were blockaded by picketers.

The ability of the opposition to mobilize their supporters in these demonstrations and strikes has been clearly and vividly demonstrated. During the strategically planned *hartals*, the streets are empty, offices and shops close, and normal activity comes to a halt. In spite of their apparent success in disrupting commercial and social life, their effectiveness should not be entirely attributed to the strength and depth of the popular support for their demands and programs. The majority of the general population may be more compelled to "honor" the calls for the *hartals* out of general fear of being swept up in and becoming victims of the violence that consistently accompanies these events.

The demonstrations and general strikes continued through January 1995. At the time of IFES's departure from Bangladesh on February 6, there appeared to be little likelihood that they would be curtailed until a satisfactory resolution of conflicts between the government and opposition forces can be found. In fact, as of this writing, the opposition continues to press for premature dissolution of Parliament and promised a 13-day fresh program including country-wide road and railway barricades on March 23, 1995, and another "Dhaka Siege" on March 28 to push their

⁸"Violent Demonstration," *Reuters*, Dhaka, November 1994.

demands for a caretaker government and promote their desire to have new elections held by the end of May 1995.

V. BRIEF OVERVIEW OF THE ELECTORAL SYSTEM

The laws governing the election process in Bangladesh are adequate to ensure an accountable and reliable election. Notwithstanding a few notable omissions, the Law provides sound guidelines covering:

1. a comprehensive administrative structure supervised by an electoral commission vested with significant autonomy and authority;
2. liberal rules for candidate nominations;
3. controls on election expenses, campaign financing and reporting of expenditures;
4. detailed descriptions of polling place procedures;
5. instructions for the counting and reporting of election results; and,
6. adequate provisions related to election offenses and violations, adjudication of grievances, and penalties.

In spite of a relatively sound legal and procedural electoral system, it is not insignificant that since independence, there has not been a single elected president or parliamentary body who has been able hold office through to the end of a normal term. The coups and counter-coups which frequently brought the military to the center of power, seem to have abated. However, disruption of political order continues.

Yet, there seems to be a fundamental allegiance to rule of law principles. Recent events, such as the boycott of the opposition and their subsequent resignations, strategies for calling for new elections, and appeals to the courts on both sides of these issues, all seem to reflect a recognition of the laws as working tools. All sides have relied on provisions of law in maneuvering their way through the political crisis. There is also evident a general caution and reluctance to allow events and political confrontations to somehow weaken or diminish the independence of the judiciary or muddle the lines between executive, legislative and judiciary centers of power.

When it comes to elections, most analysts and participants seem to agree that the failings and shortcomings in the electoral process are not necessarily a by-product of the system itself, but of its implementation. Discussions of some of the major deficiencies are covered in this report. However, a general overview of the election system is warranted.

A. The Constitutional Frame Work for Elections

It is interesting to note that although the Constitution of Bangladesh encompasses a number of fundamental rights which are guaranteed to its citizens, a general right to suffrage is not listed among them. Part III of the Constitution outlines the fundamental rights protected under its provisions, and sets the standards by which all other laws shall be measured. Under Article 26, the state is prohibited from making any law which is inconsistent with the fundamental rights provisions of the Constitution. Included in the guaranteed protections, are prohibitions against discrimination against any citizen on the basis of religion, race, caste, sex, or place of birth. Women are specifically guaranteed equal rights with men in all spheres of state and public life. In addition, certain protections are afforded citizens with disabilities.

With regard to civil liberties, citizens are guaranteed freedom of movement, assembly, thought, conscience and speech, religion and privacy of home and correspondence. A number of other provisions provide for equality before the law, including safeguards from arrest or detention without notification of the grounds for such arrest and the right to consult and be defended by legal counsel. Prohibitions against cruel and inhuman punishment are mandated as is the right to a speedy and public trial by an independent and impartial court or tribunal.

The fundamental right to suffrage is not listed under Part III of the Constitution. Nor is there any language commonly found in democratic constitutions referencing guarantees such as the right to participation in free, fair, direct elections by secret ballot. Instead, the right to vote and the character of the electoral process is made by inference. For example, under Part VII, Articles 121 and 122, requirements for preparation of electoral rolls and qualifications for the registration of voters are established (Appendix B). The foundation law states that elections to Parliament "shall be on the basis of adult franchise." Subsection 2 identifies who may be enrolled on the electoral rolls for a constituency delimited for the purposes of Parliamentary elections.

B. The Parliament and the Cabinet of Ministers

Bangladesh currently has a parliamentary form of government with a multi-party system. The parliamentary body is called the Jatiya Sangsad. The president is elected by the Parliament, and is the titular head of state. A holder of the office of President is precluded from simultaneously

holding a seat in the Parliament. Executive powers are vested on the Prime Minister who is assisted by a Council of Ministers. Collectively, the Cabinet of Ministers is accountable to the Jatiya Sangsad.

The appointments of the Prime Minister and other Ministers and Deputy Ministers are made by the President. At his discretion, the President, under Article 56 of the Constitution, appoints as Prime Minister the member of Jatiya Sangsad whom he believes commands the support of the majority of its members. With regard to the Cabinet, not less than 90% of its Ministers must be appointed from among members of Jatiya Sangsad. The last 10% can be selected from any citizens who would normally be eligible to be elected to parliamentary body.

The Constitution dictates the conditions under which the office of Prime Minister becomes vacant or under which the Jatiya Sangsad is to be dissolved. In part, if the Prime Minister ceases to retain the support of the majority of parliament, he or she may either resign, or advise the President in writing to dissolve the Jatiya Sangsad. Once the President is so advised, if he is satisfied that no other member commands the support of the majority, the Jatiya Sangsad is dissolved accordingly.

Under the constitutional scheme there are 300 elected members of parliamentary body to be elected from single-member constituencies by direct election. Elections are based on a simple majority system in which the candidate garnering the greatest number of votes is declared to have won the election. There are no thresholds which must be met.

In addition to the 300 elected members, there are thirty reserved seats to be exclusively assigned to women. These members are selected by the 300 elected members. With regard to their fitting into the party balance of Jatiya Sangsad, it seems that they have become associated with the majority ruling party. Their bloc is apparently not automatically divided proportionally among the parties represented in the Parliament. However, following the 1991 elections during which the Bangladesh Nationalist Party won 138 seats, they were joined by the Islamic Assembly who had won 18 seats plus an additional seat during second-round elections, to jointly create the majority in Parliament. Based on their coalition, of the 30 set-aside women's seats, 28 went to the BNP, and 2 went to the Islamic Assembly.

Any person may be qualified to be elected to the Jatiya Sangsad who is a citizen at least 25 years of age. A citizen is disqualified or he/she:

1. is declared by a court to be of unsound mind;
2. is an undischarged insolvent;

3. takes on citizenship or pledges allegiance to another foreign state;
4. has been convicted and sentenced to a term of at least two years for a crime involving moral turpitude, unless a period of at least 5 years has elapsed since release; or
5. holds any office of profit in the service of the Republic which by law is declared not to disqualify him from holding office.

Once a person has taken office, he vacates his seat automatically if he becomes disqualified under these same rules. In addition, a parliamentary seat is vacated if the body is dissolved, if the MP is absent for more than 90 consecutive session days, or if he submits his resignation in writing to the Speaker.

Key constitutional provisions also mandate that an MP vacates his seat if he resigns from a political party which nominated him at the election in which he won the seat, or if he votes against his party. Among other explanations of this provision, an MP is deemed to have voted against his party if, being present in session he abstains from voting. Conversely, an MP "votes" against his party when he absents himself from a session, contrary to a direction of the Party to be present. Additional rules are established in the Constitution as to the disposition of political party allegiances and obligations when questions arise as to the leadership of the Parliamentary party.

VI. ADMINISTRATIVE STRUCTURE FOR ELECTIONS

A. The Election Commission

Under Article 118 of the Constitution, an Election Commission (EC) is established consisting of a Chief Election Commissioner, and as many other commissioners as the President may from time to time direct. The term of an election commissioner is five years from the date of taking office. The Constitution dictates that the Election Commission is independent in the exercise of its duties. Except as provided by law, the conditions of service for the Election Commissioners may be determined by presidential order. It should be noted that although the President has free rein to appoint the Chairman of his choice independently. There are no minimum qualifications stipulated in the Constitution for appointment to the Election Commission. However, the foundation law provides that once appointed, an Election Commissioner can only be removed from his post on grounds pertaining to removal of a Judge of the Supreme Court. In practice, retired superior court judges have been appointed to these posts. Justice Abdul Rouf currently holds the post as Chief of the Electoral Commission.

Specifically, the Constitution charges the Election Commission with the following responsibilities:

1. Holding elections to the office of President;
2. Holding elections of members of Parliament;
3. Delimiting parliamentary constituencies;
4. Preparing the electoral rolls for the above mentioned elections; and,
5. Other functions which may be prescribed by law.

It is interesting to note that the Constitution vests no responsibilities or functions to the Election Commission related to local elections, although other laws supply the legal base for their involvement.

Under the Constitution, the President is to make available to the Election Commission such staff as may be necessary to carry out its functions. Based on this provision, the Commission does not have its own administrative staff. In fact, its administrative staff or secretariat falls under government auspices. Some critics have suggested that questions regarding the Commission's independence will remain until it is assigned its own secretariat separate from government or presidential influence, budget or control.

The Commission is authorized under the law to regulate its own procedures. On the basis of this authority, the Election Commission is granted a degree of autonomy in making its own decisions regarding development of programs and guidelines.

On November 30, 1994, critical amendments were made to the law entitled "The Representation of the Order, 1972 (P.O. No.155 of 1972,), and the Supplemental Order, 1973 (P.O. No. 8 of 1973) as modified up to the 15th of April 1993 which govern the conduct of parliamentary elections. The 1994 amendments were made to strengthen, improve and empower the Election Commission "as is necessary for ensuring fairer and impartial election of the Parliament."⁹ The significance of the newly adopted measures has several major objectives. First, the new Bill provides a broader base of power to the Election Commission (EC), not only to supervise the activities of lower level election officials, but to regulate its own procedures. More importantly, the Bill gives specific authority to the Commission to take punitive measures against those found guilty of violating rules while being engaged in conducting elections (see Appendix C).

⁹"Aims and Objectives," Representation of the People (Amendment) Bill, 1994.

Strengthening the authority and autonomy of the EC offered a response to calls by the opposition that elections held under an interim, caretaker government. Ideally, if the EC fully exerts its proper authority and independence, it should not be necessary for the government to step down, and for a caretaker government to oversee general elections.

The new provisions also call for the Election Commission to establish a committee to ensure the prevention and control of pre-poll irregularities. The new committee which will be identified as the Electoral Enquiry Committee (EEC) will consist of a number of members as the EC determines necessary, and will be made up of judicial officers. The EEC will be charged with reviewing any matter or situation brought through a complaint, or in its own view may involve intimidation or coercion, or an obstruction of the preparation for or conduct of free and fair elections, or constitutes the publication of false information related to the campaigns.

B. Lower Commissions and Election Officers

The adopted amendments also strengthened the Election Commission by providing for the appointment of "such a number of commissioners as may be deemed necessary." In addition, the Bill added an administrative layer to the official structure. Under the new provisions, the Commission will appoint a District Returning Officer for each District. There are 64 administrative districts in Bangladesh. These District Returning Officers are to be appointed from officers of the government, corporations controlled by the government and local authorities. While the law does not specify the tasks and responsibilities of the District Returning Officer, it is presumed that they will provide the logistic, administrative support and security for the Returning Officers and for the polls, under the direct supervision of the Electoral Commission. In fact, the Election Commission is authorized to transfer officials, including Superintendents of police or any officer subordinate to any of them outside the district if the Commission feels that such a transfer is necessary in the interest of fair elections.

In the past there seemed to have been some question as to the actual relationship between the EC and lower commission which the amendments should answer once and for all. Through various discussions with officials, party leaders, legal analysts and parliamentarians, there was an impression that in practice, the Election Commission was somehow separate or divorced from the lower branches of the electoral administrative structure: the EC was one structure, and lower level commissions were somehow another. One explanation may have been that to some degree the lower commissions, whose members were appointed from among government bureaucrats, were somehow under the supervision or influence of local government authorities rather than the EC.

Whether this was a result of flaws in the legal foundation itself, or due to the leadership style or

deference afforded local authorities by the Chairman was not clear. However, the full thrust of the law as amended should leave little question as to the line of authority where elections are concerned. The new amendments follow the course set in the 1991 elections when elections were held under a caretaker, non-partisan government who forcefully exercised authoritative supervision over the conduct and activities of election officials at all levels. Comparatively speaking, the 1991 elections were perceived to be one of the most orderly elections since independence was won in 1971.

Under the direction and supervision of the Election Commission is the subordinate structure comprised of Returning Officers and their Assistant Returning Officers who are responsible for oversight and administration of the elections within their constituencies. There are 300 constituencies corresponding to the number of elected parliamentarians. The appointments to the Returning Officer posts are made by the Election Commission. Under the law, a Returning Officer can be placed in charge of more than one constituency at the discretion of the Election Commission. However, each constituency must be served by a different Assistant Returning Officer.

In addition to their responsibilities overseeing polling site officials and the preparation and implementation of election day activity in their jurisdictions, the Returning Officer is a key player in the acceptance and approval of nominating documents for candidates. The Returning Officer is also responsible for the summarization of election results from the polling sites in the constituency, and the determination of the candidates who are ultimately elected.

Returning Officers are responsible to designate the polling sites which will be utilized in the constituency for which he is responsible. The list is subject to modification by the EC when it is deemed appropriate, and the final list is published at least 15 days before the election.

For each polling site the Returning Officer appoints a Presiding Officer who serves as the chairperson for the polling site, specifically on election day. The Presiding Officer (PO) is assisted by an Assistant Presiding Officer (APO), and a team of Polling (site) Officers (PSO) who serve and process voters on election day and count ballots and report results when the polls close.

For the 1991 Elections there were approximately 30,000 polling sites involving nearly a quarter million poll workers. Justice Rouf, Chairman of the EC, intends to improve service to voters and efficiency and accuracy of polling site management by increasing the number of polls. Ideally, he believes that each site should serve about 1,000 voters. If his plans come to fruition, it would mean that for the next general election there would be 50,000 to 60,000 polling sites with 500,000 to 600,000 polling officials.

VII. POLITICAL PARTIES AND THE NOMINATION OF CANDIDATES

Political pluralism is a key characteristic of Bangladesh's dynamic election environment. Political parties reflect a broad spectrum of personalities, philosophies, and cultural and religious interests. The pattern of party development, transition and evolution is a mirror of recent dynamics of Bangladeshi history. The two are inseparable.

Party development is virtually unrestricted, and parties carry out their activities generally unfettered by intrusion or control by the state. The stronger parties seem well organized and well funded and are clearly able to engender popular support.

For the 1991 elections more than 70 parties competed for seats. Ultimately, the parliamentary body which resulted was made of members representing a multiplicity of political parties including:

138 Seats	Bangladesh Nationalist Party (Bangladesh Jatiyabadi Dal)
89 Seats	Awami League
35 Seats	Jatiya Party
19 Seats	Islamic Assembly (<i>Jamaat-I-Islami</i>)
12 Seats	The Communist Party and Other Small Parties Allied with the Awami League
3 Seats	Other Small Parties
3 Seats	Independent Candidates
1 Seat	National Democratic Party

A brief overview of the of the major parties gives an interesting view of their relationships, influences on one another and their place in the unfolding of recent political events.

A. Bangladesh Nationalist Party (BNP)

The BNP was originally formed in 1978 by a number of groups who had supported President Zia in his election campaign. By 1980, a number of defectors from other parties joined the

government formation. Abdus Sattar, the BNP's candidate in the 1981 elections reportedly won 66% of the votes among 30 candidates. While most pro-Awami parties favored a return to a parliamentary system, the BNP supported a strong presidential system while in the opposition. However, many of its subsequent MP's seem to have reversed themselves on this issue. By 1985, a faction of the party followed Azizur Rahman into the National Front. The main body of the party refused to participate in the 1986 parliamentary and presidential elections or the legislative elections in 1988. In 1989, another split in the party resulted in a majority faction led by Begum Khalida and a dissident bloc led by the former BNP secretary general, A.K.M. Obaidur Rahman. In the aftermath of the 1991 elections, the party took a stand that factionalism would no longer be tolerated. Currently, the BNP is lead by Prime Minister Begum Khalida Zia.

B. Awami League

The Awami League, with Indian support, was a major force in the drive for independence. First organized in 1948 under Sheikh Mujibur Rahman, it remained one of the best organized political groups in spite of being formally disbanded by President Moshtaque Ahmed in 1975. During that period it served as the nucleus of the Democratic United Front. In 1980 a deep chasm developed in the party. The majority faction supported Hasina Wajed as its leader in February of 1981. Sheikh Hasina Wajed is the daughter of Mujibur Rahman. She remains the party's president, and leader of the opposition. The dissident faction resulting from the split was led by Mizanur Rahman Chowdhury, who accepted the appointment as Prime Minister in the Ershad government in 1986. During the Ershad era the significant ideological difference between the Awami League and its major rivals were its support for a parliamentary system based on the British model, and its commitment to secularism and socialism. After participating in the 1986 elections, the Awami League stayed away from most subsequent parliamentary proceedings including the 1988 elections, until it competed in the 1991 elections earning the second largest number of seats.

C. Jatiya Party

The Jatiya Party was initially launched as the National Front, splitting from their former alliances in favor of cooperation with the Ershad administration. Coalition members of the Front characterized themselves as facilitators of the "peaceful transition from military rule to constitutional democracy through national elections." The Front included the dissident faction of the BNP. Transition from the National Front to a unified party took place in 1986, in time for the 1986 elections. Boycotted by the BNP, the elections gave Jatiya Party 178 of the 300 directly elected seats in the legislative body, plus all 30 of the women's set-aside seats. In 1988 its victory under numerous allegations of election impropriety gave them 250 seats. The party participated in the 1991 elections in spite of the fact that several of its key leaders, including General Ershad, were under charges of corruption.

D. Jamaat-I-Islami

Having received the fourth largest number of seats in the 1991 elections, the Jamaat-I-Islami represents fundamentalist religious views. A "pro-Pakistani" group which was revived in 1979 after 7 years of inactivity, the party reinstated its former head Golam Azam as its president in April 1992. Golam Azam returned from self-imposed exile in 1978. However, it wasn't until April 1993 that the Dhaka High Court reversed Azam's loss of citizenship for allegedly collaborating with Pakistani military forces during the 1971 war for independence.

E. Nomination of Candidates

The law gives very precise guidance with regard to the procedures for nomination of candidates with access to the ballot is virtually unrestricted. Virtually any citizen who is who is at least 25 years of age, has not been declared mentally incompetent by a court, has not been convicted or incarcerated for a crime involving moral turpitude within the last 5 years, and is not an undischarged insolvent may be nominated. However, there are few restrictions against nominations of those who hold an office of profit in the service of the Republic or other statutory authority, or who are chairmen of a Upazila Parishad elected in a local election under the Local Government Ordinance, 1982 (Ord.LIX of 1982.) A conflict of interest is also established for individuals who have... "any share or interest in a contract, not being a contract between a co-operative society and Government for the supply of goods to or for the execution of any contract or the performance of any services undertaken by the government." Article 12 of the Law on Representation of the People provides definitive explanations of these restrictions and how the disqualifying criteria are defined.

The Law is based on the rights of independent individuals to be nominated. The Law is silent as to any provision related to separate or distinctive rules for nominations of candidates by political parties. In fact, any eligible voter of a constituency may propose or second a nomination of a candidate for the seat in their constituency.

No proposer or seconder may subscribe to or submit more than one nomination. However, candidates may be nominated more than once by separate proposers and seconders within the same constituency as long as each nomination is submitted separately. Each separate set of documents must include a declaration signed by the proposer and the seconder that neither of them has signed any other nomination proposal. Each nomination must also include a declaration signed by the candidate which expresses his consent to the nomination and that he is not subject to any of the disqualifications. If it is found that a proposer or a seconder has signed more than one nominating paper they will all be voided except the documents which were received by the Returning Officer first. Strict guidelines are established in the Law for date stamping and numbering all received

documents and identifying the time at which they were received. The candidate's fee of 5,000 Taka must be deposited with the Returning Officer simultaneously with the submission of the nominating documents. In the case of a candidate who receives more than one nomination, the fee need only be paid once.

A candidate can be nominated in as many as 5 constituencies. His declaration included in the submission of nominating papers must include his acknowledgment that he has not exceeded the 5 constituency limit. Should it be determined that the candidate has been nominated in more than 5 constituencies, all nominations for that candidate are voided. In the event that a candidate contesting the election wins in more than one consistency, he chooses the seat he wishes to retain; the other seats in which he may have been declared the winner are vacated to be filled in by-elections.

The Returning Officer makes the determinations as to whether the nomination of the candidates is accepted or rejected. Grounds for rejection are specific:

1. If the candidate does not meet the fundamental eligibility requirements set forth in the Constitution;
2. The proposer or the seconder is not qualified to subscribe to a nomination or the signatures of either or both are fraudulent; or
3. The papers were incomplete or not filed in the manner prescribed by law.

The Law also provides certain safeguards. For example, the Returning Officer cannot reject a nomination on the basis of a non-substantive defect, and may allow such defects to be corrected. In addition, the Law prohibits the Returning Officer, in verifying the authenticity of the signatures, from enquiring into the correctness of validity of any entry into the electoral roll. It is also stipulated in the Law that the rejection of one nomination for a candidate will not invalidate another valid nomination that may have been submitted for that candidates. Finally, the Law provides for an appeal process whereby an aggrieved candidate may appeal a decision of the Returning Officer.

An interesting feature of the nomination process in Bangladesh is that it underpins a practice whereby the nomination is the kick-off for subsequent decisions as to whether the candidate will actually run for office or withdraw... "presumably after consultations between the various political parties and between individual candidates have taken place and after alliances or electoral pacts

have been made."¹⁰ Evidence of this observation is based on the fact that nearly 4,000 candidates had sought nomination in the 1991 elections. However, by the time the withdrawal period had concluded only 2,774 candidates remained, 2,350 of which represented 76 political parties, while 424 candidates remained independents. Only 47 candidates were women. Even after the withdrawal period had ended, there were a number of instances where candidates continued to announce their withdrawal in spite of the fact that their name would still remain on the ballot. Their post-deadline withdrawal declarations, in these cases, included pleas that their supporters vote for another candidate appearing on the ballot.

Because of the high rate of illiteracy, ballots and public announcements about parties and campaigns rely on an assignment of graphic symbols for identifying candidates. All approved symbols which may be used to identify candidates (and, as necessary, by their party affiliation) are illustrated in the law. Parties apparently negotiate with the EC as to which symbol they want registered on their behalf from those officially recognized in the law. There is general understanding that the same symbol will be used in every constituency in which that party will have a candidate represented. No two candidates will have the same symbol within the same constituency.

In the absence of any discussion in the law about party nominations, it is not clear as to how any individual candidate becomes formally identified with a party for purposes of printing the ballots and assigning the candidate his appropriate graphic symbol to appear next to his name. Given the fact, too, that no proposer or seconder may sign more than one nomination, there is no accommodation for the party leadership, for example, to submit a group of nominations for their endorsed candidates. Not only is the law silent on the "party" nominations, the forms used in the nomination process make no reference to political party affiliation and provide no space on which to write such information.

F. Campaign Expenses and Disclosure

To date, laws regarding campaign expenditures focus specifically on candidates. Critics suggest that abuses are promulgated because there are no provisions which limit those of political parties. The law does limit each candidate's personal campaign expenditures to 5,000 Taka, and the total of his expenditures beyond personal funds to 3 lakh taka (300,000). Reasonable questions have been raised whether the limit should be raised. Apparently it is widely agreed that this amount is not sufficient to run a meaningful campaign. For example, in a newspaper editorial, the commentator pointed out that, if a candidate attempted to deploy polling agents for each of 70

¹⁰"Parliamentary Elections in Bangladesh," Commonwealth Secretariat Report of the Commonwealth Observer Group, 27 February 1991, p.9.

polling sites in a typical constituency, and paid them each 100 taka/day, the entire limit would be exceeded in less than a month.¹¹

The Law places severe limitations on the kinds of uses the money can be spent. For example, there are restrictions on printing of posters with more than one color or using imported paper for printing of posters or flyers. Erection of campaign arches or gates and production of cloth banners is prohibited as are the use of more than microphones or loudspeakers at a time within the constituency. Photos and symbols of the candidates must be in black and white only, and he is not allowed to use motorized vehicles in marches or processions. There are also restrictions on enlarging the candidate's symbol larger than the size prescribed by the commission, or establishing more than twenty election offices or camps within a constituency. In a related restriction a *pandal*, or campaign booth, is not to exceed more than four hundred square feet. Illumination of campaign displays with electricity is also among the prohibitions. Also identified as a corrupt practice is the use of any vehicle to transport voters, except the candidate's immediate family, to the polling place on election day.

In addition, the Law prescribes a system of reporting and disclosure of the sources of all funds and the expenditures. For this purpose, the Law contemplates personal funds of the candidate, as well as borrowed funds and contributions coming from family members or other individuals, parties, organizations and associations. The candidate is also required to report his assets and liabilities as well as his income. If he is an income tax assessee he is also required to submit his last income tax return.

In spite of the controls to campaign ethics, spending limits and disclosure established in the Law, success in seeing that the rules are met has been unsuccessful. Critics point to the fact that the EC is simply not adequately prepared or equipped to properly monitor and follow-through on violations. Nor have combined efforts been successful in preventing the use of illegal or "black money" from intruding on the campaigns. Also, funds from the political parties go unregulated and unchecked, yet heavily impact the abilities of some candidates over others.

Of crucial importance are the financial incentives that have historically been exerted on voters. Reportedly, the "market rate" for buying votes during the 1991 elections was 500 taka. The significance of such practices were reflected in discussions about a potential demonetization of TK500 notes.

Another problem which limited any meaningful control over illegal spending related to the process by which cash could be converted into Bearer Cheques. Because there were no requirements that

¹¹Editorial, Morning Sun, Dhaka, 28 January 1991.

all cheques be drawn on existing bank accounts it was impossible to fully know the actual source of funding during the 1991 elections.¹²

Until there are significant improvements in effecting strong monitoring and consistent prosecution of campaign violations, the inequities experienced in the past are likely to continue.

VIII. VOTER LISTS

Clearly, one of the major problems which continues to confound the credibility of the election process is inadequate preparation of reliable voter lists. Even under the best of circumstances, the challenges would be overwhelming. Projections suggest that the process would involve the collection of data on an estimated 64 million voters among a population which is predominantly rural. It is estimated that 65% to 75% of the population is functionally illiterate. Reports published by foreign and domestic observers of virtually every election since independence have emphasized that the inaccuracy of the voter lists have contributed significantly to opportunities for massive vote rigging and unreliable election results which have frequently occurred.

Certainly, the opposition has focussed attention on the necessity of creating new and accurate voters lists as a top priority among its demands for premature elections under a caretaker government. Election officials, parliamentarians, party leaders and civic organizations all agree that resolution of the problems related to the degree of accuracy of the voter rolls will ultimately be one of the defining criteria by which the next elections will be judged.

Several conditions are generally acknowledged to have traditionally contributed to the deficiencies of the voter rolls. According to the Election Commission one of the major factors was the traditional manner in which the lists have been compiled. Through a door to door canvass, volunteers relied on information provided by a single member of a household rather than requiring that every voter be questioned or interviewed personally. As a result, names were often added to the list belonging to family members who were not actually residing in the household, had not reached the age of 18, or who had died. Duplicate entries were also common, as were circumstances in which voters appeared on more than one list.

In addition, because so much of the population is illiterate, inclusion of names to the list relied on the accuracy of officials recording them based on their best judgement as to how the names should be represented. This situation was made twice as difficult due to the many names which

¹²A Report on Elections to the Fifth National Parliament, Bangladesh Mukto Nirbachan, 27 February 1991.

are common throughout the country. These conditions make it difficult to determine those apparent duplicates which are genuine and those which erroneously represented.

Another major difficulty is that Bangladesh is a country which has virtually no institutionalized system of records on its citizens. Birth records are inadequate, although marriage records are becoming more reliable. Citizens do not have driver's licenses or health cards: there simply is no reliable system of documentation by which the vast majority of citizens might prove their identity. Even tax and utility records would prove marginal in attempting to find a data source by which identity or residence of a voter could be verified.

Although these factors have contributed significantly to the inaccuracy of the voter rolls, it is also important to point out that there has only been sporadic update of the rolls. In fact, the rolls used for the 1991 parliamentary elections were reportedly carried over from lists prepared by the previous regime, which were only updated in 1989. Given the agreement to conduct the elections within 90 days precluded a full blown drive to recreate the voter lists from scratch. However, it is clear that without an aggressive on-going registration program in full implementation, the accuracy of any list that is several years old is seriously diminished.

Of greatest concern is that although widespread dissatisfaction has been expressed regarding the inadequacy of the voter rolls, there also appears to have been an equal measure of willingness to capitalize on its deficiencies in the promotion of partisan interests. Most alarming are frequent allegations that direct falsification of names has been common to purposely create opportunities for abuse on election day. Such allegations suggest a degree of complicity not only of some registration officials, but also of polling day officials succumbing to the influences of the volatile political climate or to real or perceived internal government and administrative pressures. Voters themselves are also vulnerable to enticements which encourage their participation in the abuses. Dire economic circumstances leave them susceptible to financial and material enticements to vote more than once in the place of "phantom" voters identified on the lists. In addition, the continuing pervasiveness of real and threatened intimidation and violence cannot be understated as a contributing factor in the abuse of the faulty voter rolls for the benefit of partisan interests.

A. Disenfranchised Voters

Just as important has been the likelihood that eligible voters were not included on the list at all. Unless a voter's name appears on the voter list, he or she will automatically be prohibited from voting on election day. There is no current institutionalized system to afford qualified voters the opportunity to vote by having their names added to the list under some official authority on election day. Even among those interviewed by IFES, a significant number of officials commented that they and their family members had found they were not included on the voter lists

in subsequent elections since 1991 during which they had been included. It is acknowledged that omissions reflect the lax way in which registration officials approached their work. If families were found not to be at home when registration officials came the first time, there was no assurance that a return visit would be made. This failure to formalize and comply with a strategy for follow up has special significance in view of obvious cultural sensitivities. Not unexpectedly, women at home alone might be reluctant to open the door to a stranger in the absence of their husbands or other male members of their households.

Another difficulty is that because of inadequate identification methods, many voters were frustrated to find that when they appeared at their polling station to vote, their names had already been marked indicating that someone else had been issued a ballot in their place. Inadvertent errors can reasonably be expected under the prevailing conditions. However, domestic and foreign observer organizations monitoring various elections have noted that in some instances when a voter's name was not on the list, officials allowed them to vote anyway, using another name that was included on the list. One candidate with whom IFES spoke said that at a polling center he visited, a long line of women appeared at the polling site before the polls opened. They were all veiled which would not normally have been expected in Bangladesh. According to his report of the event, the line never ended, and each woman in line as allowed to vote without their true identity even being questioned or challenged. He strongly believed that many of them came through the line again and voted more than once using "phantom" names on the voter list in their subsequent appearances.

B. Status of Homeless People and "Slum" Dwellers

One of the most serious issues which will need attention relates to the status of citizens who are homeless, or live in self-devised "slums" or shanties. Even census data does not necessarily reflect an accurate number of people who might fall into this category, although estimates have been expressed in terms of 3 to 5 million. Their inclusion on voter rolls has apparently been left to the judgement of local officials. Although some may be included at various locations, the majority may find themselves excluded altogether. The legal foundation for their official exclusion is most likely justified by reliance on the constitutional provision which defines who is entitled to be enrolled on the electoral roll. Under Article 123 of the Constitution, a person may be added to the roll for a constituency "if he:

- a. is a citizen of Bangladesh;
- b. is not less than eighteen years of age;
- c. does not stand declared by a competent court to be of unsound mind; or

- d. is or is deemed by law to be a resident of that constituency."

It is this last point that potentially leaves millions with no access to the polls. The difficulty is twofold. First, under the law slums or shanties are illegal. Officials expressed their concern that should these individuals be recognized as residents of a constituency for voting purposes, they would be given a degree of "legitimacy" in contradiction with other laws of the country. Officials suggest that the problem is particularly sensitive in terms of those shanties springing up on state or government lands. Official acknowledgment of their existence for voting purposes raises the potential for establishing a degree of "claim" on the property on which they have settled themselves.

Another concern raised by various officials was that these "slums" are mobile with people coming and going at random. Clusters of shanties spring up temporarily. In addition, their actual inhabitants fluctuate continually. Ironically, one official suggested that attempts to include slum dwellers on the voter rolls in some constituencies have actually contributed to opportunities for abuses by parties and candidates. It has been alleged that candidates and parties have actually created shanty towns for the specific purposes of inflating the voter rolls and enticing the new inhabitants to vote for them on election day.

C. Manifestations of Irregularities

International or domestic observer groups have participated in virtually all elections in recent years. Such groups have included Bangladesh Mukto Birbachan Andolon (The Bangladesh Movement for Free Elections, BAMNA), the Coordinating Council for Human Rights in Bangladesh (CCHRB), Study & Research Group of Manabik Shahajya Sangstha (MSS/SRG), International Center for Ethnic Studies, the Commonwealth Observer Group, and the National Steering Committee for Observing City Corporation Elections of 1994. There are several consistencies which marked a majority of their various reports. The consensus of general findings can be illustrated by a few specific examples.

1. During the 1994 City Corporation Elections, in addition to their regular observations procedures, observers interviewed 900 voters of which 311 were women. In 34.44% of the cases, respondents acknowledged that one or more of the eligible members of their families had been omitted from the voter lists. Of those omitted, 81.29% had been on former lists, and in particular, the 1991 parliamentary election lists.

Respondents also indicated that the information provided for each voter on the list intended to help identify one from another was mismatched in 26.33% of their cases. These errors reflected a mismatch of the voters' names with the proper identifying information

including father or husband's name, address, profession or age.

On one list comprising the residents of a single building, only 40 of the total 250 people were included on the list. In this case all of the 210 people omitted had voted in the 1991 elections.

2. In the election observation report prepared by the Coordinating Council for Human Rights Bangladesh (CCHRB) for the 1991 Parliamentary Elections, 4,000 delegates observed election day activities in 2,000 polling centers covering 40 constituencies. According to their findings, the number of underage voters included on the list was estimated at 17.11%.

In depth analyses of 5 specific polling centers were included in their report with the following findings:

Ward No. 71 of Dhaka Constituency No. 10

2,007	Total Number of Names on List
334	People Who Had Left the Area But Remained On List
10	Persons Who Had Died But Remained On List
10	Registered in More Than One Place
8	Persons Listed Twice on the Same List
100	Eligible But Not Included On the List

Ward No. 65, Dhaka Constituency No. 10

1,000	Total Number of Names on List
150	People Who Had Left the Area But Remained On List
2	Persons Who Had Died But Remained On List
10	Registered in More Than One Place
89	Eligible But Not Included On the List

Ward No. 2, Rasti Union, Madaripur Constituency No. 2

2,960	Total Number of Names on List
265	Did Not Live in Villages
69	Underage Persons Included on List
203	Registered in More Than One Place
185	"Phantom" Voters Who Could Not Be Identified

- 1 Person In Prison
- 112 Eligible But Not Included On the List

Ward No. 3, Ghatmajhi Union, Madaripur Constituency No.

- 4,022 Total Number of Names on List
- 253 Did Not Reside in the Registration Area
- 165 Registered in More than One Place
- 51 Underage Persons Included on List
- 113 "Phantom" Voters Who Could Not be Identified
- 28 Voters Who Had Died
- 112 Eligible But Not Included On the List

Combined Findings in Two Unions (Surulia and Nagarghata) Tala Upazila of Satkhira District

- 20,522 Total Number of Names on All Lists
- 110 Did Not Reside in the Registration Area
- 61 Registered in More than One Place
- 154 Underage Persons Included on List
- 143 "Phantom" Voters Who Could Not be Identified
- 119 Voters Who Had Died
- 202 Eligible But Not Included On the List

Taken as a whole, the commutative results for these five areas represent an error factor on the lists of 9%. If omissions were also considered, the error factor would be 14.2%. In practical terms these percentages represent potential votes of approximately 8.7 million people projected over the country at large. Clearly the combined affect of errors and omissions leaves an extraordinary window of opportunity for abuse, especially when the difference between the number of voters listed and actual turnout is considered.

It should also be noted that these figures reflect findings related to the 1991 parliamentary elections which are by and large considered to have been the most free and fair nationwide elections in the country's history. In addition, it is important to note that these rolls were based on lists last prepared in 1989. To accommodate the 1991 elections, a window for revision was created prior to the elections during which according to the report of the Commonwealth Observer Groups some 185,000 additional names were added to the existing lists.

However, the CCHRB also reported that in many areas specific minority groups had been eliminated from the lists even though they had attempted to take advantage of the registration opportunity. In particular, CCHRB cited allegations reported to them at a center in Jigatola in Dhaka. According to the report as many as 400 voters of a caste of Hindus called "Rishi" who claimed that they had been eliminated from the rolls under Ershad, were unsuccessful in their attempt to be re-registered. All but 20 of their applications were apparently rejected.

In another instance reported in the Daily Sangbad on January 21, 1991, 500 voters of a village in Barguna were excluded from voting. Allegedly, their attempts to register were also halted and complaints were lodged that election officials had demanded bribes before they would be added to the lists. In this instance a magistrate had actually been assigned to investigate.

C. The Census: Potential Impact on Delimitation and Voter Lists

In virtually all quarters there appears to be a general consensus that the Election Commission is motivated to take steps to improve the voter lists significantly. Where there are doubts, they relate to the ability of the commission to complete the task in time for the next elections, especially if they are called prematurely. The major criticisms relate to what has been characterized as a procrastination on the part of the Commission to aggressively initiate the process.

First, critics point to the fact that while the Constitution requires a delimitation of Constituencies following a dicentennial census, as of January 1995, the Commission has not yet submitted its proposed plan for the upcoming parliamentary elections. The last census was taken in 1991, although the results were only published in 1994. Even given the delay in publication of results, concern has been expressed that not even in the months that have ensued has there been any movement on the part of the Commission to tackle the job (please see Appendix D).

In fact, prior to any formal announcement, there had already been some speculation that the Election Commission would attempt to avoid the potential political conflicts that would most likely result no matter what new plan they devised. Due to the sensitivity of the current political climate it was been suggested that the Election Commission would recommend a plan which basically retains the existing delimitation boundaries to sidestep direct political confrontation. This would leave any amendment up to the parliament. In fact, on February 1, 1995 the Election Commission published the preliminary delimitation plan for the 300 constituencies. On February 2, 1995 the EC fulfilled these expectations by publishing a draft delimitation plan which, with few exceptions, virtually duplicated the 1984 apportionment. The 1984 plan had been based on 1981 census

figures. The EC opened the plan to public input and announced that public hearings would take place in at least 10 different sites. In addition, complaints, objections and suggestions were solicited with a final date for their submission set for March 6, 1995.¹³

From the beginning it appeared obvious that reliance on the 11 year old delimitation would not sit well with the opposition. There is enough fuel to nurture a new wave of criticism and political unrest in view of the acknowledged inequities of this delimitation scheme. According to various officials and party leaders alike, the former plan the ideal constituency should have represented approximately 207,000 voters. However, unacceptable variances exist under the former plan. Out of 300 constituencies, 98 comprised 225,000 voters, while 20 have as many as 275,000 and 22 report less than 150,000 voters.

Another red flag points to what appears to be an unrealistic change in the overall figures as of March 1988, and those reported for the elections in 1991. Concern exists among a wide spectrum of observers and activists that the 1991 figures represented a grossly inflated number of overall voters. Figures reported in 1988 reflected approximately 49.9 million voters. However, in 1991 the voter rolls swelled to 62.3 million. At the same time IMF projections were reflecting more conservative estimates of approximately 53 million. Commonwealth observers were simultaneously setting voter population estimates at 56.5 million.¹⁴

It appears that outside projections may have been closer representations of reality after all. According to the official results published based on 1991 census data published in mid-1994, the number of age eligible citizens is reflected at 53.1 million people.

A recent pilot program being undertaken in Tongi Pourshaba just outside Dhaka may substantiate the degree of inflation which appears to have characterized the 1991 election rolls. In Tongi, a thorough exercise is being carried out to test an improved strategy for creation of the voter rolls, and conduct of an election through a citizen steering committee rather than through utilization of government bureaucrats. A key feature of the plan has been the door-to-door canvass of the area during which each voter had to be individually interviewed. During prior voter list preparation exercises, the rolls for the area reflected a total of 107,000 voters. However, as completion of the project neared, it appeared that the voter rolls for Tongi would comprise approximately 72,000 names.

¹³"No Major Delimitation of Constituencies," Daily Star, Dhaka, 2 February 1995.

¹⁴"Parliamentary Elections in Bangladesh," The Report of the Commonwealth Observer Group, Commonwealth Secretariat, 27 February 1991, pg.13.

These indicators from various independent and seemingly collaborative sources cannot help but focus attention on the need for a completely new delimitation plan. It remains to be seen if comprehensive amendments will be made on the basis of the public input period created by the EC.

Regardless of the plan which is ultimately utilized, preparation of accurate voter lists will most likely be dramatically altered and with significantly lower voter estimates reflected. In addition, the strategy for their preparation will also be severely impacted if proposed changes being discussed by the Election Commission regarding the number of polling sites to be established. The Election Commission is committed to greatly expanding the number of polling sites to nearly double the number utilized in 1991. Ideally, the Commission would like to establish a number of polling sites so that approximately 1,000 voters are served at each site. Even with lower voter figures, the EC's plan would call for an additional 20-25,000 sites. The breakdown of blocs of voters into smaller increments involving twice the number of polling centers will pose new challenges as the voter lists are prepared.

E. Strategy for Preparation of New Voters Lists and Overcoming the Past Deficiencies

These ambitious plans will demand development of an elaborately detailed strategy, incredible manpower, and a formidable level of supervision and oversight. Given the time constraints and what some consider a general failure of the Commission to act quickly enough, there is real concern as to whether they can be realistically fulfilled. It should be pointed out, however, that the Election Commission has focussed a great deal of attention on attempting to define methods whereby improvements to the voter lists and the overall integrity and accountability of the process could be ensured. The key elements of the plans they have explored include the following:

1. The recruitment, training and utilization of citizen volunteers working at the local level to overcome allegations that elections are controlled by government officials whose loyalty and dependence on the ruling party impairs their ability to be neutral;
2. Door-to-door canvassing whereby each voter must be interviewed personally to diminish opportunities for "phantom" voters and ineligible voters to be added to the lists in error;
3. Creation of a computerized data base through which constituency voter rolls can be updated on a regular basis and from which voter lists can be generated as needed; and,

4. Introduction of uniquely numbered photo ID cards for all voters to limit the opportunity for people to vote fraudulently on behalf of others.

F. Pilot Projects and the Introduction of Voter ID Cards

In testing the feasibility of these strategies, two pilot programs were undertaken, the first in Depunia in Mymensingh District, and the second in Tongi Pourshaba. In both tests the projects were implemented to accommodate local elections. The Tongi pilot program was still underway during the time of the IFES visit. Reportedly, the completion target date for the project in Tongi has had to be moved forward several times due to a variety of logistic difficulties, resulting in postponements of the elections themselves. As of January 15, 1995, 83% of the ID cards for the 72,226 voters on the list had been completed.¹⁵

In the case of Depunia, after a period of pre-planning, actual initiation of the work on the pilot program began in August 1992 providing a lead time of nearly 2 years before the election on April 30, 1994. At stake, were the elections of a Chairman and 9 members of the Dapunia Union Parishad (local council.) The elections involved 19,826 eligible voters out of a population of 38,315. For the Chairman position there were 11 candidates while 40 candidates vied for 9 seats comprising the Parishad. Of the 9 seats, 3 were allocated for each of the Union's three wards.¹⁶

By most reports, the Depunia election was by far the most efficient, free and fair election in the history of the country. And, much of the election's apparent success has been attributed to the added administrative features tested in the pilot program. In particular, the involvement of citizen "Voters' Clubs" (VC) was an innovation of Chairman Rouf of the EC. His vision called for the recruitment of 10 men and 5 women from the village to serve on a special team assigned to each of Depunia's 27 polling sites. These citizens "clubs" were ultimately responsible for actual creation of the voter lists, organization of the implementation and distribution of voter ID cards, conduct of voter education, monitoring of campaign spending by candidates, conduct of polling day activity, and maintenance of law and order at their individual polling sites. Altogether, 495 citizen members were recruited to serve.

The involvement of private citizens tended to neutralize distrust of lists which would normally have been produced by government cadre officers. Through the VC members' personal involvement and responsibility for the door-to-door canvass, and their specific contact with

¹⁵"83pc ID Cards for Tongi Poura Polls Completed," Daily Star, 15 January 1995.

¹⁶MSS-Study and Research Group, Tarikul Ghani, A Report on Dapunia Model Election Held on April 30, 1994, p7.

individual voters rather than "family registration" through a single family member, there was nurtured a common belief that the lists were more accurate and, and therefore, less vulnerable to manipulation. (In the Tongi project a similar structure of citizen volunteers are being utilized, called "steering committees.")

Another major feature of the pilot programs was the distribution of uniquely numbered, photo ID cards for each voter on the list. Introduction of the ID cards was a significant aspect of the test program. In its assessment of the pilot program, the MSS-Study and Research Group wrote, "The ID cards gave the voters a feeling of pride symbolizing for the first time the ownership of their own vote and coupled with the motivation/voter education conducted by the VC enthused them to ensure a fair and free election."¹⁷ Key to the issue was a safeguard that the picture ID card would prevent "ghost voting", buying, selling and bartering of votes, and multiple voting which has characterized most elections in Bangladesh.

According to MSS-SRG's report as individual voters came to vote, they relinquished their ID card before they received their ballots. The observers noted that in spite of the two year period of preparation, there were still some voters whose names appeared on the voter list but who did not get their ID cards. To accommodate them, a procedure was put in place whereby they could receive a special slip of paper from the Presiding Officer, which would be acceptable in lieu of the official card. Overall, the introduction of the ID card and voter clubs are perceived to be valuable enhancements contributing to the smooth, efficient, and free conduct of the Depunia elections.

G. Lessons Learned

Through the conduct of the Depunia Pilot Project, a number of key lessons were learned which resulted in refinements for the Tongi project. For the actual preparation of the ID cards, a consortium of several private enterprises was established bringing together specialists in software design and applications, computer hardware, and data management systems. During the first project, data collection on individual voters was done through a door-to-door solicitation prior to the beginning of the ID card phase of the program.

For the purposes of data collection, a 3-part form had been devised on which a number of questions were asked that would not only help to identify the voter, but would also allow the EC to extract statistical and demographic data on the voting population. One copy of the form would remain with the voter, a second copy would go to photographer/ID card preparer, and the third

¹⁷Tarikul Ghani, "A Report on Dapunia Model Election Held on April 30, 1994, MSG-Study and Research Group.

copy would go to the EC. Refinements of the card to make it more efficient to use have been considered. Technical experts have expressed concern that the number of questions is too long to accommodate streamlined and efficient data entry. In addition, inaccessibility to self-carbon paper, and reluctance to use carbon paper, means that each copy of the card will have to be written out separately, requiring additional time for the official working with each voter.

For the pilot programs centralized sites were established at which voters were to appear to have their photo's taken. One problem that complicated the program was that often the data of an individual's application had not been entered into the data base by the time the voter appeared to have his voter taken. That meant that, too often, the ID card specialists were required to re-take the information before they could facilitate preparation of the person's ID card. This was critically important so that each person's card could be assigned the unique identification number.

A second refinement planned related to the immediate issuance of a temporary ID card to the voter on the spot. The intent was that this temporary ID card would also assist in ensuring that people did not get entered into the system more than once. In addition, it also contributed to a simpler system of distribution. The amended plan would allow officials to distribute the permanent cards to the polling sites for issuance on election day. The voter would present his or her temporary card which would be retained by the poll workers, who would then issue the permanent card to the voter.

Lessons were also learned about the importance of advance public awareness campaigns. At times, voters simply didn't know about the scheduled dates and hours at which they could appear at the photo/ID card center. A campaign similar to the one planned by the Bureau of Statistics for the 1991 Census could serve as basis for public outreach when the republic-wide ID card program gets underway.

H. Replicability and Potential Delays

Obviously, with the difficulties that have been encountered in accomplishing the voter list preparation and issuance of ID cards for these very small elections, there is a legitimate concern as to whether such a program could be implemented for the Republic at large. Additional questions arise as to how long it would take to accomplish such a massive task. The Depunia project required two years for planning and implementation. According to official projections, "The entire process of issuing ID cards to the voters across the country will take at least one year if everything remains normal, cooperation of all concerned including the political parties is

received, and no new crisis hampers the task."¹⁸ Many observers share a common view that, although the objectives are well intentioned, official projections of the time that will be required and the overall cost of the program have been significantly underestimated. Although the new amendments to the Law specifically address ID cards, there are already indications that a special Order will set aside the provisions for the next elections, even as work on the project continues.

Other considerations will undoubtedly contribute to delay in implementation. First, at the time of the IFES visit to Bangladesh there were reports that while funds had been allocated for the project, they have not been released to the EC to actually begin. According to one report, the EC had not yet asked for disbursement of the sanctioned funds.

There were also questions as to the overall strategy being considered for the nationwide program. There was a general implication that the EC may be approaching the task in the less than efficient manner. They appeared to be committed to a strategy whereby the data on individual voters would be accumulated and consolidated at central levels with lists then being broken into smaller increments for districts and polling sites. If this proves to be an accurate assessment it would seem that a more efficient method would be to approach the task from the exact opposite direction. Given the mammoth dimensions of the task and in order to apply a reasonable time line, it might be more efficient to spend the time in pre-planning to define the constituent boundaries and the precinct boundaries first based on the census data recently published. With these geographic segments formalized, they could recruit, assign and train polling officials or "voter clubs" who would be responsible to accumulate the data on individual voters and prepare the voter lists for their specific polling site. This could be accomplished through a door-to-door canvass of the residences within the boundaries of the area served by their polling site. Using local people to cover areas serving 1000-2000 voters, the data collection could be completed in a relatively short period of time. From these lowest level, manageable increments, the data then could be consolidated up through the constituency levels and ultimately to the nationwide roll.

At one point, the Secretary to the EC expressed a degree of reluctance to use the precinct level data gathering concept because of cultural sensitivities related to the fact that India utilizes that strategy. In fact, the Bureau of Statistics who had accomplished the last census used the same concept. They had even prepared maps of the lowest level census units which identified major buildings and residence complexes to be used by the local level census-takers for their areas. Obviously, census data is statistical and does not relate to specific individuals by name as would be required for voting purposes. However, although modifications would have to be made, the

¹⁸Nazmul Asraf, "ID Cards Unlikely if Early Elections Held," Daily Star, Dhaka, 14 January 1995.

agency had developed a strategy which could contribute a beneficial foundation for the EC's own planning.

Just as actual initiation of the republic-wide voter registration plan has been forestalled, critics express concern that feet also seem to be dragging on setting any wheels in motion to implement the ID card plan. For example, no steps have been taken to put out a formal request for proposal or to float "international tender" which many interested parties believed would be required. Best estimates suggest that once put out to bid, the award process alone would take 2 - 3 months. There is a general agreement among many officials and diplomatic community representatives that no matter who would win the award, there will most likely be protests from competitive vendors extending a final decision for an indefinite period of time. It is not clear whether such a vendor solicitation will actually be implemented at all, or whether certain agreements may have already exist with regard to any specific contractor's selection.

Finally, the entire process being proposed would hinge on creation of a permanent nationwide voter registration roll that accommodates an on-going update process. During preliminary discussions, officials implied that they were looking toward initial development and maintenance of the data base under some kind of contract arrangement with a non-government, commercial enterprise, and optimally with the vendor eventually selected for the ID card program. After the door-to-door collection of data is completed, the information would be entered and preserved in computerized database at a centralized computer network. Throughout their preplanning and testing process the EC has solicited input from a variety of commercial sources, and in particular has worked closely with the consortium of vendors who worked on the pilot programs.

A number of officials have recently been sent to the Asia Institute of Technology in Bangkok to be trained in appropriate computer applications. Eventually, the EC hoped to phase out the necessity of independent data management sources, and create a cadre of specialists within Bangladesh to maintain the data files. One strategy being considered for providing adequate access for voters for this service is the establishment of permanent election offices at the *thana* (local jurisdiction) level.

By mid-March 1995 there were press reports that the EC had begun its work on the introduction of the Electorate Data Base Management System. In addition, appointment of election officers at the *thana* level have apparently been initiated in some areas. These officers would presumably oversee the temporary data collectors who would gather the information on which the voter lists would be based.

In view of these plans, a question has been raised as to whether implementation of an official ID program exclusively for voting purposes is the most rational and cost-effective approach. If the

ID card system is ultimately implemented, it would be the first comprehensive civilian record system in the history of the country. There are no other adequate civilian records: birth records, marriage records and other similar civilian records are only just now beginning to be established on a regular basis. Some have suggested that the ID card program could ultimately be utilized as a basis for a number of public programs, subsidies and entitlements and as a basis for general policy decisions throughout government planning. However, a debate goes on as to whether or not the voter ID card will ultimately be expanded for other uses. There appears to be an inherent social sensitivity to the introduction of a centralized uniform citizen identification program, much the same as would be expected in the U.S. or Great Britain. Concern for privacy and fear of government intrusion on daily life may be a factor in future decisions on this matter.

IX. THE VOTING PROCESS AND ELECTION DAY ACTIVITY

Fundamentally, the procedures which are in place for the conduct election day activities are similar to those found in many established democracies. If carried out properly without impediment from outside intimidation and disruption, the practical administrative procedures are sufficiently defined in law and provide an adequate basis on which a fair, accurate and accountable poll can be taken.

When trying to serve 62 million voters, the sheer numbers pose challenges that place an extraordinary burden on administrators. During the 1991 elections there were approximately 24,000 polling stations. However that does not tell the full story. These stations actually encompassed about 120,000 sub-units called "polling booths." In practice, these "polling booths" carried out virtually the same procedures as the polling stations themselves. In fact, a single polling station might have had 5 or more "polling booths" under its supervision with a different Assistant Presiding Officer in charge of each. Some of the larger polling stations in the most densely populated areas had 10 or more sub-units. Each "polling booth" would serve approximately 500 voters.

Most frequently, male and female voters voted at different "polling booths." With regard to the development of the electoral rolls, Article 121 of the Constitution stipulates that the electoral rolls are not to be prepared so as to classify electors according to religion, race, caste or sex. In actual practice, it appears that the voter lists are indeed finalized with separate lists for men and women.

The law allows each candidate to have his or her polling "agents" present at the polls to monitor election day activity at the polls. A candidate may have two polling agents if there is only one "polling booth," however, if there is more than one "polling booth" the candidate can have as many as five agents. In addition to these authorized observers, others may be present upon the

approval of the Returning Officer. While the Law does not specifically identify officially authorized observer groups, through coordination with the EC and the Returning Officers, several domestic observer groups have historically had liberal access to the polls on election day. Such groups have included MSS-Study and Research Group, Coordinating Council for Human Rights in Bangladesh (CCHRB), National Democratic Institute (NDI), Bangladesh Mukto Nirbachan Andolon (BMNA), International Center for Ethnic Studies, and the Commonwealth Observer Group sponsored by the Commonwealth Secretariat.

The enabling legislation that allows Returning Officers to approve the presence of individuals and groups to observe at the polls, is unfortunately omitted in sections pertaining to who may be present during the counting of votes. These provisions are specifically restrictive identifying only the candidates, their agents and polling agents as eligible to be present at the count.

A. Processing Voters at the Polls

Poll hours are not specified in the Law, but are announced by the Electoral Commission. Returning Officers in turn publish the official polling hours when they implement their advance public notice responsibilities throughout the pre-election day period. In the 1990 local elections, polling took place over a number of days. During the 1991 parliamentary elections, the polls were open from 8:00 a.m. to 5:00 p.m. on election day.

At least one-half hour before the polls open for voting, the Presiding Officer must ensure that the ballot box is empty displaying it to the candidates or agents who are there to observe the election. In their presence, the ballot box is sealed and placed in a location where it will remain in plain view throughout the voting. A polling place may be provided more than one ballot box to be available in case a new box is needed because of some unusual circumstance. However, only one box may be used at one time.

At the time the voter presents himself to vote, the official satisfies himself as to the voter's identity and finds the voter's name on the voter rolls. Next to the voter's name on the roll is the special serial number which has been assigned to the voter. The official calls out the voter's name and serial number and places a mark next to the voter's name on the roll.

The next step calls for the official to inspect the hands of the voter to see if there is any evidence of indelible ink on the voter's fingers. An indication of ink would suggest that the voter has already voted. If the voter shows no sign of ink, the official applies indelible ink on the voter's finger. Ideally, the ink is to be applied so that it sinks into the cuticle of the voter making it more difficult to remove.

Only after the finger has been inked is a ballot issued. At the time the ballot is issued the official is supposed to stamp the back side of the ballot with the official stamp assigned to the polling station. The voter's serial number from the voter roll is supposed to be written on the counterfoil. In addition, the voter's thumb print is also made on the counterfoil.

Only after these procedures are completed is the voter allowed to enter the screened area to mark his ballot in secret. The voter marks his ballot with an ink stamp provided by the polling official. The mark must be placed within the printed rectangle containing the name and symbol of his candidate choice.

After the voter has marked the ballot, he leaves the secrecy compartment and deposits his ballot into the ballot box which is kept in the plain view of the polling officials and observers.

The law provides guidance as to how a number of special circumstances should be handled.

1. Tendered Ballots: In view of the enormous number of problems that have been experienced with the accuracy of the voter lists, and abuses involving "phantom" voters and multiple voting, the "tendered ballot" has special significance in providing documentation of such events. In the event a voter arrives at the polls to find that someone has already used his identification on the voter list, the voter is still issued a ballot under most of the standard procedures. However, the voter's name is added to a supplemental list called the "Tendered Votes List." Upon completing marking his ballot, the voter does not deposit the ballot into the ballot box but returns it to the official. The "tendered ballots" are retained in a specially marked packet, segregated from the regular voted ballots.

While this system provides a solid record of documentation of the event, it does little assist the voter whose name had already been marked off the list. The system seems to presume and treat this second voter identifying himself by a name that has already been marked off the list as ineligible. The tendered ballots are never counted in the vote totals. In addition, the secrecy of the vote of a voter voting a tendered ballot is jeopardized. When the voter returns the voted ballot to the official, his name and number from the rolls are on the ballot. The ballot is then placed in a specially marked packet identifying the candidate for whom the voter voted. Except as a documentation trail or evidence, the benefit to the voter casting the tendered ballot is no greater than if he had been turned away. In fact, it is commonly reported that a many voters in these circumstances are sent away without voting at all.

2. Challenged Ballots: Special procedures are implemented when a candidate or his polling agent challenges the eligibility of a voter to vote, on the grounds that they have reason to believe that the voter's identity is not as that being presented, or that the voter has already voted. Under these circumstances and upon deposit of a fee by the candidate or his agent substantiating his intent to prove the charge in court, the voter is advised of the potential consequences, and, if he still wants to vote, is issued the ballot. The voter's name and address is added to the "Challenged Vote List," as is the voter's thumbprint, and signature if he is able to write. Upon voting the ballot, the voter returns his ballot to the official where it is retained in a separate packet marked "Challenged Ballots." Unlike "tendered ballots", "challenged ballots" are eventually counted.
3. Spoiled Ballots: If a voter inadvertently spoils his ballot, the law provides the opportunity for the voter to return the ruined ballot to the official who will replace it so that the voter can mark a clean ballot according to his choice. The official cancels the spoiled ballot paper by making a note over his signature on its original counterfoil. The official also signs his name to the ballot itself and places it in a special packet marked "Spoiled Ballots."
4. Incapacitated and Disabled Voters: A voters who is blind or otherwise unable to vote without assistance are allowed to have a companion help him cast his ballot.
5. Postal Ballots: Voters whose names appear on the voter list, and officials who may otherwise be at a polling station other than his own on election day, may vote by postal ballot. Applying to the Returning Officer for the Constituency, the voter must supply his name and address, and his serial number from the voter list. Upon receipt of the application the RO posts a ballot paper and a specially identified return envelope to the voter. The envelop provides special space in which the postal official will mark the certificate and date of posting by the voter returning the ballot. The ballots cast by mail are retained by the Returning Officer who will ultimately count them and include them in the summary of votes cast in the constituency.

B. Counting the Ballots:

Ballots are counted at the polling site immediately upon the closing of the polls. The laws are quite definitive as to the order and procedures which are to be followed. In addition, the process is supported by an adequate complement of forms and protocols on which to document the reported results. A specific order by which the ballots are to be counted is given in the law itself.

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Throughout the step by step process, the results of each activity are recorded on the appropriate documents.

Upon opening the ballot box the Presiding Officer counts the entire number of ballot papers which are found in the box. The "challenged ballots" are then removed from their packet and integrated in the group of regular ballots. Only then are the votes counted. The law specifies the grounds on which a ballot is to be rejected if:

1. it contains no official stamp indicating that it was properly issued;
2. the ballot has been marked by any other method than the ink stamp provided to the voter for marking his choice;
3. the ballot has any other paper or object attached to it;
4. there is no stamp mark indicating the voter's choice; or
5. the mark is affixed in such a way as to make the choice of the voter unclear.

The last provision is qualified to the extent that if more than one-half the area made by the stamp mark appears within the box for a given candidate, it is considered a vote in favor of the candidate.

If the PO considers it necessary, or at the request of a contesting candidate or polling agent on reasonable grounds, the ballots can be recounted.

The ballots cast in favor of each candidate are packed into separate packets. For each packet there is a certificate which identifies the number ballots inside the packet and the name and symbol of the candidate to whom the packet relates. The ballots that have been rejected are maintained in a separate appropriately identified packet. Bundled together, the candidate packets and the rejected ballot packet are then sealed together into a principle packet by Presiding Officer. The accountability for ballot usage, and the voting results are recorded on appropriate forms. In addition to the number of votes cast for each candidate, the protocols identify the:

1. total number of ballot papers assigned to the polling station;
2. number of tendered ballot papers;
3. number of un-issued ballots;

4. number of spoiled ballots;
5. number of challenged ballots; and
6. number total ballots removed from the ballot box.

The PO is also required to give a certified copy of the statement of the count to any candidate or polling agent who makes such a request.

The law also prescribes the packaging of all voting materials including marked copies of the electoral rolls, counter foils of used ballots, supplemental lists identifying challenged voters and those voting tendered ballots, and other materials used throughout the day. Each packet or protocol may include the signatures of polling agents or candidates that may wish to affix their signatures. Based on directives given by the Election Commission, the materials are delivered to the Returning Officer.

The Returning Officer completes a number of tasks in conjunction with the summarization of constituency results. Each candidate and their agents are notified as to the place time and date on which the consolidation of results will be accomplished. They may be present during the process. As part of the process, the RO reviews all rejected ballots and may overturn the decisions of the polling officials if he deems it appropriate counting those he determines should be included in the count. The RO also counts the ballots cast by mail following the same counting rules which apply to regular counting at the polling sites. The results of the count completed by the RO are included in the overall consolidation. However, the RO is not allowed to conduct a full recount of polling place results unless he is directed by the Election Commission to do so, or if he receives a challenge in writing from a candidate or agent citing reasonable grounds for the recount. Tie votes are determined by lot.

The Returning Officer is required to publish the results in the Official Gazette identifying the name of the "returned" candidate. The packets of materials and all documents of the Returning Officer are also available for the candidates or their agents to affix their signatures just as they were allowed to do at the polling site. Candidates and their agents are also eligible to receive certified copies of the related documents. Election materials are retained for one year before they are available to be destroyed.

C. Traditional Impediments to Free and Fair Elections

In spite of the adequate legal and procedural foundation, Bangladesh elections have been consistently characterized by violence, intimidation, and impropriety. Both general and local

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elections have been marred by blatant acts of violence, vote rigging, undue influence by government, and failures of election officials to understand and implement set procedures accurately and consistently. A few specific examples are representative of the kinds of impediments that have historically jeopardized the integrity of the election process.

During the 1990 local elections, observers reported a number of serious disturbances, unlawful activities as well as deficiencies and errors promulgated by the election officials. Many of the incidents were critical enough to throw into question the entire election. Polling was conducted over a 12 day period.

Violations were noted in Madhabpur. Brothers of JP candidate attempted to raid two centers to shut them down and to stuff the ballot boxes. At Nayahati Primary School, a crowd had driven the raiders off after only a small number of ballots had been stuffed into the ballot box. At Taliapara, the polling place officers were actually driven from the site, and the polling place was shut down altogether. In a number of locations, election officials were beaten, forced from polling sites, or fled for their safety.

At Noapara High School polling station significant irregularities were noted. For example, 22 consecutive ballot stubs had no signatures or thumbprint as is required under the set procedures. By 1:00 p.m. 97% of the voters on the list were shown to have voted. However, observers noted that as voters arrived, they were "checked off" the list without having to identify themselves. At Jogadishpur High School, the women's "polling booth" was closed down at 2:00 p.m. because supposedly, every voter of the 1369 voters on the list had voted. At Surma Tea Garden Primary School polling site, an observer caught a man with 8 ballots pre-marked for the JP candidate. Later another observer reported catching the same man with over 50 ballots in his possession. Early in the cycle, the Bangladesh Observer reported that 40 people including one of the candidates had been arrested for attempting to snatch two ballot boxes.

Violence during these elections claimed some lives and resulted in a significant number of injuries. In Kalkini, a supporter of an independent candidate was killed, allegedly with the help of an "armed element" of one of the parties. In Shikarmongol Primary School Center a 15 year old boy was seriously injured from a bomb explosion. Two other people suffered minor injuries. At Dhamiair Bhawla polling center, there were at least three blasts. No one was hurt but polling was suspended until order was restored. On the fifth day of voting in Chittagong a candidate was reported missing. The city was also the location where a candidate, Presiding Officer and 50 citizens became victims of bomb blasts, clashes and arson.

The following day, Chittagong saw two college students killed in separate incidences and two Presiding Officers beaten. In Chatkhil Upazila in Nakhali district two persons died in a bomb

explosion while making bombs in the house of a JP candidate. Dhaka also saw the results of violence from clashes, knifings, bomb blasts and arson. Similar reports of deaths and injuries continued throughout the remainder of the polling days, as were reports of raids on polling stations. When the elections were over, it was estimated that 40 people had been killed and 2,000 had been injured in approximately 160 incidences of violence over the 12 day period of the elections.

During these elections events in Makaripur and Kalkini also illustrate concerns which have been raised about real or perceived undue influence of the government over local election officials. At issue is the degree to which local election officials feel dependent or accountable to government ministers. Several commentators indicated that local authorities and the election officials appointed from among them feel pressure to accommodate the will of Ministers because of the dependence of the local community for subsidies, appropriations and allotments. In Makaripur and Kalkini a number of local officials acknowledged that at election time they had been visited by the Education Minister and that meetings were held in which the Minister "reminded" them about the welfare and development works that had been granted by the present government. A number of teachers told CCHRB observers that in their view the purpose of the Minister's timely visit was to influence administrators and teachers to favor his party's candidates.¹⁹

During a by-election held in Constituency 30, Bogra-4, in July of 1994, observers reported that the elections were generally fair, however, a number of irregularities were noted. Specifically, observers reported that officials frequently did not seem to know the procedures. In Kahalu High School center, for example, the Presiding Officer was so inadequately trained or prepared to carry out his duties, that eventually, the Head Master of the school had to assist him. Observers at several sites noted that there seemed to be some organized use of vehicles to transport voters to the polls in groups. In at least one case it was determined that the transport was being provided by a representative of a candidate who was seen female voters to the polls. This kind of activity is in direct violation of the law. At Birkedar Government Primary School and Deraker Junior High School polling centers and others, officials were not applying ink to the fingers of voters, creating an opportunity for repeat voting. In other instances, observers noted that officials were not stamping the back of the ballots as they were issued to the voters. It was also noted that one candidate had used multi-color posters in violation of the law, but no one prevented their use.²⁰

¹⁹Upazila Election 1990 Observation Report, Coordinating Council for Human Rights in Bangladesh.

²⁰Report on By-Election Held In National Constituency No.-39, Bogra-4, Study & Research Group of Manabik Shahajya Sangstha, 7 July 1994.

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Even the 1991 elections, commonly touted as one of the most free and fair elections in the history of the nation were not without violence and irregularities. At nearly 16% of the polling sites surveyed, voters complained about monetary inducements that were being used to solicit votes. Defects were reported on virtually all voter lists. Violence, resulting mostly between rival political parties, and clashes involving students took the lives of ten people in Chittagong. Thirty-seven people were killed in clashes elsewhere in the country. Reportedly in Phawal Union in Nagarkanda, one woman was killed by her husband for not voting for her husband's choice.²¹

During the city elections in 1994, similar surveys showed similar findings. In interviews with 900 families, 310 reported that one or more of its eligible members did not appear on the voter lists, although 81.29% of the omitted voters had appeared on the list for the 1991 parliamentary elections. Violence again took its toll with two people killed and 200 injured in the capital. Polling in 28 centers had to be closed for violations.²²

Even the most recent by-elections held on 25 January 1995 were marred with serious incidents of violence and disorder occurring in two of the four constituencies involved in the elections. These elections were boycotted by the opposition parties, leaving the contests open to competition between BNP and independent candidates. Specific examples related to the election in Bansarampur constituency. In this constituency there was one BNP candidate and two independent candidates. There were 69 polling sites. According to a petition brought before the Chief Electoral Commissioner, during the morning of the poll, armed *mastans* allegedly mobilized by the party, forcibly captured 22 of the 69 polling sites. The petition claims that the petitioner's agents were ousted from the polling places at gun point, that ballots were forcibly taken from the officials and stamped in favor of the BNP candidate, and that voters fled the site before they cast their votes. The petition also claims that ultimately the results shown for those sites conclude that 90-95% of the votes cast at those centers went to the BNP candidate. These results are inconsistent with the votes cast in 43 of the 47 remaining sites in the constituency. (Polling at four sites had to be adjourned early because of unlawful activities, as reported by the petitioner.) The results in these sites showed that the petitioner had won in 43 of the sites securing more than 36,000 votes over his nearest rival.

In Huglakandi Primary School the petition reports that a supporter of the complainant was killed by "the first cousin of the opposite party." Others were injured, and the Presiding Officer had

²¹Election Observation Report - 1991, 5th Parliamentary Elections, Coordinating Council for Human Rights Bangladesh, April 1991.

²²City Corporation Election 1994, National Steering Committee for Observing City Corporation Elections, 1994.

to adjourn the polling altogether.²³ The petition calls for voiding the elections in the 22 polling sites cited, and the calling for new elections in these areas. At the time of IFES's departure from Bangladesh the Chairman had not yet considered or ruled on the petition.

D. Election Disputes

It should be noted that one of the major issues which remains subject to controversy is that the adjudication system simply does not work in a timely or consistent manner. The law provides sufficient guidance but in implementation the system simply fails to resolve disputes or complaints consistently or efficiently. In fact, the system has at times worked so slowly that parliaments have been dissolved before rulings related to the preceding elections have been forthcoming. Complaints are also alleged that many petitions are never addressed at all. Officials respond saying that many allegations and complaints must be disregarded because no evidence or witness documentation is provided to support the allegations.

The failing is not fundamentally due to deficiencies in the law itself, although there is room for some improvements. Within the structure of law are rules for the filing of complaints in the form of a petition which may only be submitted by the candidate. A fee must accompany the petition which is submitted to the Election Commission. The petitioner must join all contesting candidates as well as any other candidate against whom any allegation of a corrupt or illegal practice is made as respondents to the case. In addition to providing a precise statement of facts on which the petitioner relies, the petition must contain the particulars of the practice or activity which is believed to be corrupt or illegal as well as the name of the parties who are alleged to have committed the violation. The petition is also required to contain a statement of relief being sought. Among such remedies are a demand that the election of winning candidate be declared void, and/or that the petitioner or some other candidate declared the winner, or that the election be declared void.

If the commission determines if the petition has been presented within the required time frame, and if it was accompanied by the required fee. If the base requirements have not been met the petition is returned to the petitioner. On the other hand a valid petition must be turned over to an Election Tribunal whose members must include someone who is or has been a District and Sessions Judge, or an Additional District and Sessions Judge. The procedure for the tribunal trial are the same as those for trials of suits under the Code of Civil Procedure, 1908. In addition, the Order of Evidence Act, 1872 applies to trials of election petitions. The Tribunal has all the

²³Petition of Dr. Roushan Alam, Contesting Candidate for By-Election of Parliament Member of Brammanbaria-6 Constituency, Submitted to the Honorable Chief Election Commissioner, February, 1995.

powers of a civil court in trying the suit.

For the purposes of trials related to elections, witnesses are not excused from answering any question on the basis that his answer might incriminate him. He is required to answer all questions posed to him. However, a witness who answers truthfully is entitled to receive a certificate of indemnity to protect him from future ramifications resulting from his testimony. To the extent possible, these cases are to be decided within six months. The Tribunal may ultimately order that the petition be dismissed; declare the election of the returned candidate is voided, declare the election of the returned candidate void, and declare the petitioner or another candidate the winner, or declare the entire election void. In order to determine the election of a returned candidate void, the Tribunal must find that the nomination of the candidate was invalid, that on the day of nomination the candidate was not qualified, that the returned candidate has been "Procured or induced by any corrupt or illegal practice," or a corrupt or illegal practice has been committed by the candidate, his agent or by any other person with the collusion of the candidate or his agent. In order to declare the election void, the Tribunal must find that the result of the election was materially affected by reason of failure of any person to comply with the provision of the law or the rules, or that there was a "prevalence of extensive corrupt or illegal practice at the election."

The law is equally specific about defining corrupt and illegal practices, bribery and "personification" as it relates to voting or applying for a ballot of another person, living or dead, and the crime of undue influence. Strict penalties apply in all cases. These provisions combined with the new establishment of enquiry committees for pre-election violations should be sufficient to lay a solid foundation for adjudication of grievances. In spite of such strong underpinnings, however, the process fails in implementation. The failure of the system was succinctly described by the *International Center For Ethnic Studies* in its 1990 report "The Electoral System in Bangladesh" as follows.

"Perhaps the most striking feature of the electoral system in Bangladesh is not the absence of appropriate laws dealing with election violations, but the widespread disregard--indeed contempt-- for those laws. An examination of petitions filed in objection to irregularities in Parliamentary, Presidential and Union Parishad elections reveals that legal regulations of election procedures are systematically flaunted in at least three ways. First, the actions of some contesting candidates set out in the petitions demonstrates widespread rigging of ballot boxes, taking over of polling stations, kidnaping of election officials and other illegal practices. Secondly, some of the contestants do not meet the criteria articulated in Bangladeshi election law allowing them to contest the elections. Finally, the law is

flaunted in the sense that those petitions that are filed are not heard or remedied. Thus, filing an election petition becomes no more than a symbolic gesture."

Clearly, major steps must be taken to overcome the failings of this critically important part of the electoral system if the public confidence in the accountability, integrity and fairness of the system.

E. Significant Improvements in the 1991 Elections

The 1991 Parliamentary Elections are widely regarded as the fairest elections in recent history. Several significant features set it apart from prior elections. Obviously, much of its success is attributed to the fact that the elections were conducted under a neutral, caretaker government. This factor has contributed significantly to the demands of the opposition for an amendment to the Constitution which would require that the incumbent government step down prior to each general elections. In view of recent history it is easy to see how this demand became so crucial in the political debate. Ideally, however, in a strong democracy, such strong measures shouldn't be required in order to have an election that is not only free and fair, but perceived to be free and fair. In Bangladesh, a framework is in place for an independent, and non-partisan Election Commission. The Commission is also given the necessary degree of autonomy to ensure that elections are carried out in compliance with the law, and to see that violators are held accountable, and that appropriate punishment is imposed. But, so far in Bangladesh's evolution, confidence in the system has yet to find its rightful place.

Whether or not the opposition is ultimately successful in forcing elections under a caretaker government, a number of elements introduced in the 1991 elections could provide a sound foundation on which to build for the upcoming elections as well. First, the Acting President publicly stressed his commitment that the elections would be free and fair. He also strengthened the powers of the Election Commission. These new powers firmly entrenched in law specifically give the EC the power to discipline all subordinate commissions and polling staff, regardless of the bureaucratic departments they come from. If the Election Commission commits itself to executing these powers, it could serve to neutralize some of the pressures of undue influence by government authorities. Time and time again throughout the pre-election period, the Acting President and the Commission reiterated the fact that the Commission would not hesitate to invoke any of these powers in the case of delinquent behavior.

There was also an expressed commitment that disruption of polling places would not be tolerated, and that re-polling would be called repeatedly if necessary. The message was to parties, candidates and their supporters: there would be nothing to gain from engaging in pirating polling places, stealing ballot boxes or suborning voters.

Another contributing factor was that security was well organized and plentiful. Most importantly, it was made clear from the beginning that any armed police or military forces mobilized to support civil authority would be under the direction of local magistrates. Civilian control of the process was set at the forefront of a strategy for nurturing civilian confidence.

In addition, a number of key officials both within the commissions and outside the commission structure were transferred out of their normal areas to promote the image of neutrality. The Commission also maintained stricter controls over the printing of ballots to ensure that excess ballot papers were held to an absolute minimum. To facilitate this control, ballot papers were prepared in multiples of 25, 50 and 100. Voter education was also vigorous, emphasizing not only the technical aspects of polling procedures, but also warning the public about the likely consequences of any malpractice such as attempting to vote more than once or by impersonating another person.

The parties, too, were absorbed into the mission to ensure that the elections were held freely and fairly. The Election Commission played a central and key role in initiating a voluntary "Code of Conduct" which was ultimately endorsed by all the major parties.

These steps and the expressed commitment of the government, the Election Commission, and the political parties contributed greatly to the overall confidence in the security, integrity and success of the 1991 elections. Whether or not an interim government is set in place, the standards set in 1991 offer a valid plan of action with which to prepare and facilitate the next parliamentary elections.

X. GENERAL CONCLUSIONS

In many ways the stage is fundamentally set in a way that should be able to sustain credible democratic elections.

1. The legal foundation, notwithstanding a few notable shortcomings, adequately defines acceptable guidelines which would usually be considered conducive to the conduct of accountable, free and fair elections.
2. The law provides a reasonable basis for an independent administrative structure for the conduct and supervision of elections under an Election Commission. Recent amendments have strengthened the Election Commission by providing it sufficient authority to directly supervise, monitor and control the activities of lower commissions to ensure uniform compliance with the law.

3. Political diversity appears to flourish and the growth and activism of strong, seemingly well organized political parties flows with little hindrance or intrusion by the state. In addition, independent candidates are afforded liberal access to the ballot.
4. The population, in spite of the high rate of illiteracy and poverty, appears to be politically proactive. Apathy on the part of the electorate does not characterize Bangladesh's recent political history.
5. While television and radio media remain controlled by the state, the independence of the press is marked by a reasonable balance of neutral reporting and liberal freedom in the expression of contradicting views (Appendix E).
6. A vibrant and extensive NGO community operates quite freely with several domestic and foreign organizations monitoring democratization and human rights issues closely.

In spite of such fundamental factors normally associated with healthy democracy, Bangladesh's recent political development has been characterized by circumstances which threaten its progress toward stability. It is not insignificant that since independence in 1971, no elected president or parliamentary body has been able to sustain its function to the end of its normal term. Rather than moving in the direction of institutionalized democracy, a blueprint for disruption seems to be emerging. In particular, recent parliamentary boycotts and mass resignations coupled with continuous *hartals* (coordinated urban labor strikes) threaten to create an election system that is driven by crisis management rather than sustained discipline. Most participants agree that the failings and shortcomings are not necessarily a by-product of the system itself, but of its implementation.

In spite of expressions of concern over administrative inefficiencies and imprecise procedures, there also appears to be an equal measure of willingness to capitalize on these same deficiencies in the promotion of partisan interests. Numerous and continuing allegations suggest a degree of complicity on the part of local election officials succumbing to the influence of the volatile political climate or to either real or perceived internal government and administrative pressures. Voters themselves are also vulnerable to enticements which encourage their participation in the abuses. Dire economic circumstances leave them susceptible to financial and material enticements to vote more than once in the place of "phantom voters" on the faulty voter lists, or to barter their votes. The continuing pervasiveness of real and threatened intimidation and violence cannot be underestimated as a contributing to the abuses engineered for the benefit of partisan interests.

The debate over the necessity of creating another caretaker government to ensure that the elections are free and fair is far from being resolved. If the violence and irregularities which marred at least two of the recent by-elections boycotted by the opposition is any indicator, much work will have to be accomplished if top leaders are to repair the damage which continues to erode public confidence in the process.

In virtually all quarters there appears to be a general consensus that the Election Commission is motivated to take steps to improve the system, especially regard to creating a system of voter registration and issuance of picture ID cards to the voters. Where there are doubts, they relate to the ability of the commission to follow through. The major criticisms relate to what has been characterized as a procrastination on the part of the Commission to aggressively initiate the processes required. There is also a general concern that the Chief Commissioner, while an idealistic man, may simply not have the fortitude to aggressively take the reins and exercise the full force of authority vested in him by the amended election law.

Finally, there are very few signs that would suggest that the governing party and the opposition will be able to come to a satisfactory settlement of their differences for the benefit of promoting an unblemished election cycle.

What the successes of the 1991 elections proved is that political parties, lower level election officials and the public at large will respond, if there is a clear message from the top that reflects a firm commitment to conducting free and fair elections. Such was the case in 1991 with each of the major players demonstrating a willingness to commit to the task.

The caretaker government fulfilled expectations that it would maintain its neutrality and implement sufficient security measures to inhibit violence and disruption. The Election Commission demonstrated its willingness to aggressively enforce the legal mandate, and to take firm action against lower level officials who failed to comply. The political parties mutually signed a "Code of Conduct" which contributed to the perception that they would aspire to a higher standard in the conduct of their campaigns.

The degree to which a similar level of commitment and cooperation will manifest itself in the upcoming elections remains to be seen. The credibility and fundamental fairness of the upcoming elections will be measured by the willingness of the leadership of all sectors to contribute to its success in very real terms.

A. Recommendations Regarding Future Technical Assistance

Any program developed by IFES should include a component that is specifically designed to

contribute to nurturing a new mind-set stressing the independence of election officials, and promoting individual integrity and civic responsibility.

What follows are brief discussions of a few program options which might be considered as a basis for IFES participation in the process. They are presented as talking points and their facilitation would be totally dependent on appropriate approval and funding.

A few comments are warranted regarding projects which are not emphasized in this discussion although they may also be considered by IFES as possible options for future involvement.

1. Preparation of the voter lists has received a great deal of attention in recent months on the part of the Election Commission. In view of the severe time constraints which may impact that immediate process, and the current status of the administrative planning, there is concern that intrusion of another voice at this stage might prove more disruptive than helpful. With the extensive work that has already been accomplished in the regard, the completion of two pilot projects, and involvement of various commercial enterprises in the development of the program, it is likely that fundamental decisions have already been made which will prove adequate if properly carried out.
2. The issue of voter education is always a top priority to help develop a transparent and accountable process, and assist in the mobilizing the electorate. IFES is aware that several NGO's are already focusing their attention and resources on full-scale voter education programs. It would be most important to work in cooperation with programs already underway. IFES may pursue development of a comprehensive voter education program which would be geared to enhancing the Election Commissions programs through its Pilot Election Training Institute. In addition, any IFES project undertaken would ideally include a program specific voter education component.

B. Training for Election Officials

The most significant single area of consensus among all officials, parties, NGO's and political activists with whom IFES met, centered on the critical need for formalized training for election officials at all levels. Such a program would come at a most opportune time. The Election Commission has submitted its own proposal for creation of a Pilot Election Training Institute which would be an adjunct to the Commission's current structure. IFES has been advised that the request for funding has already passed the first level of administrative approval. However, a preliminary review of the Commission's proposal illustrates a symptomatic ambiguity as to how

the generalized objectives are to be realized in practical terms.

IFES could contribute significantly to the development of the Institute from the ground floor, providing technical assistance in identifying realistic priorities, formalizing an agenda, developing a comprehensive work plan and defining the calendar of activities for the Institute's first year of operation, with the upcoming elections serving as the primary catalyst.

As a natural offshoot of this program, or approached as a separate project, IFES could provide technical assistance to the Commission in the development of a comprehensive training program for the nearly one-half million returning officers and poll workers who will be responsible for carrying out the upcoming elections at the local level. By the Commission's own admission, formalized training has been deficient in the past. The Commission has acknowledged that training has been brief, and often ad hoc in implementation. User-friendly training materials have never been produced, although copies of the law have been provided. It is not even clear whether polling place officials have ever been trained on a formal schedule that ensures that every polling site's staff has received training. On the contrary, according to reports by various election observation teams it has been obvious that at many sites, presiding officers simply did not know how to conduct election day activities. An IFES training program could include the following major elements:

1. a motivational component designed to nurture an attitude of civil responsibility among election officials, with a recommendation that each official be required to take an oath of office, and subscribe to a "Code of Conduct;"
2. design and preparation of simple-to-follow training materials including a trainer's manual, poll worker's handbook, and quick reference guide to be on hand at each polling site;
3. development of a calendar and strategy for multi-tiered, pyramidal scheme utilizing a senior corps of mobilized trainers who would train returning officers and teams of local trainers who would conduct workshops for the poll workers in their respective constituencies;
4. encouragement of a formalized program whereby party agents, candidate's representatives and authorized observers could be present at scheduled training sessions; and
5. a public relations/voter education campaign that improves the transparency of the process by informing voters of the role that polling place officials are by law

required to play in safeguarding their right to vote in a free and fair election.

C. Procedures Related to the Adjudication of Grievances

Bangladesh has been plagued by a history of elections which have been tainted by serious irregularities involving violence, intimidation, vote rigging, ballot stuffing, "ghost voters," improper electioneering, campaign excesses, and general non-compliance with legal requirements. The law attempts to provide a basis for dealing with such circumstances. First, the statutes provide a great deal of authority to the Election Commission to take action when serious violations occur or to refer petitions to the courts. Other provisions call for the creation of tribunals to rule on pre-election violations.

In spite of the legal foundation provided in the Law on Representation, the system has been ineffective. At the extreme, petitions before the court have been so prolonged or delayed that in many instances parliament has been dissolved before a resolution of the case involving a prior election has been forthcoming. There has been general discontent expressed about the lack of responsiveness of the Election Commission in dealing with allegations of impropriety or when reports of actual offenses have been submitted. The Election Commission claims that often their hands are tied because allegations are made with no substantiating evidence or documentation to support the charges.

On one issue there appears to be universal agreement: election officials, agents and observers are simply ill-equipped to handle these situations as they arise. The credibility of the process would be greatly enhanced if definitive guidelines could be formalized regarding the process by which grievances are to be addressed in an orderly and timely manner. IFES could provide technical assistance in the development of these guidelines. This project could involve several components:

1. establishing and providing leadership for a special task force to analyze the strengths and weakness of the current adjudication system and to make recommendations as to statutory amendments which might be appropriate as well as procedural solutions which would make the process more responsive, including design of a rational timetable for resolving disputes;
2. definition of the types of violations or improprieties which can be resolved by administrative remedies at the local level and those which must be referred to a higher authority;
3. development of formalized criteria by which decisions can be made as to when elections should be invalidated;

4. development of procedures for documenting complaints and maintaining adequate records of each instance and the manner in which it was resolved;
5. creation of a brochure for agents and representatives describing their rights and responsibilities, the rules of conduct which will apply inside the polling station, and the manner in which they may bring their complaints or reports of irregularities to the attention of polling officials;
6. development of a training program for political parties and candidates in which they can learn how to document their complaints, gather and maintain evidence that supports their allegations or utilize witnesses to corroborate their stories.

D. Longer-Term Projects:

1. Legal Development: IFES could provide expert technical assistance in the enhancement of the election law itself. While the law has some excellent strengths in laying the foundation for accountable and reliable election management in some areas there are notable omissions and deficiencies which will deserve attention the election process continues to evolve. For example, the law makes virtually no reference to political parties, the procedures by which they nominate their candidates, register their party symbols, or account for their sources of funding and expenditures.

The law provides only the barest guidance in relation to the registration of voters. The deficiency of the law in defining eligibility criteria currently leaves 3 to 5 million voters totally disenfranchised. Specifically, while the law requires that to be allowed to vote, it must be determined that the voter is a resident of the constituency. However, no definition of residency for voting purposes is provided. As a result, slum dwellers are excluded from the process in contradiction of the constitution.

Continuing development of the legal foundation on which the election system is based deserves attention to keep pace with the evolution of Bangladesh's political and electoral process.

2. Permanent Voter Registration Rolls: In view of plans to create an ongoing computerized voter registration roll, a great deal of work should be accomplished in providing a legal and procedural basis for the development of policies and

procedures that underpin this function. IFES could provide technical assistance in developing the infrastructure necessary to sustain an ongoing computerized voter roll. An analysis could be performed to determine the most efficient and reliable options appropriate for decentralizing the system to allow adequate access by voters to update their records. Assistance could also be provided in the development of forms which will be necessary for voters to notify appropriate authorities of the changes in their status. IFES could assist in the development of formalized policy guidelines governing such issues as determination of residency, or eligibility for an individual voter to appear on the list of more than one constituency depending on the type of election in which he or she seeks to vote. The practice is widely accepted especially for voters who primarily reside in one constituency but want to vote in their village of origin in local municipal or village elections.

3. Campaign Ethics and Financial Disclosure: Current attempts to control and monitor equitable campaign practices have fallen short of their objectives. The law imposes spending limits and creates a reporting requirement but is insufficient in defining the methods by which the Election Commission will carry out its mandate. The law currently on the books is inadequate in curbing the intrusion of "black money" into the process or inhibiting monetary enticements used to manipulate the electorate. While candidates are given spending limits and reporting requirements, in its current state the law cannot be enforced. A comprehensive analysis needs to be accomplished to determine whether current spending limits are reasonable, and rules need to be established for determining limitations and disciplines which should be imposed on the political parties themselves. A methodology must be devised to ensure that compliance can be effectively monitored and sanctions reasonably imposed.

There exists a challenging set of circumstances facing the election commission charged with the responsibility for the conduct, management, training, and administration of Bangladesh's election process. There is a significant amount of work that must be performed in preparation for what some hope to be a mid-term election. IFES believes that its team's observations will serve as an important resource and play an important role in the process of democratic transition in Bangladesh both in the short and long term. IFES is uniquely capable of accomplishing the objectives of providing support for a credible election process both by encouraging dialogue among the chief participants in the election process, by educating the electorate and by developing materials that will be of lasting value to the Government of Bangladesh as well as the non-governmental community.

APPENDIX A
IDENTIFICATION CARD COMMENTARY
(*DAILY STAR*)

83pc ID cards for Tongi Poura polls completed

DAILY STAR By Staff Correspondent 15-1-95

Eighty-three per cent of the identity cards for 72,228 voters in Tongi Pourashaba has been completed, an official of the Election Commission (EC) said yesterday.

"The rest is likely to be completed next month and we are expecting to hold a model election in Tongi late in March," said SM Zakaria, Additional Secretary of the EC.

He was addressing a group of journalists and some students of Journalism Department of Dhaka University at an orientation programme on "Media on-site (election) Reporting" at Tongi Public Library auditorium.

Zakaria said a 56-member

steering committee has already been formed comprising representatives of different political parties and local elite to conduct the elections with the EC playing only a supervisory role.

Issuance of ID cards in Tongi Pourashaba would cost Tk 17.75 each, said Zakaria. "From our experience in Dapunta and Tongi, we can say that it is technically possible to provide all voters in the country (about 6.22 crore) with ID cards."

Earlier, the EC held a model election in Dapunta union under Mymensingh district in April 30 last year. Tongi is

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Voters' ID cards

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their second test case.

The main theme of the model poll is to ensure active participation of the people in general in the election process to prevent any attempt to rig polls and manipulate results, he said.

The number of voters in Tongi Pourashaba has declined by as many as 35,000 from that in the voters' list of 1992.

DAILY STAR 14 FEB 1995 ✓

ID cards unlikely if early elections held

By Nazmul Ashraf

The Election Commission (EC) is unlikely to complete the gigantic task of issuing identity cards to nearly six crore eligible voters in the country prior to the next general elections, if held earlier than scheduled, according to commission sources.

Although the Jatiya Sangsad passed a Bill in December last providing for legal compulsion for the voters to use ID cards to elect their representatives in Parliament or the local government bodies, the authorities are now convinced that implementation of the new system was not possible in the immediate future. EC officials are, however, optimistic about

the completion of distribution of ID cards among the voters for using those in the next general elections, if held as per schedule in February next year.

Against the backdrop of widespread speculation that the present Parliament may not get to complete its full term, and also to cover up for a lapse on the part of the Law Ministry while pushing through the EC Bill during the last session of the Jatiya Sangsad, the President signed an Ordinance earlier this week. The Ordinance kept in abeyance the effectiveness of the new EC Bill regarding the ID cards until the issuance of the

cards is actually completed, said officials of the Law and Parliamentary Affairs Ministry and the President's Secretariat. The Ordinance would come in the form of a gazette notification shortly, said an official of the President's Secretariat, adding that it would also call for ratification by Parliament.

The process of strengthening the EC and introducing the ID cards for the voters would continue as usual, a Law Ministry official insisted.

Talking to The Daily Star, another official of the ministry admitted a lapse on its part in the EC Bill, passed by Parlia-

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ID cards unlikely

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ment. The promulgation of an Ordinance to incorporate a clause in the EC Bill saving all by-elections to the Fifth Parliament from the purview of ID cards, was inevitable. Otherwise, all by-elections to the present Parliament would run into trouble in courts of law, he said.

The government decision in this regard came ahead of the by-elections to four Parliament seats scheduled for January 25.

The entire process of issuing ID cards to the voters across the country will take at least one year if everything remains normal, cooperation of all concerned including the political parties is received and no new crisis hampers the task," he said, seeking anonymity.

EC officials said that they were now at the early stage of implementing the ID card system along with expanding the EC network up to the thana level. The commission was currently engaged in data-entry and registration of the voters, through prescribed forms by further developing the forms used in the model polls in Dapunia in Mymensingh and being used for a similar election in Tungl municipality in Gazipur, they added. The task is likely to be completed soon, they added.

On completion of data-entry and registration of the voters, the EC itself would go for preparation of the planned laminated ID cards. For this, the authorities are thinking of floating international tender.

Regarding the setting up of permanent election offices at the thanas, they pointed out that the EC would have to recruit a number of people for this and it would take time. At this stage, the EC would put on deputation the thana-based government officials, specially under the now-abolished upazila system. At the thana elec-

tion offices.

About the government fund of Taka 300 crore for implementing the ID card system, strengthening the EC and computerising the electoral process, they said the EC authorities would ask for the disbursement of fund as and when necessary. They, however, said until now the EC has not asked for disbursement the sanctioned fund.

BFUJ demands fifth wage board

Bangladesh Federal Union of Journalists (BFUJ) yesterday demanded of the government to form the fifth wage board for working journalists and employees of the newspaper industry, reports BSS.

In a statement the BFUJ acting president Monjur Ahmed and secretary general Anamullah Kabir said increase in the prices of essentials including house rent in the recent years has been causing hardship to the journalists.

The Fourth Wage Board award declared four years back now fails to cope with the rise in price. Meanwhile salaries and allowances of the government employees have been raised on several occasions in line with the price hike, the leaders said.

The BFUJ leaders called upon the journalist community to launch united movement to realise the demand of the formation of the fifth wage board.

Nasim

From Page 1 Col 8

League chief softened her stand demanding resignation of the Prime Minister with the announcement of election schedule and elections under a non-partisan advisory council headed by the President.

"The present political crisis could be resolved through acceptance of this proposal," Nasim said.

APPENDIX B

CONSTITUTION PART VII - ELECTIONS

PART VII ELECTIONS

118. (1) There shall be an Election Commission for Bangladesh consisting of a Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time direct, and the appointment of the Chief Election Commissioner and other Election commissioners (if any) shall, subject to the provisions of any law made in that behalf, be made by the President.

Establishment of
Election
Commission.

(2) When the Election Commission consists of more than one person, the Chief Election Commissioner shall act as the chairman thereof.

(3) Subject to the provisions of this Constitution the term of office of an Election Commissioner shall be five years from the date on which he enters upon his office, and—

- (a) a person who has held office as Chief Election Commissioner shall not be eligible for appointment in the service of the Republic ;
- (b) any other election Commissioner shall, on ceasing to hold office as such, be eligible for appointment as chief Election Commissioner but shall not be otherwise eligible for appointment in the service of the Republic.
- (4) The Election Commission shall be independent in the exercise of its functions and subject only to this Constitution and any other law.
- (5) Subject to the provisions of any law made by Parliament, the conditions of service of Election Commissioners shall be such as the President may, by order, determine :

Provided that an Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a judge of the ¹[Supreme Court].

¹The words "Supreme Court" were substituted for the words "High Court" by the Second Proclamation Order no. 1 of 1977.

(6) An Election Commissioner may resign his office by writing under his hand address to the President.

119. ¹[(1) The superintendence, direction and control of the preparation of the electoral rolls for elections to the office of President and to Parliament and the conduct of such elections shall vest in the Election Commission which shall, in accordance with this Constitution and any other law—

Functions of
Election
Commission.

- (a) hold elections to the office of President;
- (b) hold elections of members of Parliament;
- (c) delimit the constituencies for the purpose of elections to Parliament; and
- (d) prepare electoral rolls for the purpose of elections to the office of President and to Parliament.]

(2) The Election Commission shall perform such functions, in addition to those specified in the foregoing clauses, as may be prescribed by this Constitution or by any other law.

120. 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 under this Part.

Staff of Election
Commission.

121. There shall be one electoral roll for each constituency for the purposes of elections to Parliament, and no special electoral roll shall be prepared so as to classify electors according to religion, race, caste or sex.

Single electoral
roll for each
constituency.

122. (1) The elections ²* * * * to Parliament shall be on the basis of adult franchise.

Qualifications for
registration as
voter.

¹Clause (1) was substituted for the former clause (1) by the Constitution (Twelfth Amendment) Act, 1991 (Act XXVIII of 1991), s. 12 (w.e.f. 18-9-91).

²The words "to the offices of President and Vice-President and" were omitted *ibid.*, s. 13 (w.e.f. 18-9-91).

(2) A person shall be entitled to be enrolled on the electoral roll for a constituency delimited the purpose of election to Parliament, if he—

- (a) is a citizen of Bangladesh ;
- (b) is not less than eighteen years of age ;
- (c) does not stand declared by a competent court to be of unsound mind; ¹[and]
- (d) is or is deemed by law to be a resident of that constituency ²[.]

3* * * * *

4* * * * *

123. ⁵[(1) In the case of a vacancy in the office of President occurring by reason of the expiration of his term of office an election to fill the vacancy shall be held within the period of ninety to sixty days prior to the date of expiration of the term :

Time for holding elections.

Provided that if the term expires before the dissolution of the Parliament by members of which he was elected the election to fill the vacancy shall not be held until after the next general election of members of Parliament, but shall be held within thirty days after the first sitting of Parliament following such general election.

(2) In the case of a vacancy in the office of President occurring by reason of the death, resignation or removal of the President, an election to fill the vacancy shall be held within the period of ninety days after the occurrence of the vacancy.]

(3) A general election of members of Parliament shall be held—

(a) in the case of a dissolution by reason of the expiration of its term, within the period of ninety days proceeding such dissolution; and

¹The word "and" was added by the Second Proclamation Order No. III of 1975.

²The full-stop was substituted for the semi-colon and word "and", *ibid.*

³Sub-clause (e) was omitted, *ibid.*

⁴Clause (3) was omitted by the Constitution (Twelfth Amendment) Act, 1991 (Act XXVIII of 1991), s. 13 (w.e.f. 18-9-91).

⁵Clauses (1) and (2) were substituted for clauses (1), (2), (2A) and (2B) *ibid.*, s. 14(a) (w.e.f. 18-9-91).

- (b) in the case of a dissolution otherwise than by reason of such expiration, within ninety days after such dissolution :

Provided that the persons elected at a general election under sub-clause (a) shall not assume office as members of Parliament except after the expiration of the term referred to therein.

(4) An election to fill the seat of a member of Parliament which falls vacant otherwise than by reason of the dissolution of Parliament shall be held within ninety days of the occurrence of the vacancy [;]¹

¹[Provided that in a case where, in the opinion of the Chief Election Commissioner, it is not possible, for reasons of an act of God, to hold such election within the period specified in this clause, such election shall be held within ninety days following next after the last day of such period.]

²[124. Subject to the provisions of this Constitution, Parliament may by law make provision with respect to all matters relating to or in connection with elections to Parliament, including the delimitation of constituencies, the preparation of electoral rolls, the holding of elections, and all other matters necessary for securing the due Constitution of Parliament.]

Parliament may make provision as to elections.

125. Notwithstanding anything in this Constitution—

- (a) the validity of any law relating to the delimitation of constituencies, or the allotment of seats to such constituencies, made or purporting to be made under article 124, shall not be called in question in any court ;
- (b) no election to the ³[offices of President “ ”] or to Parliament shall be called in question except by an election petition presented to such authority and in such manner as may be provided for by or under any law made by Parliament.

Validity of election law and elections.

126. It shall be the duty of all executive authorities to assist the election Commission in the discharge of its functions.

Executive authorities to assist Election Commission.

¹The colon was substituted for the full-stop at the end of clause (4) and thereafter the proviso was added by the Constitution (Twelfth Amendment) Act, 1991 (Act XXVIII of 1991), s. 14(b) (w.e.f. 16.3.91).

²Article 124 was substituted for the former article 124 *ibid.*, s.15 (w.e.f. 18.9.91).

³The words “Offices of President and Vice-President” were substituted for the words “Office of President” by the Constitution (Ninth Amendment) Act, 1989 (Act XXXVIII of 1989), s. 14.

⁴The words “and Vice-President” were omitted by the Constitution (Twelfth Amendment) Act, 1991 (Act XXVIII of 1991), s. 16 (w.e.f. 18.9.91).

APPENDIX C

DICIPLINE OF ELECTION OFFICIALS

1991 year 13 No. Law
*Discipline of Election officials and Regulation
of their management Law*

Whereas in order to ensure orderly free and neutral election it is essential to regulate the discipline and conduct of election officials. The polling law is therefore promulgated:

1. *Short tittle and Introduction:*

(a) This law will be named after Election official (special Act) Law 1991

(b) It will deemed to have taken effect from December 27, 1990

2. *Title: If there is none against the substance under this law-*

(a) Commission means the Election Commission within the meaning of the Constitution.

(b) Service Regulations means that any act, rule, regulation, contract document, appointment or condition relating to service.

(c) Election means election conducted by the commission or under its management any election held or conducted.

(d) Election official means any official engaged or entrusted to deal with election matter and any official deputed or appointed in the Polling Station to maintain law and order.

(e) Appointing authority means any person appointed in the Service or Authority.

(f) Returning officer means any Returning Officer appointed by the Election Commission and any person or official so deputed as Returning Officer.

3. *Principal Application of the Law:*

For the present notwithstanding the presence of any other rule or service regulation the provision of this Act will remain operative.

4.

(a) Any person if appointed as Election Official, he can not refuse to accept election duty or decline responsibility unless providing acceptable reason to the concerned Returning Officer.

2. Any person appointed as election official, his appointment cannot be prevented by any authority in discharging his function or be prevented from functioning.

3. If any person is appointed as election official he or she from the date he or she assumes election duties until

relieved, the service rendered would be considered as additional service under the Election Commission and will be deemed to be working under the Election Commission.

4. Similarly while in service the election officials in respect of responsibility concerning election matters would be under control of the commission or the returning officer and would be duty bound to obey their orders. Similarly on deputation to election commission the duties concerning election matters will predominate over other responsibilities and along with his election duties he can perform other duties if it is not in conflict with election responsibilities.

5. *Penalty for violation of discipline by the election officer-*

(a) If any election officer fails to discharge his function or refuse to carry out his election duties as given by the Election Commission or by the concerned returning officer or violating willingly election laws or under the law guilty of offences and as such would be, he would be treated to be guilty of misconduct and liable to receive punishment under service law.

(b) Any election official if found guilty of above misconduct his appointing authority can remove him or suspend him or compulsorily retire him or reduce his rank or his promotion and increment of pay for two months can be suspended. Provided that the above punishment is based on failure, refusal, violation or he would not be exempted under the law to receive punishment for violation as stated above.

(c) Any election official under clause above if found guilty of misconduct by the Election Commission or the returning officer, the concerned authority would act on it and inform the commission within one month.

6. *Penalty:*

(a) Any person under rule 4(a) or 4(b) violates provisions he can be put behind the bar for one year or be fined for 5,000/= (Taka Five thousands only) or concurrently punished.

(b) Any person under rule 5(c) fails to comply with the order or under 5(d) violates the provisions he is liable to be put behind the bar for maximum of 6 months imprisonment or maximum 2,000/= (Taka Two thousands only) fine or concurrently both.

7. Provision of review by the court in respect of punishment- No court will accept any petition unless its authorized representative submits written complaint.

8. Election Official (special act) 1990 (preamble 31, 1990) is hereby kept in abeyance.

APPENDIX D
DELIMITATION ISSUES
(THE DAILY STAR)

The Daily Star dated February 2, 1995.

No major delimitation of constituencies

By Staff Correspondent

The Election Commission (EC) yesterday published the preliminary list of 300 parliamentary constituencies without any major delimitation of those.

"We have prepared the draft list of the constituencies and invited claims, objections and suggestions by March 6," said an EC official.

He said public hearings will also take place at least at 10 different places in the country to settle the objections or claims before preparation of the final list which, he said,

will not take more than three months.

Fresh delimitation of constituencies is mandatory after a census for the purpose of Parliament elections.

According to the Delimitation of Constituencies Ordinance, 1976 — the constituencies shall be delimited, having regard to administrative convenience, that each constituency is a compact area and in doing so there shall be due regard as far as practicable, to the distribution of population

See Page 12 Col 8

Delimitation

From Page 1 Col 7

as given in the latest census report.

The Ordinance also says, the validity of the delimitation or formation of any constituency, or any proceedings taken or anything done by or under the authority of the commission, cannot be questioned in or before any court or other authority.

The EC official said the draft report is almost similar to that of 1984 which was based on the 1981 census, barring some exceptions. The latest population census was conducted in 1991.

Meanwhile, the Awami League, in a memorandum to the EC on Sunday, alleged that there was wide difference in terms of number of voters among the constituencies, delimited in 1984.

The memorandum also said; in the general elections of 1991, the average number of voters in each constituency was 2,07,631. But, the number was more than 2,25,000 in 98 constituencies and below 1,75,000 in 73 others.

The AL also, gave a list of constituencies showing that in some cases the number of voters of a particular constituency is almost double that of another constituency.

When his attention was drawn to such allegations, the EC official said "the territorial delimitation is not always based on population report. Administrative and geographical aspects are also considered

APPENDIX E
ROLE OF THE PUBLIC MEDIA

Role of Public Media in the Elections

Undoubtedly, the public media, print and broadcast, plays a major role in elections. It is even more so in the context of Bangladesh.

Newspapers

All the newspapers provided extensive coverage to increase popular interest in the city corporation elections. For two months since the date of announcement of election date, the newspapers provided detailed features, reports in the front, last and middle pages.

The newspapers began highlighting the views and opinions, as well as the promises, of both mayor and ward commissioner candidates. There was extensive coverage of each candidate's campaign policy, political standing, support in the party and by the public and so on. Some publications even printed debates between different candidates with regard to their future plans for the people of their wards. In brief, the newspapers fulfilled their expected role of encouraging people to participate in a free fair election. Besides newspapers also covered directives and announcements from the Election Commission.

Radio and television

The state-owned radio and television, were generally heedless of the elections. One might even say that their role as national media was an indifferent one.

The National Steering Committee for Observing City Corporation Elections '94 conducted a 9-day monitoring of the coverage of city corporation elections by television

before the actual polling. BNP occupied 23% of the news items in the 8 o'clock Bengali news broadcast by the television from January 20 through 28, 1994. In comparison, Awami League got a mere 0.4% and the Election Commission itself got a little over 2% coverage. The following table summarizes coverage by the television during the 9 days of survey.

Date	Duration of News Broadcast	BNP Coverage	Awami League Coverage	Election Commission Coverage	Sports/Weather	Other Coverage
Jan. 20, 1994	30 minutes	12.00 minutes	-	1.30 minute	9.50 minutes	7.00 minutes
Jan. 21, 1994	30 minutes	6.00 minutes	-	-	9.00 minutes	15.00 minutes
Jan. 22, 1994	29 minutes	5.00 minutes	-	-	8.00 minutes	16 minutes
Jan. 23, 1994	28 minutes	6.00 minutes	-	30 minutes	10.50 minutes	11.00 minutes
Jan. 24, 1994	27 minutes	6 minutes	-	-	5.50 minutes	15.00 minutes
Jan. 25, 1994	30 minutes	8.00 minutes	-	30 minutes	7.50 minutes	14.00 minutes
Jan. 26, 1994	28 minutes	7.00 minutes	1.00	-	8.00 minutes	12.00 minutes
Jan. 27, 1994	28 minutes	6.00 minutes	-	-	9.00 minutes	13.00 minutes
Jan. 28, 1994	28 minutes	2.00 minutes	-	3 minutes	9.00 minutes	13.00 minutes
Total	258 minutes	58.50 minutes	01.00 minute	07.30 minute	1.17 hours	1.56 hours
	4 hour 18 minutes	22.67%	0.39%	02.13%	29.59%	44.96%

The performance of BTV on the day of election and the day after was even more disappointing. Of the city corporations, BTV seemed more interested in broadcasting results of Khulna and Rajshahi city corporation elections than of Dhaka and Chittagong. BTV thus disappointed millions of people who sat up till midnight, waiting for results to be announced by BTV.

When television provided no results, people started calling the newspaper offices, and eventually the control room set up by the National Steering Committee turned into a media center providing recent and reliable information released by the Election Commission. The media center continued to provide informations till 7:00 a.m. on 31 January, 1994, the day after the elections.

Although most of the polling centers within Dhaka city had completed counting votes by 6 p.m., the first results were broadcast by BTV at 10.31 p.m, unlike its promptness in 1991 when the time gap between vote counting and the broadcast by BTV was much less.

The silence of the state controlled media generated speculation amongst the general public. Not suprisingly the sporadic announcement of results by BTV on 31 January, 1994 raised further doubts in the popular mind.

Government press note

Bangladesh Television BTV did not telecast any special news item in connection with the City Corporation elections a PID handout said here last night, reports BSS.

It said, a report published on 30 January, '94 purported to be based on a survey was motivated to influence the voters and the publication of the report on the day of the elections was a heinous attempt by a certain quarter to realise its own interests.

The handout said that though Prime Minister Begum Khaleda Zia had addressed four electoral meetings. BTV neither recorded the events nor telecast any news about those meetings.

From 20 January, to January 28 the Eight O clock news carried telecasts of development activities and public meetings outside the four metropolises, visited by the President, Prime Minister and members of the cabinet, purely on the basis of news value. News of the Election Commission and the Leader of the Opposition were also telecast on the same basis, the handout said.

Since it is a BNP government and since most of the development news transpires through the activities of the Prime Minister and members of the cabinet, the ruling party gets a large chunk of publicity time, not as a party as such but as the government, the handout pointed out.

The handout said this is applicable not only to BTV, but to all news media. It lamented that despite BTVs neutral role during the city corporations elections, such an adverse campaign had been carried out. (*Daily Star*, 02 February, 1994)

Statement by the National Steering Committee

The National Steering Committee explained its report on monitoring of the 8 p.m. Bangla news on BTV as follows : Results of a survey conducted by the National Steering Committee on news broadcasts by television have been termed baseless fabrications and selfserving in a PID handout. The purpose of our press release was to inform the people about the role of the state owned media in disseminating election news and electoral results.

The PID handout claims that BTV did not telecast any features on the City Corporation elections. This implies that the viewers of prime time news were deprived of information on a significant national event. The question arise here is, how could BTV claim neutrality by "news black out" of the most significant event of the country at that period. Moreover, "only development progress are the contents of news", why people will accept this definition of news stated by BTV.

We strongly belief that BTV's role needs further reconsideration in view of the modern electronic news age in which information venders are competing with each other to reach news to their viewers in a flash.

Reaction of newspapers on BTV's indifference

A news item titled "City Corporation Elections and radio, television" in daily *Bhorer Kagoj* of 01 February, 1994, stated that people all over the country were anxiously waiting for announcement by radio and television of city corporation elections. Another daily newspaper, *Dainik Janata*, stated in a news item titled "Public resentment over the role of radio and television" that the indifference of these two media had created total dissatisfaction in the public. This not-so-unexpected reaction was not confined only to the residents of Dhaka; *Dainik Janakantha* on 01 February, 1994 reported that residents of Bogra town were absolutely in election "fever" waiting for announcement of results on radio or television.

In a signed article in daily *Sangbad* of 01 February, 1994, under the title "Why did the radio and TV fail so miserably?" the author, Mr. Monajat Uddin, provides an explanation, which must be put in perspective. He claims that there were no instructions from the government, and that what really happened was pure laziness and negligence, that the television had fallen prey to lack of

advance planning, and that the television failed (only) to present the result of Dhaka and Chittagong city corporations.

Role of the Radio Bangladesh

The radio has always enjoyed a better support from the people than television, especially in the rural areas where television has not yet had major impact. The Radio Bangladesh broadcast a bulletin on the day of election claiming "Mohammed Hanif leads in the City Corporation elections" which was aired only once. Later that day, the radio only broadcast results once more around 11.30 p.m., but they were actually quoting information of television and did not provide independent information.

Not surprisingly, on 01 February, 1994, when the lead news item in all the newspapers was the shooting incident in which 6 people were killed in Lalbagh in Dhaka, the radio, took no notice. In stark contrast BBC World Service in its morning session on 01 February, 1994, announced results of 550 the out of 737 polling centers.

APPENDIX F

OPINION SURVEY
(MAGURA POLLS)

Magura Polls

Opinion Survey on Credibility

A sample survey on credibility of results of the by-election in Magura-2 parliament seat held last month was conducted by Dhaka Courier in the Dhaka city this week. A total of one hundred persons ten each from different profession belonging to teachers, lawyers, physicians, engineers, students, journalists, businessmen, government employees, small shop owners and housewives were interviewed. The Courier report is done on the basis of written replies to four questions. Sayadul Islam Badal assisted in conducting the sample survey. Mahmud-Al Faisal reports.

The sample survey on Magura by-poll indicates that out of one hundred persons 78 considers the result does not have credibility to them. They believed there was vote rigging in the by-election on March 20. Only 22 percent did not agree to claim of vote rigging. 88 percent gave their opinion that the Election Commission could not effectively perform their role in the election. Responding to questions by Dhaka Courier 89 percent favoured future elections under a caretaker government.

Sample Survey Result

	Yes	No
Result Correct	22	78
Vote was Rigged	78	22
EC played its Role effectively	12	88
Polls under caretaker Government preferred	89	11

OPINION SURVEY

Questions:

1. Do you think the results of Magura by-election is credible Yes/No
2. If the reply to question No 1 is negative, then do you think vote was rigged there Yes/No
3. Do you think the Election Commission could play their role effectively in the Magura by-election Yes/No
4. Do you want elections under a neutral caretaker government Yes/No

Ten persons from each of the ten categories of people were interviewed. Of the total only 22 percent said they believed the official result was correct. Among the journalists and teachers 90 percent said the official result has no credibility to them while ten percent accepted it. The official result was credible to 80 percent of physicians, engineers. The lawyers gave different opinion. To 50 percent of them the result was credible and same is the case among government employees. To 70 percent of the businessmen the result was not credible.

Very exceptional was the opinion of the students. Students of Dhaka

University, Dhaka Medical College, Dhaka College, Titumir College, Dhaka City College, Sidheswari Degree College and Tongi Government College were interviewed. The poll result has no credibility to any of them. There seems to be certain sampling error here. Among small shop owners and housewives 90 percent and 80 percent respectively opined that the results have no credibility to them.

On questions whether there was any vote rigging, 78 percent replied in the affirmative and only twenty percent reply was negative. However, 90 percent of journalists, teachers and

small shop owners, 80 percent of physicians, engineers and housewives, 50 percent of government employees and lawyers and 70 percent of businessmen gave affirmative replies. All the students believed that there was rigging in the said polls.

On question whether the Election Commission could perform their role fairly the replies by all the physicians, students, shop owners and housewives, 90 percent of replies by journalists and teachers were in the negative. Among the engineers and businessmen 80 percent replied in the negative and 20 percent affirmative. 80 percent of lawyers and government employees believe that the EC could not perform its role fairly.

In reply to question whether they want future elections under a neutral caretaker government 89 percent was in favour of it and 11 percent was against. All the teachers, students, businessmen and shop owners, 90 percent of journalists, physicians, engineers and housewives expressed their opinion in favour. Among the lawyers 70 percent, 60 percent of government employees replied in the affirmative.

Credibility, Apathy, Allegation

Here is a compilation of some comments by persons interviewed during the sample survey. These straightforward remarks are significant indication of lack of credibility of poll results, allegation against the ruling party, EC and apathy towards politics.

A student of Tongi Government College said 'It seems that the result of the by-election in Magura has no credibility to even Chief Election Commissioner and officials of EC. He observed 'interviewing the concerned officials after the announcement of unofficial results indicates this lack of credibility.'

Subhash Chandra Devnath, a businessman told Dhaka Courier 'After going to power, instead of showing their adherence to democratic norms, political parties starts politicisation in every shapere. Thus they curtail civic rights and forgets about democratic rights of others. He observed that free and fair election cannot be expected without being held under caretaker government. The Magura polls is an eye opener.

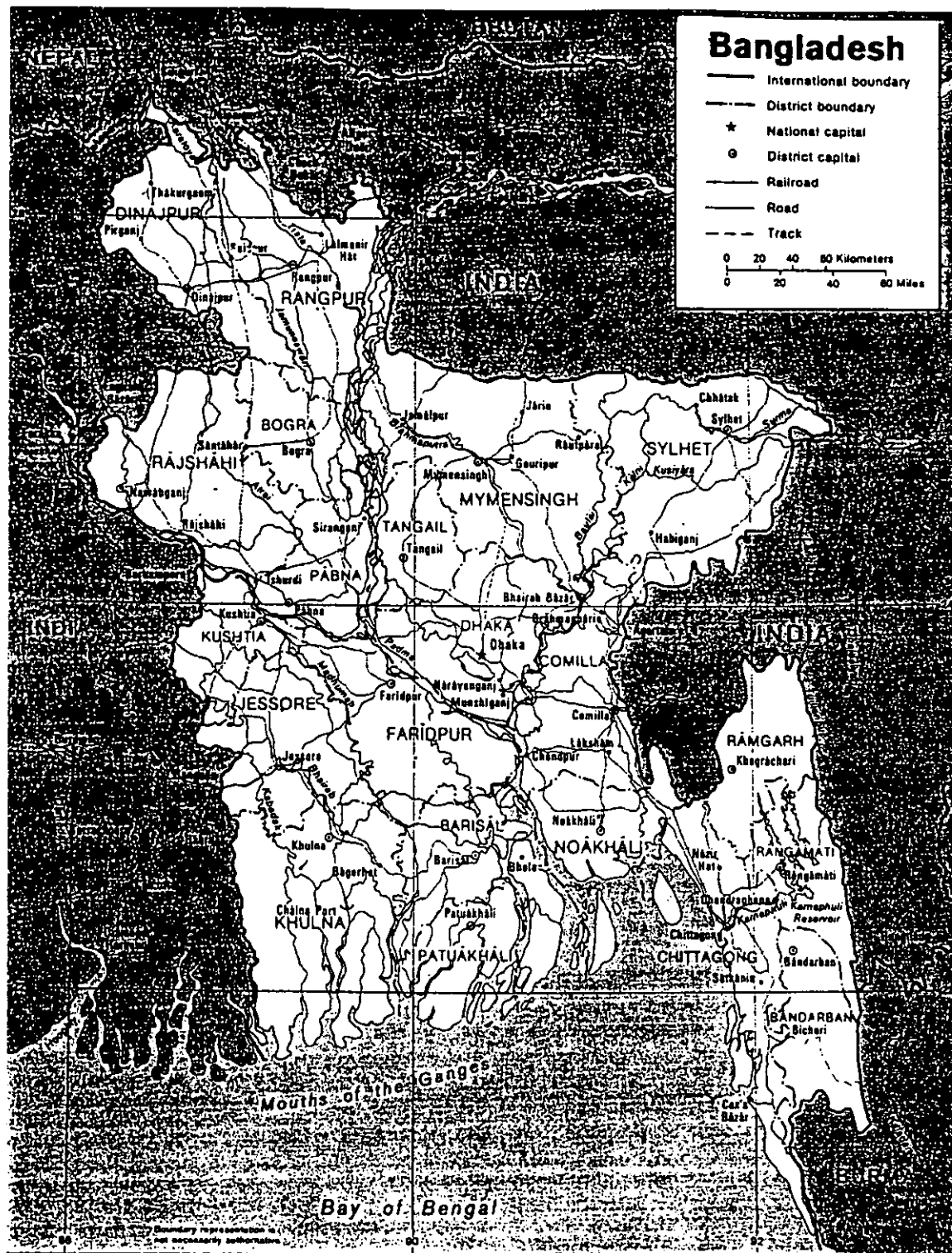
Dr Mosharruf Hossain said 'Not only vote rigging took place at Magura. BNP has earned the name of a vote dacoit. Free and fair election cannot be expected under this government.'

Engineer Mohammad Ibrahim told Dhaka Courier 'Who won or who lost the polls, does not a matter much to me. The confidence on electoral process in the minds of the people has been shattered by the results of Magura polls.'

Mahmud-Al Faisal

Professionwise opinion

Profession	Result Correct		Vote Rigged		EC Played Role		Poll Under Caretaker Govt	
	Yes	No	Yes	No	Yes	No	Yes	No
Teachers	1	9	9	1	1	9	10	0
Physicians	2	8	8	2	0	10	10	0
Lawyers	5	5	5	5	3	7	7	3
Engineers	2	8	8	2	2	8	9	1
Journalists	1	9	9	1	1	9	10	0
Govt. Employees	5	5	5	5	3	7	6	4
Businessmen	3	7	7	3	2	8	10	0
Students	0	10	10	0	0	10	10	0
Small Shop Owners	1	9	9	1	0	10	10	0
Housewives	2	8	8	2	0	10	9	1
Total	22	78	78	22	12	88	69	11



APPENDIX G

**TRIP REPORT
(JULY 1995)**

TRIP REPORT

BANGLADESH
(9 July - 13 July, 1995)

Linda Edgeworth
Consultant

PURPOSE OF TRIP

Early in 1995, IFES visited Bangladesh and conducted a pre-election assessment to investigate the political environment resulting from the mass resignations of the minority members of parliament, ascertain the status of preparation for upcoming parliamentary elections, and assess the progress being made in creation of updated voter registration rolls. Additionally, IFES sought to identify opportunities for technical assistance which would strengthen the election process and augment sustainable programs for the future. Ultimately, IFES published a report of its findings and developed a proposal for technical assistance. The program envisioned by IFES focussed its attention on mechanisms designed to strengthen the professionalism of election officials at all levels, and to raise public awareness as to the standards to which election officials are held accountable. The cornerstones of the program were preparation of appropriate, formalized training manuals for officials at various levels, development of a code of conduct for election officials, and creation of a mass media campaign to educate the public about the role of election officials in ensuring free and fair elections. The proposal was ultimately approved by the U.S. Agency for International Development.

In July of 1995, IFES returned to Bangladesh. During the visit, meetings were held with the Central Election Commission and its Secretariat, the newly established Training Institute, USAID, The Asia Foundation, and the Bangladesh Centre for Advanced Studies. Among the major priorities was working with the Central Election Commission to outline parameters for the working relationship between IFES consultants and the CEC during the actual facilitation of the technical assistance project.

Memorandum of Understanding

As part of its initial proposal, IFES had suggested the development of a formal Memorandum of Understanding (MOU) which would detail the terms under which the CEC and IFES would cooperate in fulfilling the proposed project and outline some of the obligations which would be specifically undertaken by each partner. The MOU had originally been suggested to underscore IFES's interest to ensuring that the project reflected a joint commitment and genuine partnership between IFES and the CEC. In addition, the proposal outlined specific objectives which promoted sustainability of the program by Bangladeshi officials independent of open-ended, long term international assistance. It was anticipated that negotiation of an MOU would be one way to measure the level of commitment that could be expected from the CEC. However, it became clear through daily meetings with senior Commission officials that CEC interest in partnering with IFES to accomplish the program's objectives was high. The proposal had been thoroughly

read and reviewed, and discussion among officials as to how IFES and the CEC might formalize its association in practical terms had already been undertaken. As a matter of fact, the new Chief Commissioner and Secretary projected their concerns for objectives which closely matched elements in the IFES proposal.

One concern had arisen, however. Karl Swartz of USAID as well as members of the Commission expressed interest in avoiding a requirement that a formal Memorandum of Understanding be entered into by both parties. IFES was advised that formalization of such an agreement would have legal ramifications requiring involvement of a lengthy and bureaucratic administrative process. Another concern was that the involvement of other agencies including the Ministry of Finance who would be responsible for review and oversight of such an agreement would cause delays and significant political maneuvering. In view of the narrow scope of the work to be done and the cooperative arrangements which had already been negotiated, it was decided that IFES and the CEC could forego a formal MOU. Rather, pursuant to arrangements made between USAID and the Economic Relations Divisions (ERD) of the Ministry of Finance, the initial proposal was resubmitted to the CEC and ERD, with all references to MOU deleted. IFES was advised that USAID would, in turn, receive an official "letter of invitation" related specifically to the revised proposal which will become the basis of our "agreement." The letter which was expected to be delivered directly to Karl Swartz should be forthcoming within two to three weeks.

In all areas the discussions were most positive. IFES looks forward to a successful working relationship with its Bangladeshi counterparts.

Recommendation:

It is recommended that IFES Washington maintain direct contact with Karl Swartz to follow through on the processing of the "letter of invitation" from the CEC. The Secretariat is often overburdened and it appears that some tasks are forestalled in lieu of "emergency" requests. If there is no news from Mr. Swartz in the next few weeks, it would be advisable to contact him.

STATUS OF RECENT ACTIVITIES OF THE COMMISSION

A major development within the Central Election Commission is the change in its leadership which has occurred since IFES's first visit earlier this year. The new appointments have resulted in the following membership:

Chief Election Commissioner:	Justice A.K.M. Sadeque
Election Commissioner:	Justice Md. Abdul Jalil
Secretary, Central Election	Mr. Md. Irshadul Haq

Commission

IFES's primary contacts will remain with the Secretariat.

Sher-E-Bangla Nagar
Dhaka, Bangladesh
Phone: 815-107
815-736

Telex: 632231 Elect B J

Additional Secretary:

Mr. S.M. Zakaria

Public Relations Officer:

Mr. Sk. Md. Abdul Ahad

The changes in the Commission seemed to have had some positive affects. What appeared to have been a level of tension at the time of IFES's first visit seems to have abated. There seems to be a more unified approach to accomplishing objectives. While the former Chairman seemed to want to set lofty, idealistic goals, concern was expressed to IFES at that time that there was also a seeming lack of direction in terms of practical application. Critics were also concerned about what they perceived as a certain degree of procrastination in taking action. From preliminary meetings with the new Commission members, it appeared that some of these perceived problems may be rectified.

One of the major developments which may have been a by-product of the changes in administration is that the preparation of new voter lists has been accomplished. This progress seemed very unlikely at the time of IFES's earlier visit. With regard to the second phase of the project calling for the preparation of voter ID cards, they have changed their overall objective. Their earlier strategy called for the program to be facilitated by a single vendor who would oversee the nationwide production of sophisticated cards which included a photo, fingerprint, individual ID number as well as approximately 13 fields of data on the voter. This vendor would also have been responsible for the computer programming and maintenance of the data base covering 50 - 60 million voters. In the IFES Pre-Election Assessment Report, concerns were identified, and the feasibility of such a program was questioned. In order to expedite an abbreviated and, therefore, achievable program, the CEC has decided to decentralize the ID phase of the project with several vendors bidding on a regional or local basis instead of a nationwide program. The CEC has also given up on trying to computerize their program simultaneously, although they still want to pursue this option for the future. Their objective is to have the voter lists printed by September 30. The number of voters on the preliminary lists exceeds 56 million.

Status of Political Situation

The political situation has changed little. The opposition is still making demands for a caretaker government, but the Prime Minister will not budge. Apparently, on July 16, the Supreme Court was supposed to issue some kind of decision on the mass resignations of Parliament. It will be important to try to get updated information on the court's ruling as it could have a significant bearing on the scheduling of the election.

Recommendation:

If possible, it would be helpful to get a copy of the Supreme Court's Ruling and to pursue information from Mr. Zakaria as to whether or not a date is set for the election. Depending on the Court's decision, the statutory clock could start ticking almost immediately. In view of these pending events, Zakaria has suggested that IFES should be thinking about completing its work in October/November.

Status of the Training Institute:

At the end of April, the Election Commission was able to initiate its Training Institute. The Director had recently been appointed, and office space was secured. Its first efforts focussed on training the registration officials responsible for preparing the voter lists. At the time of IFES's July visit, the Institute's facilities had only the barest amenities. One room had tables and chairs, but there were no other furnishings in other areas of the house which had just been secured. There was no evidence of clerical or computer equipment on hand.

Grant from the Asia Foundation:

IFES learned that The Asia Foundation had recently awarded a grant funded by the US Agency for International Development to the Central Election Commission specifically earmarked for their Training Institute. The grant was awarded via a Letter of Agreement following a letter of approval from the Economic Relations Division of the Ministry of Finance. Part of the funds awarded helped to finance the initial costs related to the training of Registration Officials. The grant dedicates funds for rent, utilities, office supplies and general office administration for the Institute for 12 months.

In addition, the grant sets aside funds for training manuals and voter education materials. It is expected that these funds may support some of the printing costs of the materials which IFES will create as part of its upcoming project. It is not clear how much of a share of printing costs will be covered by this portion of the grant.

Finally, the grant includes a line item for a typewriter, desktop computer, dot matrix printer and peripherals which will be provided by The Asia Foundation. This donation should complement the equipment which is included in the overall contribution being made through IFES. The TAF equipment will more than likely support the administrative component of the

Institute, while the equipment being provided through IFES will be suitable for desktop publishing and production of manuals, posters, pamphlets and other materials necessary for training and voter outreach objectives. A copy of the Letter of Agreement which was provided by TAF is attached as Attachment B.

Recommendation:

Attachment A is a list of the equipment already in place and operational at the Central Election Commission and Secretariat. The equipment to be provided by IFES is intended to be directly dedicated to the Training Institute. The listing of the CEC's existing equipment is provided herein so that IFES can make determinations in the selection of equipment in terms of appropriateness and compatibility. Technical staff members of the Secretariat recommended that any equipment/software be IBM compatible. It will also be important that the Production Specialist member of the IFES project team be expert in the use of the equipment and software selected. Included in the equipment identified in the IFES proposal are two fax machines. At the present time, neither the CEC Secretariat nor the Institute have fax capabilities. If feasible, it would be helpful if the 2 fax machines could be shipped as soon as possible. Not only would the equipment be useful in allowing them to communicate with one another and other agencies of government as necessary: it would also assist IFES in maintaining direct contact with Mr. Zakaria during the preparation period prior to IFES's return to Bangladesh.

REQUEST FOR PROPOSAL:

At the time of IFES's visit, it seemed likely that The Asia Foundation was the front runner in the competition for the RFA, although no official decision had yet been made. In cursory conversation with The Asia Foundation, I indicated that IFES would offer its full cooperation and support in any way possible should TAF be the ultimate winner of the award. Before my departure, and in follow up, letters were written to both TAF and USAID reflecting IFES's commitment.

ATTACHMENTS:

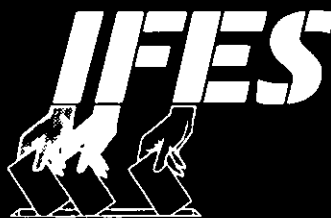
- A. CEC Equipment List
- B. TAF Letter of Agreement with the CEC
- C. Letters to TAF and Karl Swartz, USAID

ATTACHMENT A

**BANGLADESH CENTRAL ELECTION COMMISSION
COMPUTER HARDWARE AND SOFTWARE
(Currently in Use at CEC/Secretariat/Research and Development Cell)**

ITEM #	DESCRIPTION	QTY
	HARDWARE	
1	DEC 486D2MTE; 66MHz; RAM-8MB, HD-1GB	1
2	DEC 386SX; 20MHz; RAM-4MB; HD-50MB	5
3	DEL 486; 33MHz; RAM-4MB; HD-120MB	2
4	DOT-MATRIX PRINTER (180 COL.)	3
5	LASERWRITER PRO (600 DPI)	1
6	FLAT-BET SCANNER	1
	SOFTWARE	
1	BANGLA SOFTWARE (BASUNDHARA FONT)	
2	LOTUS AMIPRO	
3	LOTUS 123	
4	MS-WORD	
5	EXCEL	
6	MS-ACCESS	
7	OFOTO (SCANNER SOFTWARE)	
8	PROIMAGE	
9	WINDOWS	
10	MS-DOS	

(This equipment is used by the CEC/Secretariat/Research Development Cell. IFES understands that it is also used for the current voter registration program. The newly developed TRAINING INSTITUTE has no equipment at the current time, although the Institute had received a limited grant from The Asia Foundation which identifies equipment TAF will provide.)



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