



Appointment of Chief Election Commissioner and Election Commissioners in Bangladesh

Abstract

The recruitment of qualified, professional and neutral people as election commissioners through a transparent and credible process not only brings trust of all stakeholders on the election management body and the electoral process but also works as the foundation of credible elections. In Bangladesh, the tenure of the 11th Commission will expire in February 2017, and a new Commission is expected to be appointed to take the office as per the Constitution. Unfortunately, in Bangladesh, no law has been promulgated on the appointment of the Chief Election Commissioner (CEC) and Election Commissioners (EC) even though the Constitution has such provision. The existing provisions of the Constitution authorize the President to appoint CEC/ECs with advice from the Prime Minister and this advice cannot be “enquired into in any court”. Due to these Constitutional provisions and the absence of a specific law, most of the time, the appointments made under the political government have become controversial as these have been made at the sole discretion of the government of the day. Although, the appointment of the 11th Commission was made by a Search Committee formed by the President, it was an ad-hoc arrangement. Moreover, individuals lacking electoral background and experience were recruited many times for the posts of CEC and ECs. This is a serious shortcoming on the way to conducting credible elections in Bangladesh. The Election Working Group (EWG) has prepared this advocacy paper which captures international best practices and guiding principles, and proposes a set of recommendations for consideration of the Government and other stakeholders to support transparent and credible recruitment of CEC and ECs.

1. Introduction

Transparent and credible recruitment of election commissioners is the first step for building trust in the Election Management Body (EMB) and the overall electoral process. When both the legal framework and its implementation guarantee the recruitment of qualified, experienced, and neutral individuals as EMB commissioners through a multi-stakeholder consultation, it not only fosters trust among stakeholders in the EMB and the electoral process, but also works as the foundation of credible elections. On the other hand, when the recruitment is not credible and transparent, it creates a scope to appoint individuals lacking experience, neutrality, and integrity, which results in lack of confidence on the EMB and electoral process and ultimately results in unfair, unreliable and unaccepted elections.

Although an 'independent' EMB is desired to conduct free, fair and credible elections, personal independence and integrity of each of the Commissioners are also of paramount importance. For this reason, it is crucial to establish a clear process and procedures for appointment of the Chief Election Commissioner (CEC) and other Election Commissioners (ECs) to ensure that no single stakeholder has scope to dominate the process to achieve its own individual goals. There are many examples in the world of independent EMBs failing to conduct credible elections due to the recruitment of EMB commissioners who lack integrity and relevant experience. Though the EMB of Afghanistan is a constitutionally independent body, the 2014 Presidential Election was assessed '3rd wrong among 2014 contests'¹, and one of the reasons cited was the lack of transparency in the recruitment of the EMB members. On the other hand, the 2014 Presidential Election in Costa Rica was assessed as 'the 2nd best in 2014'² and one of the key issues behind this is the credible and transparent appointment of EMB members. Therefore, a comprehensive legal framework that guarantees the credible and transparent recruitment of CEC/ECs is the first step for free, fair and credible elections.

2. Objectives of the Advocacy Paper

The tenure of the 11th Election Commission³ in Bangladesh will end in February 2017, and a new Commission will be appointed as per Constitution. The Election Working Group (EWG) strongly believes that a transparent and credible appointment is critical for future elections, including the 11th Parliamentary election in the country. Hence, this paper has been prepared to analyze the current legal framework and provide recommendations for how to address gaps and weaknesses.

¹ The Year of Elections 2014- The Electoral Integrity Project
(https://www.dropbox.com/s/lkskwf9h6ahmbmu/The%20Year%20in%20Elections%2C%202014%20Final%2011_02_2015.pdf?dl=0)

² *ibid*

³ The Commission led by Kazi Rakibuddin Ahmad is the 11th Commission

The overall objective of this paper is to raise citizen's voice on the transparent appointment of CEC and ECs; while the specific objectives are to:

- Analyze the legal framework and practice of appointment of the Chief Election Commissioner and Election Commissioners in Bangladesh.
- Highlight selected best practices on CEC/EC recruitment from both established and developing democracies along with guiding principles.
- Recommend guidelines for a transparent and credible appointment of CEC/ECs for the consideration of the Government.

3. Recruitment of EMB Commissioners: Practices around the Globe

3.1 The Appointment Procedure

The process of appointing EMB commissioners involves nomination or advertisement, selection, and appointment⁴. In some countries, the constitution and/or the electoral legal framework define both the recruitment process, and the responsible authority to recruit the commissioners; in others, only the body responsible for recruitment is specified. Analysis of electoral legal frameworks and practices regarding the recruitment of election commissioners around the world shows that there are eight major methods:

1. Recruitment through open advertisement
2. Recruitment by a search committee
3. Recruitment by the Parliament
4. Recruitment by the Executive Head (e.g. Prime Minister)
5. Recruitment by Head of the State (e.g. King/Queen/Governor etc.)
6. Recruitment by a Judiciary body (e.g. Judicial Service Commission)
7. Recruitment by political parties
8. Recruitment by more than one body

Section 3.3 below will provide examples from both established and developing democracies of these methods.

3.2 Qualifications of the Commissioners

The qualifications of the commissioners generally depend on whether the EMB is expert-based or multiparty-based. For multiparty EMBs, it is more usual for political parties to use their own criteria for appointing their representatives to the EMB, such as seniority in the party hierarchy, party

⁴ International IDEA. 2014. Electoral Management Design (Revised Edition), Bulls Graphics, Sweden, P=116

membership or professional⁵ qualification. On the other hand, an expert-based EMB, as per international best practices, needs to follow the following criteria:

- Impartiality
- Personal integrity and fairness
- Citizenship/ residence in country
- Minimum and maximum age
- Professional qualifications
- Knowledge of electoral issues
- Physically and mentally healthy
- Not politically active
- Registered as a voter
- Bans on holding other office
- Character requirement

All these qualifications vary from country to country. In Senegal, EMB members are appointed mainly on the basis of moral integrity, intellectual honesty, neutrality and impartiality. In Mexico, Bosnia-Herzegovina, Nepal and South Africa, those with a high political profile are not considered. In some countries, only a current or former judge (e.g. Pakistan, Poland, Turkey) can become an election commissioner, while in others (e.g. South Africa), the chair of the EMB must be a judge. One of the key consideration is that the commissioners must follow the principle of justice holding that decisions should be based on objective criteria, rather than on the basis of bias, prejudice, or preferring the benefit to one person over another for improper reasons.

The legal frameworks of some countries have specific provisions regarding educational requirements. In Lithuania, Mexico, Nepal, Russia and Ukraine, EMB members must have a university degree; while in Philippines and Mauritius, a law degree and time practicing as a lawyer are required. Some countries do not have any age bar, while some do; for example, in Guinea the minimum age is 25, in Mexico it is 30, in Liberia it is 35, and in Pakistan it is 40.

3.3 Appointment Procedure: Examples from other countries

The following country-specific examples on the recruitment of EMB commissioners highlight variations and the practices.

India: According to the Constitution of India: ‘the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President’⁶. Despite consideration of the issue three times since independence, the country does not have a specific legal framework on the appointment of election

⁵ Professionalism means carried out previous jobs with neutrality, impartiality and integrity

⁶ Article 324(2) of the Constitution of India

commissioners. Appointment of CEC and EC was discussed in the Constituent Assembly on June 15, 1949, and a suggestion made to require confirmation of appointments by a two-thirds majority; it was rejected in a joint session of the Parliament⁷. In 1975, the Tarkkude Committee recommended that the members of the Election Commission should be appointed by the President on the advice of a Committee comprised of the Prime Minister, the Leader of the Opposition (or a Member of Parliament selected by the Opposition) in the lower house of Parliament, and the Chief Justice of India⁸; this recommendation was also not implemented. In 1990, the Goswami Committee recommended a change to the appointment process, suggesting that the CEC should be appointed by the President in consultation with the Chief Justice and the Leader of the Opposition in the lower house. In turn, the CEC should be additionally consulted on the question of appointment of the other Election Commissioners and the entire consultation process should have statutory backing⁹. Again, this was not implemented. In the absence of a specific parliamentary law governing the appointment of commissioners, appointments are made by the government of the day, without pursuing any consultation process. The general practice has the Law Ministry puts up the file to the Prime Minister who recommends names of the CEC and EC to the President. After Presidential approval, the Law Ministry issues a formal notification.¹⁰ Thus, “there is no concept of collegium and no involvement of the opposition in the appointment of election commissioners in India”¹¹.

Despite these practices and the absence of a specific law, the recruitment of election commissioners in India is, in general, trustworthy and receives confidence of all the stakeholders as the people with experience, neutrality and integrity are recruited. “It is a miracle that the incumbents so appointed have commanded the trust of the nation”.¹² Moreover, conventionally, in India, the senior-most Election Commissioner is appointed as CEC is a long-time practice in the country.

Bhutan: Bhutan is a new democracy whose Constitution does not discuss the recruitment of election commissioners. Rather the Election Law under article 22 states that “the Druk Gyalpo¹³ shall, by warrant under His hand and seal, appoint the Chief Election Commissioner and two Election Commissioners from a list of names recommended jointly by the Prime Minister, the Chief Justice of Bhutan, the Speaker, the Chairperson of the National Council and the Leader of the

⁷ Law Commission of India (2015). Electoral Reforms- Report No. 255.

⁸ K Parthasarathi, Feb-11-2008, Change the mode of appointment to Election Commission (<http://blogs.ivarta.com/Appointment-Election-Commission/blog-78.htm>)

⁹ The Government of India (2010). The Law Commission of India, Report No. 255

¹⁰ Dr. S. Y. Quraishi. 2014. An Undocumented Wonder: The Making of the Great Indian Election; Page no. 39

¹¹ The Government of India (2010). The Law Commission of India, Report No. 255

¹² Dr. S. Y. Quraishi. 2014. An Undocumented Wonder: The Making of the Great Indian Election; Page no. 40

¹³ The King of Bhutan is called Druk Gyalpo

Opposition Party”¹⁴. The law also defines a set of qualifications, including: EMB members must not be convicted of any criminal offence and not in arrears of taxes or other dues to the Government; be a natural born citizen of Bhutan; and not be married to a non-Bhutanese¹⁵. The Committee meets, discusses on few potential persons and proposes the names of three persons King. After the initiation of democracy, two Commissions have been formed in Bhutan through the search committee.

Botswana: The Independent Electoral Commission (IEC) of Botswana is comprised of seven members, including a chair, deputy chair, and five members¹⁶. The members are recruited for two successive terms of legislature, i.e. for 10 years. The chair and deputy are appointment by the Judicial Service Commission¹⁷; the chair must be a Supreme Court judge, and the deputy chair must be a legal professional. Recruitment of the five members is done by the IEC secretariat through open advertisement. The applications are also received by the EMB secretariat and later send to all-party conference. The all-party conference recommends 15 candidates to the Judicial Service Commission, which, makes the final selection of five members¹⁸.

South Africa: The Electoral Commission of South Africa is comprised of five members, including a chair; one of these five members must be a judge appointed directly by the President on his own discretion. The remaining four members are appointed by a committee consisting of the President of the Constitutional Court as chair, a representative of the Human Rights Commission, a representative of the Commission on Gender Equality, and the Public Protector. As of Constitution, this committee acts in accordance with the principles of transparency and openness and submits a list of not fewer than eight persons selected on the basis of qualifications and experience as described in the South African Electoral Commission Act 1996 to the Committee of National Assembly on the recruitment of EMB commissioners. The Committee reviews the list and submits it to the National Assembly with its opinion (if any) for discussion/debate. The National Assembly by a resolution adopted by a majority of the members recommends four members to the President, who officially appoints the Commissioners as per National Assembly resolution.¹⁹

Costa Rica: The Election Commission consists of three members, including one chair who must be a judge or former judge, and six deputy members appointed by the judiciary²⁰. One of the three

¹⁴ Article 22 of the electoral legal framework of Bhutan

¹⁵ Article 21 of the electoral legal framework of Bhutan

¹⁶ Article 65A of the Constitution of Botswana

¹⁷ Md. Abdul Alim. 2014. PhD Dissertation. Department of Government and Politics, Jahangirnagar University, Dhaka

¹⁸ Md. Abdul Alim. 2014. PhD Dissertation. Department of Government and Politics, Jahangirnagar University, Dhaka

¹⁹ Article 6 of the Electoral Commission Act, 1996 (of South Africa)

²⁰ Article 100 of the Constitution of Costa Rica

members and two of the six deputy members are appointed every two years. As per law, the Supreme Court of Justice unilaterally appoints members of the EMB based on the resolution by two-thirds of its members.²¹

Canada: The country has only one commissioner- the Chief Electoral Officer (CEO). The position of CEO was created in 1920 by the *Dominion Elections Act*. The legislature is responsible for this appointment and he is appointed by resolution of the House of Commons for a term of 10 years²².

South Korea: The legal framework of South Korea provides for a multi-stream procedure for the appointment of EMB members. Out of nine Commissioners including the Chair, three are appointed by the President, three are selected by the National Assembly, and three are nominated by the Chief Justice of the Supreme Court.

Burkina Faso: Appoints a neutral civil society leader as the EMB chair. As per Electoral Code of the country, a 15-member committee is formed to select the EMB members; 5 members are selected by the political party that has the majority in the National Assembly, 5 members are selected by the opposition parties and 5 members represent civil society organizations (3 members represent religious communities, 1 traditional authority and the remaining 1 member represents human rights associations). The committee proposes the name of the EMB commissioners to the government.²³

4. Recruitment Procedure of CEC/ECs in Bangladesh

4.1 Bangladesh's Legal Framework and its Shortcomings

Article 118(1) of the Constitution of Bangladesh defines that 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'. The constitution has neither prescribed qualifications nor the appointment procedure of chief election commissioner (CEC) and election commissioners (ECs), and neither the Election Law nor any other law specifically defines the process for recruitment of CEC/ECs. Article 48(3) of the Constitution states that "in the exercise of all his [President] functions, save only that of appointing the Prime Minister pursuant to clause (3) of article 56 and the Chief Justice pursuant to clause (1) of article 95, the President shall act in accordance with the advice of the Prime Minister.... provided that the question whether any, and if so what, advice has been tendered by the Prime Minister to the President shall not be enquired into

²¹ Law No. 1536 and 3504 of Costa Rica

²² Article 13(1) of the Canada Elections Act

²³ Electoral Code as amended in 2015, art. 5

in any court". As it applies to the appointment of election commissioners, analysis of these two constitutional provisions clearly suggests that –

- (a) Although the Constitution urges promulgation of a law on the appointment of CEC/ECs, there is no law on this in Bangladesh
- (b) The Constitution authorizes the President to appoint CEC/ECs
- (c) There are no rules/regulations/gazette notification on the recruitment process i.e. formation of search committee, open advertisement, cross-party consultation etc.
- (d) There is no document/paper/regulation/gazette notification on the qualification and experience for the position CEC and ECs
- (e) The Constitution authorizes that the President to take advice from the Prime Minister to select persons as CEC/ECs and this advice cannot be enquired into in any court.

4.2 Recruitment of Election Commissioners: Practice in Bangladesh

This study has collected information on the recruitment of the current and past Commissions to understand the process followed both under political government and caretaker government.

11th Commission/Kazi Rakibuddin Ahmad Commission, 2012-2017: Before the appointment of the 11th Commission, in late 2011, the President initiated a dialogue with 24 of the 38 registered political parties and sought their suggestions in an attempt to form the Election Commission with a political consensus. Following recommendations by many of the parties, on 22 January 2012 the President formed a Search Committee comprised of a Justice of the Appellate Division of the Supreme Court of Bangladesh as Chair, a Justice of High Court, the Chairman of the Public Service Commission, and the Comptroller and Auditor General of Bangladesh. Many political parties, including the then ruling party Bangladesh Awami League, submitted names, while the opposition Bangladesh Nationalist Party (BNP) did not²⁴. On 7 February 2012 the Search Committee recommended two names for each of the five posts, including the Chair, to the President, who officially constituted the five-member Commission the following day²⁵.

10th Commission/Dr. ATM Shamsul Huda Commission, 2007-2012: The 10th Commission was appointed during the Caretaker Government led by Dr. Fakruddin Ahmad. The Commission was comprised of three members: Dr. ATM Shamsul Huda as Chair, Brigadier General M. Shakhawat Hussain, and Mohammad Sohul Hussain. In this instance, the appointment of all three Commissioners was done by the Office of the Chief Advisor (CA). It is unknown, though assumed, that the Office of the CA conducted unofficial consultations with the major political parties²⁶ prior

²⁴ BDNews24.com, 15 September, 2016

²⁵The Daily Star, 09 February 2012

²⁶ Interview with Brig. M. Shakhawat Hussain on October 16, 2016 and Mohammad Sohul Hussain on November 1, 2016

to appointment of the Commission. Moreover, the three persons demonstrated probity and efficiency in their earlier phases of service to the country²⁷.

9th Commission/Justice M. A. Aziz Commission, 2005-2007: Justice MA Aziz, a sitting judge of the Appellate Division of the Supreme Court, was appointed as the 9th CEC of Bangladesh during the BNP Government in 2005. His appointment was controversial. According to Article 99(1) of the Constitution, “a person who has held office as a Judge ... shall not, after his retirement or removal therefrom ... hold office of profit in the service of the Republic not being a judicial or quasi-judicial office or office”. Thus, what Justice Aziz cannot do after retirement or removal, he cannot do while in office as a Judge under oath. In 1996, when Justice Aziz was an advocate of the Supreme Court of Bangladesh, he was appointed Additional Judge of the High Court Division. He was confirmed as a Judge of the High Court Division in 1998 and elevated to the Appellate Division in 2004. As a Judge, Justice Aziz's duties were purely judicial, and he took an oath under Article 148 of the Constitution to: discharge the duties of his office faithfully according to law; to preserve, protect and defend the Constitution and the laws of Bangladesh; and to do right to all people according to law without fear and favour, affection or ill will. The restrictive provision of Article 99(1) of the Constitution must also be applicable in the case of Justice Mahfuzur Rahman's appointment as an Election Commissioner in this Commission. The appointment of both Aziz and Mahfuzur was made ‘unilaterally without showing any respect to the public opinion and demand of the political parties’²⁸.

5th Commission/Justice Abdur Rouf Commission, 1990-1995: The 5th Commission led by Justice Abdur Rouf was appointed during the first Caretaker Government in 1990-1991. After taking office in 1990, Acting President Justice Shahabuddin Ahmed recommended the appointment of Justice Rouf as CEC and Justice Sayad Misbah Uddin Hossain and a member. These two commissioners joined Justice Noyem Uddin Ahmad, who was appointed by the Ershad Government in 1990 prior to the establishment of the Caretaker Government. Although no consultation was done by the Acting President to appoint Justice Rouf and Justice Mesbah²⁹, the appointment was hailed by most stakeholders.

Due to the above-mentioned Constitutional provisions, the government can appoint anyone as CEC and EC without considering their qualifications and past records and most of the time since 1972, the appointments of the CECs and ECs have been made at the sole discretion of the government of the day. The successive party governments have generally appointed such persons to these posts who were loyalists to those parties and the ultimate decisions were taken by the Prime Minister of

²⁷ The Daily Star, February, 7, 2007

²⁸ The DAWN, 25 May 2005

²⁹ Interview with Justice Abdur Rouf; dated October 6, 2016

the day and the President's role has been an ornamental one as he must 'act in accordance with the advice of the Prime Minister'. On the other hand, during caretaker government, in general, non-partisan and competent people were recruited as CEC/ECs.

4.3 Initiative to Promulgate Law by Huda Commission

The 10th Commission led by Dr. ATM Shamsul Huda drafted a bill on "The Appointment Procedure of Chief Election Commissioner and Election Commissioners".³⁰ The bill included a provision to form a Search Committee and proposed a set of qualifications for the CEC and ECs. The Search Committee would be a 5-member committee supported by the Election Commission Secretariat, consisting of the outgoing Chief Election Commissioner as the Conveyer, a Justice of the High Court Division nominated by the Chief Justice, Chairman of the Anti-Corruption Commission, Chairman of the Public Service Commission, and Comptroller and Auditor General.

Pertinent to qualifications, the bill called for appointment of individuals with proven administrative competencies, integrity, and justice and who are perceived to be neutral. The bill also included characteristics that would disqualify individuals from appointment, including:

1. s/he is 65 or above;
2. s/he is not generally considered as a man of honesty and does not lead his life based on honest earnings;
3. s/he is an active member of a national or local political party or any of its associated/affiliated organization;
4. s/he ever wished to compete in an election as a candidate from any political party;
5. s/he took any loan as a director or partner of a company and did not repay within one year.

This bill was sent to the Law Ministry for the approval of the Government as well as the Parliament, but it did not see the light at the end of the day as the Government did not consider it. Although, this bill was a positive initiative, it had few shortcomings:

- It did not specify the working procedures of the Search Committee, but left it to the Search Committee itself to define. This could create a scope to manipulate the preparation of working procedure by the Search Committee. Moreover, cross-party consultation might not be there in the working procedure.
- The law stated that the Search Committee would propose three names for each of the positions to the Prime Minister's Office for scrutiny and consideration of the Business Advisory Committee. The Speaker is the Chair of the Business Advisory Committee; so the

³⁰ Bangladesh Election Commission (2008). Report on EC's Dialogue with Political Parties

list of panel should be sent to the Speaker's office or Public Accounts Committee instead of the Prime Minister's Office which would be a more objective process.

5. Conclusion and Recommendations

5.1 Conclusion

Whatever method is followed to recruit the CEC/ECs, the most important consideration is a credible and transparent procedure. Based on the practices in other countries as well as the best practices, the process has to follow at least three guiding principles: (i) cross-party consultation (ii) formation of expert-based commission (iii) recruit professionals, honest and neutral people.

5.2 Recommendations

Considering international best practices, guiding principles, and political culture of Bangladesh, the EWG has two main recommendations:

1. Revision of the Article 48(3) of the Constitution and add CEC/ECs along with Chief Justice. This revision would then not require the President to consult with the Prime Minister on the appointment of CEC and ECs; and
2. Promulgate a legal framework on the recruitment of CEC and ECs

The law must contain the followings:

- A. The provision to form a neutral Search Committee
- B. Terms of reference as well as the working procedures for the Search Committee
- C. Qualifications of the CEC and ECs
- D. Provision to appoint expert-based Commission
- E. Provision to include at least one female Commissioner

A. The Formation of Search Committee

The Search Committee could be a 7-member Committee including the Chairman. A judge of the Appellate Division nominated by the Chief Justice shall be the head of this Committee. Six other members of this Committee could be the:

- (i) Outgoing Chief Election Commissioner
- (ii) Chairman of the Public Service Commission
- (iii) The Comptroller and Auditor-General
- (iv) Chairman of the Anti-Corruption Commission
- (v) Two members from the civil society/academics/professional/ *Peshajibi* bodies. These persons will be nominated by 3 major political parties as per election results in the last two consecutive Parliaments. Each of the three parties shall submit one name to the President and he will select two from this list.

The Registrar of the High Court/PSC Secretariat/President's Secretariat shall be responsible to provide the secretarial work for the Search Committee.

B. Terms of Reference and working procedure of the Search Committee

The Search Committee shall be responsible for the following activities.

- shall meet with the registered political parties of Bangladesh individually and ask names for the post of CEC and ECs based on the qualifications mentioned in C below;
- submit a list of 15 persons- 3 for each of the post, including at least 3 women, to the President;

C. Qualification and Experience of the CEC and ECs

C.1 General qualifications: The general qualifications for the CEC and the ECs would be:

- i. Nationality: Must be a Bangladeshi citizen and have no dual citizenship;
- ii. Physical and mental health: Must have good physical health with sound mind;
- iii. Age: Minimum 45 and maximum 70 years of age;
- iv. Education: Must hold a minimum of a Master's degree from any recognized university
- v. Experience: Carried out previous jobs with neutrality, impartiality, integrity, and professionalism. The term 'professional electoral administrator' implies a person with a range of skills beyond those associated with technical or management qualifications in other specific fields. In addition to these, a professional electoral administrator needs: (a) an understanding of strategies for strengthening democratic development; (b) a commitment to the principles that are the foundation of electoral good practice; and (c) a strong commitment to high-quality electoral service to all stakeholders³¹.
- vi. Political party affiliation: Has never been affiliated/associated with a political party or affiliated bodies.

C.2 Specialized qualifications

- vii. The Chief Election Commissioner: Retired judge of the Appellate Division or Retired Senior Secretary of the Government or an immediately retired Election Commissioner or an extremely acceptable person of the civil society.
- viii. Other commissioners:

³¹ International IDEA. 2014. Electoral Management Design (revised edition). Stockholm, Sweden. Page=177

1. Security Expert: One of the commissioners should be a security expert as security to the voters and other stakeholders is a big concern in elections.
2. Legal expert: One commissioner should be a legal expert. S/he could be a retired judge of the High Court division or a lawyer having at least 15 years' experience.
3. Election expert: One of the commissioners should be an election expert. This person should have at least 15 years' experience in the field of elections. Competent retired EC officials or civil society representatives working in the field of elections could be recruited.
4. One administrator: Retired secretary of the government could be recruited.

D. The Role of the President: After receiving the name of the 15 persons, the President will send the list to the Parliamentary Accounts Committee (PAC) for interview. The PAC, after interview, the PAC will make a list of 10 persons – 2 for each of the posts, including at least 2 women – and send this back to the President. The President shall then nominate one CEC and four ECs to the Cabinet Secretary for appointment.

5.3 Conclusion

In a democracy, the Election Commission should be a credible, transparent institution trusted by all electoral stakeholders. One characteristic of such commission is the credible appointment of election commissioners. Hence, “the manner of appointment of Election Commissioners is extremely critical for the neutrality and a perception of neutrality of the institution”³². In the countries where conducting credible elections is a challenge, it is a must to recruit election commissioners based on transparent procedure following a cross-party consultation. The trust on an electoral process starts on the appointment of the Commissioners and a comprehensive legal framework is critical for this. Hence, the EWG is urging the Government to pass a law to ensure credible and transparent appointment of the CEC and ECs in the 12th Commission.

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³² Dr. S. Y. Quraishi. 2014. An Undocumented Wonder: The Making of the Great Indian Election; Page= 38