



STATEMENT OF NDI'S PRE-ELECTION ASSESSMENT MISSION TO BANGLADESH'S 2018 PARLIAMENTARY ELECTIONS

October 12, 2018

SUMMARY

This statement is offered by an international pre-election delegation organized by the National Democratic Institute (NDI). The delegation's purpose was to: accurately and impartially review electoral preparations in advance of Bangladesh's upcoming 11th National Elections; examine factors that could affect the integrity of the electoral process; and offer recommendations that could help improve the prospects for peaceful, credible elections and public confidence in the process.

Members of the delegation include: Ambassador Karl Inderfurth, former Assistant Secretary of State for South Asian Affairs and current NDI Board member; Honorable Farahnaz Ispahani, author and former Member of Parliament, Pakistan; and Peter Manikas, Senior Associate and Regional Director for NDI's Asia Programs. The delegation was joined by Michael McNulty, NDI Elections Advisor, and Adam Nelson, NDI Senior Program Manager for Asia.

From October 5 to 11, 2018, the delegation met with: officials in the Prime Minister's office; party leaders from across the political spectrum; the Election Commission; civil society representatives, including citizen election observer group leaders; women members of parliament and political activists; media representatives; former government officials; business leaders; and representatives of the international and diplomatic communities. The delegation is deeply grateful to all those with whom it met and who shared their views freely. The delegation also expresses its appreciation to the National Endowment for Democracy for supporting this mission.

As the elections approach, Bangladesh has several fundamental elements in place for holding credible elections. These include a longstanding tradition of political pluralism, vibrant media and active civil society, growing youth activism, and less public tolerance for violence. However, the polls will take place amid a high degree of political polarization, heightened tensions, and shrinking political space. The delegation heard significant concerns from election observers, the media, and opposition representatives about the Election Commission's plans to deploy electronic voting machines (EVMs). Women and youth continue to face significant barriers to full participation in the electoral process. In addition, media representatives and civil society, including citizen election observers, report intimidation by law enforcement bodies. Arrests of political activists and critics of the government, as well as the passage of the

controversial Digital Security Act, is fueling grave concerns that democratic values are being eroded and free expression circumscribed.

The upcoming elections provide a critical opportunity to reaffirm the nation's commitment to a democratic and competitive political process. The delegation believes that, if the government and opposition parties enter into a genuine dialogue, an agreement could be reached on the conditions necessary for holding peaceful, credible, inclusive, and transparent elections in which all political parties can compete on a more level playing field. Such an agreement could help forge a new national consensus, reaffirm Bangladesh's long-standing commitment to democracy, and continue the nation's impressive economic and social development.

The delegation offers recommendations below for the consideration of the government, Election Commission, political parties, and other electoral stakeholders. In addition to the political party dialogue mentioned above, other key recommendations include:

- the government should publicly pledge noninterference in the Election Commission's work;
- the government should send a clear message to law enforcement bodies to refrain from intimidating party activists, civil society, and media representatives;
- political parties should address several barriers to women's participation, including greater investment in recruiting and supporting women for single-mandate races; and
- political parties, civil society, and the Election Commission should engage youth more substantively to harness their activism into formal channels of electoral participation.

The delegation would like to emphasize that NDI does not seek to interfere in Bangladesh's electoral process and recognizes that it is the people of Bangladesh who will ultimately determine the credibility and legitimacy of their elections and their country's democratic development. The delegation therefore offers this pre-election statement in the spirit of supporting and strengthening democratic institutions in Bangladesh.

ELECTORAL CONTEXT

Bangladesh has an opportunity to build on its recent significant economic and social accomplishments by fulfilling the aspirations of Bangladesh's citizens for credible, transparent, and inclusive *Jatiya Sangsad* (national parliament) elections. The country has experienced strong economic growth over the past decade. Millions of people have risen out of poverty, although the challenge of income inequality remains. In 2015, the country was elevated to the World Bank's Middle Income status. Earlier this year, the United Nations recognized that Bangladesh will likely meet the criteria to graduate from Least Developed Country status as early as 2024.¹ In addition, the government, led by Prime Minister Sheikh Hasina, deserves enormous credit for opening the country's borders and hosting an influx of approximately 700,000 additional Rohingya refugees from Myanmar since August 2017.

¹ Leaving the LDCs Category: Booming Bangladesh Prepares to Graduate." March 13, 2018. Accessed October 10, 2018.

<https://www.un.org/development/desa/en/news/policy/leaving-the-ldcs-category-booming-bangladesh-prepares-to-graduate.html>.

However, the country's political development has not kept pace with its economic and social gains. Past elections in Bangladesh have followed a pattern of electoral boycotts, general strikes (hartals) and blockades, as well as violence and intimidation. This historical memory has led each side to consider politics as a zero-sum game. The Bangladesh National Party's (BNP) leader and former Prime Minister, Khaleda Zia, was convicted of graft in February 2018, and is currently serving a five year prison sentence. Similar examples affecting both the Awami League (AL) and BNP over the years have contributed to a culture of mistrust among the political leaders and a fear of the repercussions of losing an election.

As the parliamentary elections approach, political polarization in Bangladesh continues, and the space for political debate is shrinking. The opposition reports thousands of cases recently filed against their leaders and activists. Many civil society leaders and journalists have voiced concerns about increasing restrictions on civil and political rights. The Digital Security Act, signed by the president during this delegation's visit, has added to the fear that this and other laws aimed at protecting national security may be abused and contravene rule of law, free expression and due process in Bangladesh. These developments have led some Bangladeshis, as well as members of the international community, to voice concern that the nation's longstanding commitment to democratic norms may be at risk and could be leading Bangladesh to one-party dominance.

The upcoming elections provide an important opportunity to dispel this concern by reaffirming the nation's commitment to a democratic and competitive political process. According to a recent public opinion poll conducted by the International Republic Institute, that is something the people of Bangladesh would support. Asked whether they agreed with the statement that the AL and the BNP are capable of putting aside their differences and working together to solve the problems of Bangladesh, a substantial majority, 59 percent, of the respondents agreed.²

The delegation believes that if the government and opposition parties enter into a dialogue, an agreement can be reached on necessary conditions for holding credible elections, which should include transparency, inclusivity, and the opportunity to fairly compete. Such an agreement could help forge a new national consensus, placing the country on a sound footing to pursue its democratic development and continue the impressive economic and social advances it has already made.

MAIN OBSERVATIONS

Election Administration

Bangladesh's constitution and legal framework provide a clear legal basis for an independent Election Commission. In such a highly polarized environment, the Election Commission's neutrality and independence is fundamental to ensuring all contestants, as well as voters, have confidence in the process and the results. Civil society groups and opposition leaders with whom

² *National Survey of Bangladeshi Public Opinion*. (2018). Washington, DC: International Republican Institute. P. 29. Accessed October 2, 2018. https://www.iri.org/sites/default/files/bangla_2018_public_release_-_final.pdf

the delegation met expressed concern about challenges facing the Election Commission to remain neutral in the upcoming elections. They cited the July 2018 city corporation elections, in which the Election Commission came under criticism for not swiftly addressing fraud.

The Election Commission is funded for the elections and its preparations are well underway. It has begun the massive effort to recruit and train an estimated 650,000 pollworkers to staff more than 40,000 polling centers with more than 200,000 polling booths. The recruitment process will require significant efforts ensure gender balance and to properly train polling officials to ensure their political neutrality and effective work.

Voters List

The voters list was finalized in January 2018 after a public display period in which voters were able to verify their details. While an independent audit of the 2018 voters list has not been conducted and detailed voters list data is not publicly available, political parties and civil society groups with whom the delegation met did not express significant concerns with the credibility of the list.

Electronic Voting Machines

The Election Commission has announced plans to deploy EVMs in a limited number of constituencies. The Election Commission has not yet determined the number of EVMs it will deploy, nor where it will deploy them. Voter education about why EVMS are being introduced and how to use them has not begun, although exhibitions are being conducted in some locations. The parliamentary election law (formally called the Representation of the People's Order or RPO) is being amended in what many describe as a rushed manner to allow for the use of EVMs in the upcoming elections.

The delegation heard divergent views about the introduction of EVMs. The Election Commission and AL representatives held positive views, noting the machines' potential for saving time, reducing logistical burdens on the production and transportation of materials, and reducing some forms of fraud. However, election observers, the media, and opposition representatives expressed significant concerns about the EVMs, including: an opaque decision-making process to introduce EVMs; lack of transparency during the procurement process; potential security vulnerabilities; lack of a voter verified paper audit trail; insufficient lead time to effectively train poll workers and educate voters on EVMs; and concerns about the military having produced the machines. If not swiftly, thoroughly, and transparently addressed, these concerns could undermine public confidence in the use of EVMs, particularly if deployed in constituencies with closely contested elections.

Election Data

The Election Commission released polling center-level results in analyzable format on its website for the 2014 parliamentary elections, which is a welcome sign of transparency. The delegation encourages the Election Commission the release results in a similar manner for the upcoming elections as a continued demonstration of election data transparency.

Electoral Complaints and Dispute Resolution

Given the high degree of polarization and competition in Bangladesh's elections, an effective, impartial electoral dispute resolution process is critical. The High Court Division, which is the lower division of the Supreme Court, handles electoral disputes. Political parties will expect the court to impartially resolve any electoral disputes that may arise and to resist political pressure, particularly in the wake of the alleged forced removal and corruption charges brought against the former Supreme Court Chief Justice.

Political Parties and Candidates

Candidate Nomination

The parliament's 350 seats consist of 300 first-past-the-post, single-member constituencies, with 50 seats reserved for women. The 50 reserved seats are not directly elected; they are allotted to parties based on their proportional representation in parliament. Political parties are now identifying candidates for single-mandate constituencies. The nomination process within parties is neither transparent nor internally democratic. Party representatives report that preference typically goes to aspirants who can bring in significant funding and are well-connected. This creates significant barriers for women to become nominated as candidates. More broadly, it has hampered the emergence of promising new candidates from the grassroots level.

Campaign Environment

As political parties prepare for their campaigns, the delegation learned that they are actively jump starting their outreach efforts, sharpening platforms and messages, and strategizing about next steps. However, several interlocutors, from opposition parties to civil society and media, described an environment of fear and closing political space as the campaign approaches. Opposition parties reported that recent rallies have been halted and that widespread harassment, intimidation, and arrests without bail have targeted their leadership, tying them up in legal issues and making it difficult to mount a credible campaign. A 2018 Human Rights Watch Report,³ as well as more recent reports by local human rights groups, have noted hundreds of arrests and charges brought against opposition political figures. This contributes to the view that justice is being applied selectively and disproportionately against the opposition, which can create an unequal electoral playing field and violate equality before law.

Women's Participation

Women play an active role in Bangladesh's elections as voters, campaign activists, candidates, observers, and pollworkers. An increasing number of women political activists and elected officials are emerging, particularly at sub-national levels. However, women face significant cultural and structural barriers in participating equally. They constitute approximately 20 percent of the 350-seat *Jatiya Sangsad*, but only seven percent of the 300 directly-elected, single mandate (non-reserved) seats. The reserved seat system was designed as a gateway to increase women's representation. However, it has also been used by parties to limit their full and equal participation as candidates. The reserved seat system should be a floor, not a ceiling, for women

³ "World Report 2018: Rights Trends in Bangladesh." Human Rights Watch. February 09, 2018. Accessed October 10, 2018. <https://www.hrw.org/world-report/2018/country-chapters/bangladesh>.

candidates. It was reported to the delegation that, when women express interest in running for general seats, they are instead referred to the reserved seats. In July 2018, the reserved seat system was extended for 25 years. Extending the reserve seat system without addressing issues that could have improved women's participation more broadly was viewed by some as a missed opportunity. Some female politicians felt that the current system of reserved seats should be combined with an agreed number of general seat tickets.

Aspiring female candidates are further disadvantaged by nomination decisions that prioritize political influence, money and connections over grassroots support. A gender audit conducted by NDI in 2018 found that women and men both commonly advance based on patronage politics, but men advancing through patronage are seen as carrying on the family legacy, while women are seen as placeholders. The RPO requirement that parties must have at least 33 percent women in committee positions by 2020 is viewed as a vital opportunity for women to gain a foothold in party decision-making, but currently both the AL and BNP have less than 15 percent women on committees.

Electoral violence, should it occur during the upcoming elections, would have serious consequences for women. Psychological violence is the most prevalent form of electoral violence against women, while some female candidates, activists and voters have also experienced sexual violence, intimidation, and harassment in past elections. NDI's gender audit and the delegation's meetings with women politicians, found that women candidates and members of parliament face online violence in the form of disinformation, threats, harassment and false accusations. Women reported experiencing character attacks, rumors and outright discrimination from the media and members of their own party, as well as disinformation in the form of often-sexualized false images, and news on Facebook fabricated to discredit them, online newspapers with fake articles, and fake websites. Further, the threat of physical violence often discourages women voters from going to the polls. According to a 2017 IFES report,⁴ domestic violence, which is common in Bangladesh, can increase during politically sensitive periods, limiting women's access to public spaces and further inhibiting the level of their electoral engagement.

Voter registration also poses a challenge for women. The Election Commission's November 2014 voters list summary figures showed that the male voter registration rate was 12 percent higher than that of female voters. No further updates on the voters list figures are publicly available at this time. One factor hampering women's registration is difficulty in obtaining national identity cards, a necessary step to register to vote. The families of girls and young women often obtain legal documents that falsify the girl's age to enter into early marriages. When the time comes to obtain their national ID, women and their families fear that the earlier deception will be uncovered. In a society where 59 percent of women get married underage, this can reduce women's registration rates and subsequently, the level of voter participation.

Youth Participation

⁴"The Effect of Violence on Women's Electoral and Political Participation in Bangladesh." International Foundation for Electoral Systems. April 13, 2017. Accessed October 10, 2018. <https://www.ifes.org/publications/effect-violence-womens-electoral-and-political-participation-bangladesh>.

Youth represent a significant and rapidly growing portion of the electorate in Bangladesh, with millions of first-time voters expected to cast their ballots in the upcoming polls. In recent months, students organized large, peaceful demonstrations to express their priorities on government hiring policies and road safety. This growing activism demonstrates the opportunity for political parties to engage youth more substantively and to channel their activism into formal channels of political participation. While parties still have much room for improvement in reaching out to and involving young people, the delegation noted efforts to use polling data to inform youth outreach for the upcoming elections, as well as platforms to foster political debate among youth. If parties do not prioritize youth engagement, there is a risk that some segments could be drawn to religious extremism.

Security and Electoral Violence

The delegation was encouraged by civil society groups' plans and activities already underway to monitor and mitigate electoral violence. These efforts, combined with those of security bodies, political parties, and the Election Commission, will be crucial for mitigating electoral violence, given the negative impact violence and intimidation has had on several past elections in Bangladesh. Using "muscle" (usually young men) to intimidate, harass, and cause violence has been a common way to demonstrate party loyalty. Religious and ethnic minorities are targets of political violence during electoral cycles, perpetrated by both parties. Violence against women, as mentioned above, is a significant concern and hinders women's electoral participation.

The Election Commission is authorized during the official election period and are responsible for electoral security.⁵ The delegation heard concerns from civil society groups and political parties that -- during the official election period -- law enforcement bodies involved in electoral security may remain under the de facto control of the government rather than the Election Commission as is required in the election law. Observers and media noted instances of police inaction when electoral fraud was openly committed during city corporation elections in July 2018. Some civil society representatives and parties were further concerned about the Rapid Action Battalion (RAB) being deployed to intimidate the opposition in the pre-election period.

Media and Information Environment

Bangladesh's media environment is pluralistic and vibrant. There are a large number of television, radio, online and print media outlets that cover politics and elections, providing voters with content representing a range of political perspectives. Media representatives noted to the delegation that print media is relatively free of overt censorship, while television outlets, through which a greater number of Bangladeshi citizens receive information, have faced more direct censorship. For example, the delegation received reports that television stations have been pressured by the government to not report on the road safety protests led by students in early August. In addition, arrests, intimidation and harassment of journalists and bloggers have had a chilling effect on other media representatives.

⁵ According to RPO Article 44E, the Election Commission has authority over policy working on electoral security from when the election is officially announced to 15 days after results are announced.

The government is mounting significant efforts to monitor, filter and restrict social media content, with the stated goal of addressing and stopping the spread of rumors, incitement to violence and disinformation. The Ministry of Information is also setting up a “Rumour Identification and Removal Centre” to detect and remove social media content it considers rumors. The government also is setting up a “Cyber Threat Detection and Response Project” to monitor, filter or block content deemed “objectionable.”⁶ The Digital Security Act was just signed into law by the president on October 8, 2018. Journalists and rights activists expressed concerns over these recent measures, saying that they could be used to restrict freedom of speech and expression, stifle criticism of the government, and search or arrest suspects without a warrant. It is crucial that the government make every effort to guarantee freedom of expression while protecting voters’ right to form opinions free of manipulative interference or the threat of violence.⁷

Citizen Election Observation

Bangladeshi civil society organizations have a well-established tradition of mobilizing Bangladeshi citizens to monitor the country’s elections. These groups will play a key role in providing the Bangladeshi public with an independent, impartial and timely assessment of the 2018 elections, as well as in flagging early warning signs of electoral violence. The largest coalition, the Electoral Working Group, has deployed long-term observers since September and plans to deploy thousands of short-term observers on election day.

Citizen election observers raised concerns to the delegation regarding intimidation by law enforcement, including police requests for lists of observers and observers receiving intimidating calls from law enforcement. In addition, the Election Commission’s Domestic Observer Guidelines contains several undue restrictions on observer rights. One such restriction bans observers from observing in the same polling booth throughout the day. This restriction on stationary, or fixed, observation is not in line with global norms for observer rights.

RECOMMENDATIONS

The delegation offers the following recommendations on steps that can be taken in the remaining pre-election period to enhance confidence in the overall electoral process and foster peaceful, credible polls.

Government

- Initiate a dialogue with all political parties on measures that would help ensure credible elections and promote trust;
- Announce publicly a pledge of noninterference in the work of the Election Commission;

⁶“Cybercrimes through Social Media to Influence Upcoming Polls.” Dhaka Tribune. September 26, 2018. Accessed October 10, 2018.

<https://www.dhakatribune.com/bangladesh/election/2018/09/27/cybercrimes-through-social-media-to-influence-upcoming-polls>.

⁷ Both of these rights are provided in International Covenant on Civil and Political (ICCPR) General Comment 25.

- Send a clear message instructing law enforcement bodies to be strictly neutral in the application of laws and to refrain from intimidating electoral stakeholders;
- Seek a speedy judicial review of all cases pending against political activists, civil society, and media representatives;
- Ensure all efforts to monitor online and social media are applied in an impartial manner that protects freedom of expression while also promoting voters' right to form opinions free of manipulation and threat of violence; and
- Clarify the Digital Security Act to ensure that it will not be used to limit free expression protected by Bangladesh's constitution and international agreements.

Election Commission

- Exercise all constitutional and legal powers to oversee and direct the police to ensure the security of the electoral process and to provide equal protection of the law to all political parties and their supporters;
- Conduct awareness-raising campaigns to highlight and address the problem of violence against women and members of religious and ethnic minorities in elections;
- Take active measures to recruit and include more poll workers from non-governmental sectors, and prioritize gender balance among poll workers, including presiding officers;
- As soon as possible, provide clear information to the public about whether EVMs will be used, and, if so, in which specific constituencies and polling centers they will be used, and how those locations were selected;
- Ensure that voters in polling centers that will have EVMs are well-informed about how to use EVMs;
- Ensure poll workers tasked with administering EVMs are well-trained on using and maintaining the machines;
- Provide election observers and parties with access to inspect the EVM source code, as well as to review the results of any certification, testing, and security reviews of the machines; and
- Remove the restriction on stationary election observation (remaining in a polling booth throughout election day) to ensure transparency of opening, voting, closing, and counting processes.

Political Parties and Aspiring Candidates

- Seek dialogue with the government on measures that would facilitate credible elections;
- Pledge to resolve inter-party disputes through dialogue and other peaceful means;
- Acknowledge and address barriers to women's participation within parties. This includes greater investment in recruiting and supporting women for single-mandate races, and increasing the rate of progress toward having a minimum of 33 percent women in committee positions, as required in the parliamentary election law (Representation of the People Order) by 2020;
- Develop and apply transparent criteria and a more inclusive selection process for selecting women members of parliament for the reserve seats;
- Communicate within the party and publicly that hate speech and violence, including violence against women, ethnic and religious minorities, and other marginalized groups, will not be tolerated; and

- Prioritize outreach to a broader range of youth in campaign activities, and increase youth involvement in party decision-making structures.

NDI plans to send a pre-election mission to Bangladesh one month before election day to follow up on the above recommendations.

Given the lower level of international observer efforts relative to past elections, NDI encourages the international community to increase support for citizen election observation efforts to ensure a peaceful, inclusive, and transparent election whose result will be accepted by the Bangladesh people as credibly representing their will.

Finally, the delegation and NDI also urge the international community to be as generous and forthcoming as possible to Bangladesh and the United Nations in addressing the humanitarian needs of the Rohingya refugees. Left unattended and unresolved, catastrophic refugee crises can have long-term political and electoral consequences.

NDI conducted this mission in accordance with the Declaration of Principles for International Election Observation. NDI is a nonprofit, nonpartisan organization dedicated to supporting and strengthening democratic institutions worldwide through citizen participation, openness and accountability in government. For more information about NDI, please visit our website, www.ndi.org.