



**European Union
Election Expert Mission**

Bangladesh 2024

Final Report



Parliamentary Election

7 January 2024



EUROPEAN UNION
ELECTION EXPERT MISSION TO BANGLADESH

Parliamentary Election

7 January 2024

FINAL REPORT

This report was produced by the European Union Election Expert Mission to Bangladesh and presents the mission's findings on the 7 January 2024 parliamentary election. These views have not been adopted or in any way approved by the European Commission and should not be relied upon as a statement of the European Commission. The European Commission does not guarantee the accuracy of the data included in this report, nor does it accept responsibility for any use made thereof.

TABLE OF CONTENTS

| | | |
|-------|---|----|
| I. | EXECUTIVE SUMMARY | 3 |
| II. | INTRODUCTION..... | 6 |
| III. | POLITICAL BACKGROUND | 6 |
| IV. | IMPLEMENTATION OF PREVIOUS EU EEM RECOMMENDATIONS..... | 6 |
| V. | LEGAL FRAMEWORK AND ELECTORAL SYSTEM..... | 7 |
| A. | International Principles and Commitments and Constitutional Human Rights..... | 7 |
| B. | Electoral Legislation..... | 7 |
| C. | Election System..... | 8 |
| D. | Constituency Delimitation..... | 8 |
| VI. | ELECTION ADMINISTRATION | 8 |
| A. | Structure and Composition of the Election Administration | 8 |
| B. | The Administration of the Elections..... | 9 |
| VII. | VOTER REGISTRATION..... | 10 |
| A. | The Right to Vote | 10 |
| B. | Voter Registration Procedures..... | 10 |
| VIII. | REGISTRATION OF CANDIDATES AND POLITICAL PARTIES | 10 |
| A. | Registration of Candidates | 10 |
| B. | Registration of Political Parties | 11 |
| IX. | ELECTION CAMPAIGN | 12 |
| A. | Election Campaign | 12 |
| B. | Election Related Violence | 12 |
| C. | Campaign Finance..... | 13 |
| D. | Voter Education..... | 13 |
| X. | MEDIA AND ELECTIONS | 13 |
| A. | Media Environment..... | 13 |
| B. | Legal Framework for the Media and Elections | 14 |
| C. | Media and Online Coverage..... | 14 |
| XI. | PARTICIPATION OF WOMEN AND MINORITIES | 15 |
| A. | Participation of Women..... | 15 |
| B. | Participation of LGBTQI and Third Gender | 16 |
| C. | Participation of Minorities..... | 16 |
| XII. | PARTICIPATION OF PERSONS WITH DISABILITIES | 16 |
| XIII. | CIVIL SOCIETY AND INTERNATIONAL OBSERVATION..... | 17 |
| XIV. | ELECTORAL DISPUTES..... | 17 |
| A. | Pre-election Petitions..... | 18 |
| B. | Election Offences | 19 |
| C. | Post-election Petitions | 20 |
| XV. | POLLING, COUNTING AND TABULATION OF RESULTS | 21 |
| A. | Overview of Voting..... | 21 |
| B. | Counting and Tabulation of Results..... | 22 |
| XVI. | RESULTS AND POST-ELECTION ENVIRONMENT..... | 22 |
| XVII. | RECOMMENDATIONS..... | 24 |

I. EXECUTIVE SUMMARY

- Overall, the 2024 parliamentary election in Bangladesh did not meet some key international standards for democratic elections. Civil and political rights, including the freedoms of assembly, association, movement, and speech essential for inclusive and competitive elections, were restricted. Opposition political parties' activities were severely limited by judicial proceedings and mass arrests. Voters did not have the opportunity to fully exercise their democratic right to vote for a diverse range of candidates following a decision by the main opposition party to boycott the elections. Seat-sharing agreements between participating political parties, as well as the Awami League engineering a system of internal competition between its own official candidates and 'independent candidates' affiliated with this party, did not offer voters genuine freedom of choice. The environment for media and civil society was also not conducive to guaranteeing freedom of speech and further limited critical public debate and transparency.
- The 12th parliamentary election was held on 7 January 2024, within the prescribed constitutional timeline. The Bangladesh Awami League party, led by the prime minister, Sheikh Hasina, was seeking a fourth consecutive term in office. These elections were conducted in a highly polarised political environment. There was a lack of genuine competition with the Bangladesh Nationalist Party (BNP) and its alliance partners boycotting the election, as their demands for the government to resign and the establishment of a caretaker system of interim government to oversee the election were rejected as unconstitutional.
- In the pre-election period, as part of a series of opposition demonstrations, a large protest march on 28 October 2023 resulted in serious violence. Subsequently, the civil and political rights environment deteriorated significantly with mass arrests and detention of BNP and alliance party leaders and thousands of supporters. This has severely restricted the exercise of the freedoms of assembly, association, movement, and speech of opposition parties throughout the election period. With nearly all of the senior leadership incarcerated or evading arrest, the BNP's ability to carry out any political activities was limited by criminal cases pursued in the courts. These moves were widely perceived as part of a strategy to instrumentalise criminal charges in order to prevent any challenges to the election process.
- Fundamental civil and political rights essential for the conduct of credible democratic elections are enshrined in the Constitution of Bangladesh 1972 and international treaties that Bangladesh is a State Party to. However, the protection of some of these rights is undermined by legislation that unduly restricts the rights to freedom of speech and association. This results in a legal framework that does not meet international standards for democratic elections.
- The principle of equal suffrage was not fully respected, as there were wide variations in the number of voters per parliamentary seat, based on the demarcation of existing constituency boundaries.
- The Bangladesh Election Commission complied with minimum legal requirements. Decision-making was consistent with its legal mandate, and logistical preparations were proficient. However, although it has extensive powers, there was a lack of confidence amongst some stakeholders that it was able to deliver a credible election. There was a widespread perception that its independent status was not fully guaranteed and that it lacked the capacity to enforce rules to ensure the integrity of voting and counting processes at local levels.

- The voter registration process was efficient, resulting in regular updates and good levels of data integrity, according to all stakeholders. Procedures are clear and proportionate, with mostly reasonable requirements for inclusion in the register. Those who had not reached the age of 18 years by 1 January 2023 were, however, ineligible to vote in this election. As a result, individuals who reached the age of 18 in 2023 were disenfranchised.
- Some of the grounds for disqualification to stand as a candidate are disproportionate and unduly limit the right to stand as a candidate in an election. These include unreasonable and extended periods of time that should elapse following resignations from public office or certain civil society organisations to qualify as a candidate.
- The election campaign reflected the wider restrictions on the freedoms of assembly, movement, and speech and the lack of a fully competitive environment. A short official election campaign period was regulated by overly prescriptive legal provisions. The Awami League was the only political party participating in the election that had the resources and structures to organise any significant public activities, including large campaign rallies and launch events for their manifesto. Otherwise, the campaign was relatively subdued across the country.
- Campaign spending limits were imposed on candidates. The financial ceiling, however, was very low and limited campaign activities. It has also encouraged underreporting of spending and candidates bypassing rules to fund their campaigns according to interlocutors.
- Legislation regulating online content, the Cyber Security Act 2023, is particularly problematic in respect to its impact on freedom of speech in the media and online and falls short of international standards despite some marginal improvements on previous legislation. Disproportionate and vague provisions unduly restrict legitimate speech online and in the media. Penalties are also disproportionate including criminal sanctions that result in a chilling effect on freedom of speech.
- Women remain underrepresented in parliament and continue to face significant challenges in participating fully in public life and elected positions. Only 20 women were elected; that is 6.6 per cent of the directly elected seats in parliament. There are a further 50 seats reserved for women to be nominated based on the proportion of seats obtained by political parties and coalitions in the new parliament.
- An increasingly restrictive civil and political rights environment has limited the role of civil society in the election. A combination of regulatory obstructions coupled with the disproportionate use of security vetting has resulted in significant pressure and self-censorship in this sector. Important transparency measures provided by domestic election observation at polling station level were, as a result, undermined. No independent assessments of the election process were conducted by non-partisan civil society observer groups.
- The pre-election petitions were all related to candidate nominations. Candidates could make appeals first to the election commission and then to the Supreme Court. These were dealt with expeditiously, although there were some shortcomings in meeting the international right to an effective remedy. Several interlocutors commented that the very short time taken for the disposal of these cases did not allow adequate time to properly hear the challenges. The courts made some inconsistent decisions that were perceived by some commentators as benefitting specific individuals. There was also a lack of confidence in the independence of the judiciary because the system of judicial appointments lacks important safeguards for its independence.

- Enforcement of the laws and the code of conduct against campaign and election day violations was inconsistent throughout the election process. In some of the cases, reported to the election commission, these were dealt with in an unduly lenient manner and in others disproportionately harshly, and as a result not consistent.
- Voting was conducted in a generally organised and orderly manner. There were some isolated incidents of violence reported on election day. There were also reports by the election commission and claims made by candidates of voting irregularities in localised attempts at fraud, including ballot box stuffing. Some of these were dealt with promptly by the election commission and returning officers and 25 polling centres were suspended, whilst other incidents were neglected and not adequately investigated.
- The final turnout published by the election commission was 41.8 per cent. This was marked by wide disparities across the country. According to the final official results the Awami League official candidates obtained 223 seats, independent candidates 62, nearly all of which are linked to the Awami League ‘independent affiliated candidates’ category, and Jatiya Party 11 seats. Two further parties obtained one seat each within the seat sharing agreement framework. The final seat was won by the Kallyan Party.

A comprehensive set of detailed recommendations is included at the end of this report for consideration by the relevant authorities in order to further improve certain areas in the electoral process. Key recommendations include:

- A comprehensive review of all legislation, regulations and rules related to parliamentary elections including the Representation of the People Order, 1972 could provide increased legal certainty and consistency as well as a more harmonised legal framework in line with international standards for democratic elections. This could be carried out within a process of enactment of a new consolidated law by parliament.
- The system for appointing the board of commissioners of the Bangladesh Election Commission would be strengthened by a merit-based and independent appointments process that works in the public interest. An independent panel in line with best practice for senior public appointments could oversee this process.
- A review of the provisions of the Cyber Security Act, 2023 could ensure better alignment of provisions with international standards on freedom of speech. Vague and disproportionate restrictions or proscriptions on speech could be removed.
- Provisions of the Foreign Donations (Voluntary Activities) Act, 2016 including limits to the activities of civil society organisations and overly bureaucratic registration, vetting and reporting requirements could be reviewed against international standards for freedom of assembly and speech to ensure civil society is able to work free of restrictions and overly bureaucratic and disproportionate procedures including during election periods.
- Increased safeguards could be developed to ensure the integrity of voting and counting processes. These could include a full moratorium on political party activities in the vicinity of polling centres, increased transparency and security of voting and counting procedures and prosecution for illegal practices.

II. INTRODUCTION

Following an invitation from the Bangladesh Election Commission, the European Union made a decision to deploy a European Union Election Expert Mission (EU EEM). The mission arrived in Dhaka on 28 November 2023, and was deployed until 24 January 2024. The mandate of the EU EEM was to collect factual information concerning the electoral process in line with the criteria outlined in the Commission Communication on Electoral Assistance and Observation [COM (2000) 191]. The EU EEM was based in Dhaka for the duration of the election period, with field visits to other parts of the country. No public statements were made by members of the mission in accordance with the mission's terms of reference. No systematic observation of campaign activities or polling centres was conducted.

III. POLITICAL BACKGROUND

The 12th Bangladesh parliamentary election was held on 7 January 2024, within the prescribed constitutional timeline. The Bangladesh Awami League party, led by the prime minister, Sheikh Hasina, was seeking a fourth consecutive term in office. Elections were conducted in a highly polarised political environment. There was a lack of genuine competition with the main opposition party, the Bangladesh Nationalist Party (BNP) and its alliance partners boycotting the election as their demands for the government to resign and the establishment of a caretaker system of interim government to oversee the election were rejected as unconstitutional. This resulted in the Awami League agreeing seat sharing arrangements with participating political parties and engineering a system of internal party competition through the promotion of Awami League-affiliated 'independent candidates' that competed against the party's own official candidates.

Ahead of the election period a number of opposition rallies were organised calling for the government to resign and the introduction of a 'neutral caretaker system' of government that would require the removal of the 15th amendment of the Constitution.¹ As part of this campaign a demonstration in Dhaka on 28 October 2023 resulted in an outbreak of serious violence. Subsequently the civil and political rights environment has deteriorated significantly with mass arrests and detention of BNP and alliance party leaders and thousands of supporters.² The courts' rejection of bail in almost all cases meant that nearly all of the BNP senior leadership were incarcerated or evading arrest that severely restricted the freedoms of assembly, association, movement and speech of opposition parties throughout the election period. These moves were widely perceived as part of a strategy to instrumentalise criminal charges in order to prevent any challenges to the election process. The environment for media and civil society was also not conducive to guaranteeing freedom of speech and further limited critical public debate and transparency.

IV. IMPLEMENTATION OF PREVIOUS EU EEM RECOMMENDATIONS

Only two recommendations of the EU EEM from 2018 requiring reforms were partially implemented. The first of these recommendations relates to the introduction of legislation for the appointment of the election commissioners and chief election commissioner. This has only

¹ The Constitution of Bangladesh, 1972 has undergone a series of amendments. The 15th amendment abolished the caretaker system of interim government (that was introduced by the 13th amendment in 1996), following a contested ruling of the appellate division of the Supreme Court declaring it contrary to the Constitution on 11 May 2011.

² In the absence of official statistics on monthly arrests being released there is no reliable and verifiable data on the actual numbers of people arrested, and held in prison, during the two months prior to the election. According to the Minister of Law there were an estimated 13,000-15,000 detained. The BNP's estimates vary. Their most recent one cited in the media was 23,000.

partially been achieved, as the appointments process, continues to lack full public transparency. The second recommendation to be partially achieved relates to minor amendments to the Representation of the Peoples Order, 1972. This legislation, however, requires further amendments to fully respond to the specific recommendation. Wider electoral reform issues were largely unaddressed since 2018.

V. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

A. International Principles and Commitments and Constitutional Human Rights

The fundamental civil and political rights essential for the conduct of credible democratic elections are enshrined in the Constitution of Bangladesh, 1972 and international treaties that Bangladesh is a State Party to. The Constitution sets out the fundamental principle that the People's Republic of Bangladesh shall be a democracy in which effective participation by the people through their elected representatives shall be ensured. It provides for the rights to freedom of assembly, association, expression, press freedom, and movement, all of which are essential for holding genuine and credible elections. It sets out the principles of equality and non-discrimination on grounds of religion, race, or sex.

Bangladesh has committed to guaranteeing the exercise of these rights and freedoms through its ratification of or accession to the International Covenant on Civil and Political Rights, the principal anti-discrimination conventions, and the UN Convention Against Corruption.³ However, the protection of the rights to freedom of speech and association are undermined by legislation that is unduly restrictive in particular the Cybersecurity Act, 2023 and the Foreign Donations (Voluntary Activities) Act, 2016 (see sections below). This results in a legal framework that does not fully meet international standards for democratic elections.

B. Electoral Legislation

Electoral legislation is set out in a number of statutes and rules, primarily the Representation of the People Order, 1972. This legislation was amended in 2023 introducing minor improvements. This included extending the rights of candidates to challenge decisions made by a returning officer to accept a candidature of a contestant rather than only challenging the rejection of their own candidature. It also introduced a new offence of threatening or using force to prevent a person carrying out their duties during elections, including media or observers, or obstructing a voter, punishable with imprisonment from two to seven years. The amendments also reduced the election commission's powers to cancel election results in an electoral constituency and replaced it with a more specific power to cancel results in individual polling stations in which the outcome is significantly impacted by malpractices.

Several shortcomings, however, remain. Although the election commission published the election results online there are insufficient legal provisions to guarantee publication of a full breakdown of results by polling centre. The lack of a requirement to maintain an accurate public record of changes made to the results by returning officers during the results consolidation process is also another critical gap in transparency and legal provisions. Other shortfalls in the legal framework include the lack of a timeline for pre-election appeals to be concluded by the Supreme Court;⁴

³ Bangladesh is a State Party to the Convention on the Elimination of all Forms of Racial Discrimination, the Convention on the Elimination of all Forms of Discrimination against Women and its Optional Protocol (with reservations against Articles 2 and 16(1)(c)), and the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

⁴ There are two divisions of the Supreme Court that hear election cases: the High Court Division, and the Appellate Division. Although the Supreme Court attempts to deal with cases expeditiously, this is not always achieved, and some candidate appeals were only decided five days before election day.

insufficient regulatory provisions and an inadequate enforcement mechanism for the campaign spending rules, necessary to ensure a level playing field; and undue restrictions on the right to vote and to stand as a candidate. The legal framework is also fragmented, as various pieces of legislation, rules, and regulations also govern elections and that weakens accessibility.⁵

C. Election System

Established in line with constitutional provisions the Bangladesh Parliament consists of a 350-seat single chamber with members elected for a five-year term. Of these seats 300 are elected directly by universal suffrage in single member constituencies using a first-past-the-post election system. The remaining 50 seats are reserved for women elected by the parliamentary members based on the proportional representation of parliamentary seats. The president is also elected by the parliament. The prime minister is head of government and the executive branch of the state with extensive powers. The leader of the party with the largest majority of seats in parliament following elections is formally appointed as prime minister by the president pursuant to article 56 of the Constitution of Bangladesh, 1972.

D. Constituency Delimitation

Pursuant to constitutional provisions, the election commission is responsible for the delimitation of 300 constituencies for the purpose of elections to parliament. The Constituencies Delimitation Act, 2021 outlines that the delimitation should follow the principles of administrative convenience and geographical integrity of constituencies, and at the same time, as far as possible, it should reflect the population distribution as per the last census. The election commission's decisions on the delimitation of constituencies are final and cannot be challenged. A provisional draft list of constituencies was published in 2022. A total of 186 claims and objections were received in 38 of the 300 constituencies. This resulted in boundaries being amended in 10 of these constituencies. The final list of constituencies for the 2024 parliamentary election was published in the Official Gazette on 3 June 2022.

The principle of equal suffrage was not fully respected, as there were substantial variations in the number of voters per parliamentary seat based on the demarcation of these boundaries. In the most extreme case, the largest constituency Gazipur-2 has 779,726 voters which is 3.6 times more voters than the smallest constituency Jhalokati-1 that has 212,012 voters. Overall, of the 300 constituencies, 141 or 47 per cent, deviate by more than 15 per cent from the national average of 398,973 voters per constituency that is not in line with good electoral practice.

VI. ELECTION ADMINISTRATION

A. Structure and Composition of the Election Administration

The Bangladesh Election Commission is established as an independent body pursuant to Article 118 of the Constitution of Bangladesh, mandated to conduct parliamentary and local elections. It consists of a secretariat and permanent field offices with oversight by a board that includes four commissioners and a chief election commissioner. The election commission has extensive powers to direct state institutions in support of election delivery as well as significant

⁵ These include the Code of Conduct for Political Parties and Candidates 2008, the Conduct of Elections Rules 2008, the Electoral Rolls Act 2009 and Electoral Rolls Rules 2012, the Independent Candidate Rules 2011, the National Assembly (Reserved Seats for Women) Election Act 2004, the Guidelines for Election Observation 2017 and the Guidelines for Election Agents and Polling Agents, as well as sections of the Penal Code covering Electoral Offences. Four recent acts also impact on the electoral process: the National Identity Registration Act 2023, the Constituencies Delimitation Act 2021, the Chief Election Commissioner and other Election Commissioners Appointment Act 2022 and the Cyber Security Act 2023.

institutional capacity, and legal provisions designed to ensure independence. The commissioners were all appointed by the president for a five-year term of office following the recommendations of a six-member search committee in 2022 and pursuant to new legislation introduced in 2022.

Commissioners have oversight of a permanent secretariat and an extensive field structure that includes 512 field offices at the administrative sub-district upazila level, 64 district offices, and 10 regional offices. In advance of the election, 66 returning officers and 592 assistant returning officers were appointed to manage preparations and oversee delivery of the election at the constituency level. Senior government appointed public officials who are deputy commissioners are temporarily appointed by the election commission to act as returning officers in all parliamentary constituencies, with the exception of Dhaka and Chattogram, where divisional commissioners are appointed to this role.

B. The Administration of the Elections

The election commission complied with minimum legal requirements. Decision-making was largely consistent with its legal mandate and milestones including the updating of the voter register and logistical preparations were well managed. However, although it has extensive powers, there was a lack of confidence amongst some stakeholders that it was able to deliver a credible election. There was a widespread perception that its independent status was not fully guaranteed and it lacked capacity to enforce rules to ensure the integrity of voting and counting processes at local level.⁶ It also did not employ the full range of its powers to ensure compliance with legal provisions in cases of breaches to rules and consistently provide redress for violations.

Key appointments of the chief election commissioner and election commissioners in 2022 were also perceived as lacking transparency. The search committee's composition was in line with legal provisions and comprised of members of the judiciary or public administration. However, the committee was subject to allegations that it was not independent.⁷ A refusal of opposition parties to submit nominations to this committee further undermined the integrity of the appointments process. This general lack of confidence in the independence of the leadership of the election administration was also reflected in the election commission's secretariat and in temporary senior election officials' appointments. These were heavily reliant on the public administration to fill posts that included senior positions within the secretariat and the constituency-based returning officers.

Whilst there was some degree of transparency in the work of the election commission with a range of relevant information publicly available, regular press coverage and the publication of important accountability documents such as the candidate wealth statements and the final election results, transparency was also limited in certain areas. This was a result of highly managed external relations including supervised access to election preparations for international missions including the EU EEM. The full decisions of the commissioners were not always published in a timely manner and there was no opportunity for public access to these meetings which is a good practice for electoral management bodies. These decisions were also at times inconsistent, particularly those related to the compliance screening for the registration of domestic election observer groups and new political party registration.

⁶ Article 25, International Covenant on Civil and Political Rights (ICCPR), General Comment No. 25, paragraph 20: "An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant."

⁷ Appointment of the Chief Election Commissioner and other Election Commissioners Act, 2022. Article 3.

VII. VOTER REGISTRATION

A. The Right to Vote

The Constitution requires the election commission to compile a voter register pursuant to articles 119, 121, and 122. The provisions on eligibility to vote are generally in line with international standards, but the denial of the right to vote to those declared by a court to be of unsound mind is not reasonable and does not comply with international standards relating to persons with disabilities.⁸ To be eligible for inclusion in that register, a person should be a citizen of Bangladesh, have a minimum age of 18 years, be a resident of a parliamentary constituency, and be of sound mind. Individuals convicted of a crime under the Bangladesh Collaborators (Special Tribunals) Order, 1972, are disqualified from registering. The Electoral Rolls Act of 2009 requires the election commission to update the voter register annually.

B. Voter Registration Procedures

The voter registration processes are efficient resulting in regular updates and good levels of data integrity. Eligible individuals were able to register either at permanent registration centres or during door-to-door registration drives that employ enumerators. Appropriate transparency measures, including the display of a draft voter register for a 14-day period, are in place for individuals to verify their details and, if required, request corrections or challenge errors. A process of de-duplication and checking is conducted annually, and system checks using Automated Fingerprint Authentication software are employed.

Following the door-to-door registration drive to update the register in 2022, a final voter register was published on the 2 March 2023, which included a total of 119,691,633 eligible voters, of which 49.3 per cent are women and 50.7 per cent are men, with a small number of 852 voters identifying as third gender. There was an overall increase of 15.45 million voters in the five years since the last parliamentary election. An individual was able to change their details or register at a permanent registration centre before 14 September 2023. However, those that had not reached the age of 18 years by 1 January 2023 were ineligible to vote in this election. As a result of the cut-off date, individuals who obtained the age of 18 years in 2023, were disenfranchised.

VIII. REGISTRATION OF CANDIDATES AND POLITICAL PARTIES

A. Registration of Candidates

Criteria for candidates to be registered to contest a parliamentary election are set out in the Constitution. These include a minimum age of 25 years, citizenship of Bangladesh, not having citizenship of a foreign country, not holding an office of profit in the service of the republic with certain exceptions, and not having been convicted of a criminal offence involving moral turpitude and sentenced to two years imprisonment or more, unless five years have elapsed since release.⁹ Further provisions are set out in the Representation of the People Order 1972, and some of these are unduly restrictive and do not meet relevant international standards. These include the disqualification of individuals who have held in the last three years an executive post in a non-government organisation that has received foreign funding and those who have resigned or retired from public service in the past three years.¹⁰ Equally, requirements such as failing to pay a

⁸ Article 25 ICCPR, Genuine Elections, General Comment No. 25, paragraph 14: “The grounds for such deprivation [of the right to vote] should be objective and reasonable.”

⁹ The disqualification for three years following employment in the public service was recently challenged in the High Court. On 4 December 2023 the court rejected the challenge.

¹⁰ Article 25, ICCPR, General Comment No. 25, paragraph 10: “Any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria. Persons who are

utility bill or defaulting on a loan are disproportionate grounds to prohibit an individual from standing as a candidate. Independent candidates also faced challenges in collecting the required supporting signatures of one per cent of voters in a constituency to qualify as candidates which is a provision that does not apply to political parties and is discriminatory.¹¹

Of the 2,713 candidates that filed nomination papers to contest the election 1,970 candidates were confirmed by the election commission following withdrawals and disqualification. Although 28 of the 44 registered political parties have fielded candidates, only two parties, the Awami League and Jatiya Party, nominated candidates in nearly all 300 electoral constituencies. None of the political parties aligned with the BNP proposed candidates. Under the direction of the party leadership, the official Awami League candidates also competed against Awami League ‘independent candidates’ in seats where there was very limited competition or an uncontested seat. Of the 414 independent candidates, it is estimated by the EU EEM that 282 had close and manifest affiliations with the Awami League, which included one serving minister, four former ministers, and 17 incumbent parliamentarians.

Prior to the official campaign period, the Awami League and alliance partners also concluded a seat allocation agreement whereby the official Awami League candidates were withdrawn from contesting a number of seats. The formal alliance partners contesting under the Awami League election symbol received a total of six seats, including three for Jatiya Samajtantrik Dal, two for the Workers Party, and one for Jatiya Party Manju. Separately, the Awami League leadership agreed with the Jatiya Party to withdraw Awami League official candidates from contesting in 26 constituencies in return for their participation in the election. Despite the withdrawal of official candidates in these seats, there remained strong competition to the Jatiya Party and the alliance partners from Awami League-affiliated ‘independent candidates’ in these constituencies. The remaining 268 seats were dominated by Awami League official party candidates, with the only major alternative to these being Awami League-affiliated ‘independent candidates.’

B. Registration of Political Parties

Political party registration and functioning is governed by the Representation of the People Order 1972, the Political Party Registration Rules 2008, and the Political Parties Ordinance, 1978.¹² While most of the requirements for a political party to be registered are reasonable and proportionate, the requirement that a party has to have at least 123 offices across the country is disproportionate and not fully in line with the international standards for freedom of association or the Constitution.¹³ The requirement of having to have established offices in at least 22 of the 64 districts of the country and at least 100 upazila is difficult to achieve before being a legally registered political party. Until it is registered, a party is not able to raise funds or carry out activities under the party name. The remaining registration requirements are reasonable, such as a

otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence or descent, or by reason of political affiliation.”

¹¹ Article 25 ICCPR, Genuine Elections, General Comment No. 25, paragraph 17: “The right of persons to stand for election should not be limited unreasonably by requiring candidates to be members of parties or of specific parties. If a candidate is required to have a minimum number of supporters for nomination this requirement should be reasonable and not act as a barrier to candidacy.”

¹² A draft Political Parties Registration Bill was published by the Election Commission for comment, and would almost entirely replicate the Representation of the People Orders’ provisions on party registration, with a couple of modifications, including the introduction of a requirement for annual review of each party’s registration requirements.

¹³ Article 25 ICCPR, General Comment No. 25, paragraph 26: “The right to freedom of association, including the right to form and join organizations and associations concerned with political and public affairs, is an essential adjunct to the rights protected by article 25.”

political party's objectives should not conflict with the Constitution or discriminate against any religion, race, language or sex.

The election commission is responsible for registering and de-registering parties, and the grounds for de-registration include being banned by the government, not satisfying the election commission's annual review of each party's registration requirements, and failure to participate in parliamentary elections for two consecutive terms.¹⁴ In advance of the election 93 applications were received for political party registration. Only four were successful. Two of these political parties were set up immediately prior to this election and the vetting and consistency in decision-making in the registration process lacked transparency and public accountability.

IX. ELECTION CAMPAIGN

A. Election Campaign

The election campaign reflected the wider restrictions on freedom of assembly, movement and speech and the absence of genuine electoral competition.¹⁵ A short official campaign period between 18 December 2023 and 5 January 2024 was regulated by overly prescriptive provisions of the Representation of the People Order, 1972, and a code of conduct for political parties and candidates, last amended in 2013. These restrictions related to the size, colour, material, placement, and illumination of all outdoor visibility materials, use of sound systems, number of campaign offices, entertainment of voters, and use of vehicles for processions. The Awami League was the only political party participating in the election that had the resources and organisational structures to organise any significant public activities, including large campaign rallies and launch events of their manifesto. Otherwise, the campaign was relatively subdued across the country and the other parties' strategies consisted of low-key leafleting, display of posters and door-to-door canvassing of voters. Voter intimidation by Awami League candidates was also reported, with reports from election enquiry committees of localised threats to voters to withdraw social benefits in the event they failed to vote, in an attempt to increase voter turnout. Immediately prior to the campaign period a number of large national infrastructure projects were inaugurated by the government that were not adequately factored into campaign rules to ensure a level playing field.

B. Election Related Violence

Despite an increase in incidents of localised electoral violence the overall security situation across the country was relatively stable with the deployment of 747,000 combined military and civilian security forces. A number of clashes across the country between supporters of candidates were reported. The large proportion of these included attacks or reports of intimidation of independent candidates by Awami League supporters.

Throughout the election period the BNP called successive general strikes. The impact of these on public life were however, increasingly limited. Incidents of sabotage or arson were regularly reported immediately prior to the days announced for the general strikes and the fire service recorded 289 cases of vehicles being torched in the two months prior to election day. The police have not confirmed any clear links between these incidents and any of the political parties, despite allegations between the two major parties that they were each responsible for the

¹⁴ The political party Jamaat-e-Islami was deregistered following a court challenge in 2013 because the court ruled that this party's objectives violated the Constitution.

¹⁵ Article 25, ICCPR, General Comment No. 25, paragraph 12: "Freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected."

incidents of arson. Further acts of sabotage resulted in a number of train carriages being torched and derailments. A sample of media reports followed by the expert mission recorded 161 incidents of political violence, resulting in 16 fatalities and at least 493 injured between 18 December 2023 and 10 January 2024. Incidents included mostly physical attacks, clashes, arson attacks including on polling centres and damage to property.

C. Campaign Finance

Campaign spending limits were imposed on candidates. Each candidate could spend a maximum of BDT 2.5 million (€20,800) on their campaign including a maximum amount of BDT 150,000 (€1,250) contributed by the party. The source of these campaign funds could include a candidate's own resources, loans or contributions from relatives and other persons, and contributions from any political party, organisation or association. This very low financial ceiling has limited the number of campaign activities each candidate was able to undertake, and unduly limited campaign activities overall.¹⁶ It has also encouraged underreporting of spending and candidates bypassing rules to fund their campaigns according to interlocutors.

There is a provision that campaign finance accounts should be submitted 30 days following the publication of the official results to returning officers. It is widely acknowledged, however, that not all expenses are included in these accounts and there is no rigorous mechanism in place to verify the accuracy of submitted returns. There is also no legal obligation for the election commission to publish the submitted returns. Whilst campaign finance and accounting systems remained opaque other areas of financial accountability improved the levels of transparency. This included the publication of candidate affidavits with statements of assets and liabilities, accounts of annual income and expenditures and their most recent income tax returns allowing increased public scrutiny.

D. Voter Education

The election commission combined traditional voter education activities, public relations announcements, and public service announcements extensively aired in the mass media including television and social media to increase voter turnout and awareness. Targeted messages were also produced to increase the participation of first-time voters and women. Mobile loud speaker announcements, events and community education sessions were employed to reach voters at the local level. The voter education did not however, have any special provisions for the inclusion of persons with disabilities with these groups' needs not addressed in the campaign for voter education and only mentioned in the how to vote public service announcements.

X. MEDIA AND ELECTIONS

A. Media Environment

Although there is a relatively vibrant media sector and a high number of internet users with a wide range of debate online, there is also a range of pressures on freedom of speech in the mass media and online. These include legal prosecutions, self-censorship, newsroom gatekeeping, security vetting of media workers and content producers. Newsrooms also have increasingly limited resources in a highly competitive market and are reliant on limited advertising revenues and influenced strongly by conglomerate ownership and political patronage. Journalists and

¹⁶ Article 25, ICCPR, General Comment No. 25, paragraph 19: "Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party."

online commentators are exposed to a large number of physical assaults and attacks. In 2023, media professional organisations recorded over 413 incidents of accredited journalists being physically assaulted, threatened, or legally harassed. Commercial television and social media are widely accessed and radio audiences extremely limited. The most popular social media platform is Facebook that has approximately 44 million subscribers from a population of 172 million.

B. Legal Framework for the Media and Elections

The legal framework for the media sector includes a range of legislation.¹⁷ The Cyber Security Act 2023, is particularly problematic in respect to the impact on freedom of speech in the media and online and falls short of international standards despite some marginal improvements on previous legislation.¹⁸ Disproportionate and vague provisions include sections 25 and 28 with vague terms such as ‘offensive content’ and ‘hurting religious sentiment’ as well as provisions such as offending ‘the image or reputation of the state’ that unduly restrict legitimate speech online and in the media. Penalties are also disproportionate including criminal sanctions that result in a chilling effect on freedom of speech, with frequent use of these provisions especially by elected politicians against individuals.

The only media outlet to have clear legal obligations related to coverage of the election is the state-owned broadcaster. Pursuant to the Representation of the People Order, 1972 it should guarantee political parties access to state-owned television and radio stations in accordance with article 90F(d). The lack of an independent regulatory framework including in the areas of spectrum licensing and broadcasting content standards leaves a regulatory vacuum. That results in an absence of a proportionate framework for the introduction of content standards and rules for guaranteeing access for candidates, including balance and due impartiality requirements for audio-visual media. There is also not an accountable and transparent system in place for notice and take down of content online with the Telecommunication Regulatory Commission operating under the Ministry of Information and Broadcasting’s guidance. While social media companies employed a self-regulatory system to remove harmful content that is proportionate and relatively transparent there are parts of that process for the identification and removal of content that are not fully open to public accountability.

C. Media and Online Coverage

According to the results of civil society media monitoring the election-related news content of the most popular television stations, which are private news channels, was largely neutral and balanced. Both the Awami League and BNP received equal coverage despite the BNP boycott. In contrast the programming of the state broadcaster BTV was biased and lacked balance between political parties that contested in the election. Across all of these television channels there was an absence of critical media coverage on key issues including on the overall election environment, campaign manifestos and candidate profiles. There were no complaints from political parties regarding their access to the media.

¹⁷ Cyber Security Act 2023, Information and Communication Technology Act 2006, National Broadcasting Policy 2014, Bangladesh Telecommunication Regulation Act 2001, Pornography Control Act 2012, Cable Television Network Administration Act 2006, Right to Information Act 2009) and draft initiative-based regulations and legal instruments (Regulation for Digital and Social Media Platforms 2021, OTT Content-based Service Provide and Administration Policy 2021, The Data Protection Act 2023).

¹⁸ Article 25, ICCPR, General Comment No. 25, paragraph 25: “The free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion.” See also article 19 ICCPR and also General Comment No. 34 on freedom of opinion and expression.

The content of the main social media accounts of the Awami League and BNP either promoted their own election campaign or campaigned to discourage voters from voting, or were used for negative campaigning to make unverified claims and allegations against one another, especially related to violent incidents and the acts of sabotage to the transport network according to EU EEM analysis. The allegations exchanged between these two parties largely consisted of misinformation and the trading of defamatory insults. The high external pressures and degree of self-censorship in the media undermined their full potential in providing transparency and a platform of debate in this election. On request of the election commission the Ministry of Home Affairs also banned opposition parties' activities that were aimed to discourage voters from participating in the polls that was a disproportionate limit on the right of this political party's right to freedom of speech.¹⁹

XI. PARTICIPATION OF WOMEN AND MINORITIES

A. Participation of Women

Women remain underrepresented in political and public life and continue to face significant barriers to meaningful political participation despite a reserved seat quota in parliament. These include cultural expectations of women's traditional roles, a lack of economic power, and relatively high levels of political violence that can also be directed at women. Reflecting these barriers, women are also underrepresented in political party structures, despite a 33 per cent target for women in central committees and other political party positions, to be achieved by 2030, as established in the Representation of the People Order, 1972. This results from the lack of internal political party democracy with very hierarchical decision-making and low levels of real debate within the political party structures. Political parties also issue candidate nominations on the basis of the financial resources a potential candidate has access to, as well as political patronage that further excludes women. The first-past-the-post electoral system compounds this problem of access, with political parties reluctant to select women candidates because of a perception that they are not as electable in highly competitive single constituency-based elections.

The number of women candidates for the 300 constituency-based parliamentary seats was low: 95 out of a total of 1,970, which is below five per cent. Only 20 women were elected, or 6.6 per cent of the total number of directly elected seats in parliament, a slight decrease from the 24 in the outgoing parliament.²⁰ The prime minister has appointed three women to the newly formed 36-member Cabinet. There are 50 reserved seats for women pursuant to the Constitution until 2044 when this provision expires. This is 14.2 per cent of the total of 350 seats, nominated by political parties and alliance partners based on the proportional share of seats in parliament. The fact that the reserved seats for women are not elected directly by the electorate and do not have any links to parliamentary constituencies weakens the impact of the quota. According to interlocutors reserved seats are also frequently distributed based on perceived loyalty to political party leadership rather than merit and are allocated to the leadership of smaller political parties and close associates, or even relatives of members of parliament. There is therefore a widespread perception that these seats are not equal to elected ones, are based on political party patronage, and do not provide for the active participation of women. Some women's organisations also

¹⁹ Article 21, ICCPR: "The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others."

²⁰ CEDAW Committee's General Comment No. 23. "Societies in which women are excluded from public life and decision-making cannot be described as democratic. The concept of democracy will have real and dynamic meaning and lasting effect only when political decision-making is shared by women and men and takes equal account of the interests of both."

claim this reserved seat quota prevents women from being serious contenders for general seats, as parties encourage them to take these, rather than competing for a directly elected seat.

Women are 50.46 per cent of the population and 49.23 per cent of registered voters. There is no disaggregated data on men and women provided by the election commission on voter turnout. The election commission provides women-only polling stations, and in mixed polling stations, there are separate queues for men and women, which is a positive measure to facilitate women voters' participation. The election commission does not have a gender unit or gender policy, and data was not available on the numbers of women employed within the election administration and as temporary polling staff.

B. Participation of LGBTQI and Third Gender

There is no protection in the legal framework from discrimination on the grounds of sexual orientation, and the LGBTQI community faces criminalisation of same sex sexual activity, harassment, social exclusion, hostility and discrimination. The hijra community was recognised as a third gender in Bangladesh in 2013 by the current government. The inclusion of a third gender category in the voter register since 2019 is a positive and more inclusive addition to the voter register gender classifications. One hijra unsuccessfully contested as a candidate according to the election commission. Commentators emphasize that the hijra are the least stigmatised of the LGBTQI community, even though they too are discriminated against and marginalised, and it would not be possible for other LGBTQI identities to openly stand as candidates.

C. Participation of Minorities

According to the 2021 housing and population census, 9.6 per cent of the population is from religious minorities, with 7.9 per cent of the population being Hindu, 0.6 percent being Buddhist, and 0.3 per cent identifying as Christians. Indigenous communities in the Chattogram Hill Tracts area that collectively identify as Jumma also represent approximately 0.5 per cent of the population. These communities face numerous obstacles to full participation in political life, including fear of reprisals and the destruction of their property. The number of elected members of parliament from ethnic minorities has fallen to 14 from 18 in the outgoing parliament. A total of 12 of these are Awami League members and two independent candidates. In the Chattogram Hill Tracts, all three elected seats were held by candidates from minorities. Although this area's parliamentary seats afford a degree of representation, other envisaged elections have not been conducted to elect officials to the district hill councils, an outstanding provision of the Chattogram Hill Tracts' peace accord.

XII. PARTICIPATION OF PERSONS WITH DISABILITIES

The Bureau of Statistics in 2021 estimates that approximately 2.4 per cent of the population have at least one physical or mental disability. In respect to the right to vote provisions in the Rights and Protection of Persons with Disabilities Act 2013, these guarantee the right of persons with mental and physical disabilities to participate fully as registered voters and candidates to stand for election with the exception of the denial of the right to vote to those declared by a court to be of unsound mind. There are, however, significant obstacles in practice to equal participation. There are very limited opportunities for these communities to obtain significant positions in political party structures because of discrimination and the lack of provisions to encourage diversity.

Despite provisions in the Representation of the People Order, 1972, for assisted voting in the case of sight impairment or other disabilities that incapacitate a voter or inhibit them from casting a ballot, there are very few additional provisions to ensure easy access for voters. The polling

centre selection and design do not provide access requirements for persons with disabilities, and consequently, no special measures are taken to ensure access, including obstacles in travelling to these sites. There are also no specific provisions for the inclusion of persons with disabilities in the election commission's permanent and temporary staff pool and very minor investments in ensuring voter education is inclusive of the needs of persons with mental and physical disabilities.

XIII. CIVIL SOCIETY AND INTERNATIONAL OBSERVATION

A total of 84 domestic organisations were registered to observe the election with the election commission. The increasingly restrictive civil and political rights environment has limited the role of civil society in the election. A combination of regulatory obstructions as a result of provisions in the Foreign Donations (Voluntary Activities) Regulation Act, 2016 and the slow implementation of these by the NGO Affairs Bureau, coupled with the disproportionate use of security vetting, have resulted in significant pressures and self-censorship in this sector. Furthermore, provisions in the code of conduct for domestic and international observation are overly prescriptive, and the inclusion of compulsory reporting requirements increased the risk of prior-publication censorship that is not in line with international standards for freedom of speech.²¹

Important transparency measures provided by domestic election observation at polling station level were therefore effectively undermined, and no independent data on a national level was available on election day from non-partisan civil society observer groups. Reports also indicate that a number of those organisations that were actually registered were not vetted consistently with respect to meeting the criteria in Section 4 of the election commission's policy for the registration of domestic election observers.²² There were no recognised international election observation missions deployed. The Commonwealth and a joint mission of the International Republican Institute and the National Democratic Institute both deployed small expert teams. The election commission invited and offered to cover the expenses for a group of 'individual foreign observers,' a scheme that lacked full conflict of interest safeguards and did not guarantee non-partisan international election observation based on a transparent methodology. This resulted in premature statements on election day being made to the media without sufficient evidence supporting claims that worked against the public interest and were in violation of the election commission's code of conduct.²³

XIV. ELECTORAL DISPUTES

There were low levels of confidence in the independence of the judiciary among stakeholders and the system of judicial appointments lacks adequate safeguards to guarantee independence. The judges of the Supreme Court are appointed by the president in consultation with the Chief Justice, in accordance with the advice of the prime minister, under articles 95 and 48(3) of the Constitution. Magistrates of lower courts are appointed by the Judicial Services Commission, which is under the direct control of the Law Ministry. The 16th amendment to the Constitution in 2014 introduced controversial provisions to allow parliament to remove Supreme Court judges for 'misbehaviour or incapacity' that would further erode the independence of judges. This was declared void by the Supreme Court as an unconstitutional interference with judicial independence. The politicisation of appointments to the judiciary has continued across successive governments of both major political parties. Because the Awami League was in government for an extended period since 2008 a high

²¹ Article 12, 19, 21 and 22 ICCPR guarantees freedom of expression, assembly, association and movement: "Freedom of expression, assembly and association are essential conditions for democratic elections and must be fully protected."

²² Bangladesh Election Commission, 2023. Section 4. Registration Process, Election Observation Policy 2023.

²³ Bangladesh Election Commission. Guidelines for International Elections Observers and Foreign Media. Section 4.1.2 (f) Maintain accuracy of the observations and professionalism in drawing conclusions.

number of the judges appointed before this time have retired. That has resulted in a widespread view that its appointees now dominate the judiciary.

A. Pre-election Petitions

The pre-election petitions all related to candidate nomination. Candidates could make appeals first to the election commission and then to the Supreme Court. These were dealt with expeditiously, although there were some shortcomings in meeting the international right to an effective remedy. There is no timeline for the filing and adjudication of these court appeals and the electoral calendar did not allocate any time for them, resulting in the last appeals being decided only five days before election day. Several interlocutors noted that the very short time for the disposal of these cases did not allow adequate time to properly hear the challenges. The courts rarely gave reasons for their decisions which meant that at times they could appear to be arbitrary. The courts made some inconsistent decisions that were perceived by some commentators as benefitting specific individuals. Some of the candidate qualification criteria needed more detailed legal provisions which would have reduced the scope for different interpretations.

Of the 731 individuals who had their candidate nomination papers rejected by the returning officers, 559 appealed these decisions to the election commission. These appeals were concluded in a transparent and expedited manner from 10 to 15 December 2023, with the five election commissioners presiding over public hearings of approximately 100 cases per day and making instant decisions in almost all cases. Over half of the appeals were submitted by independent candidates, challenging the decision that they had not met the supporting signature requirements. The election commission was more flexible in its decisions than the returning officers, especially those related to these supporting signatures. In total 286 appeals were accepted that resulted in 280 candidates being reinstated. The election commission rejected the remaining 273 appeals, almost all of which, 267, were further appealed to the High Court Division of the Supreme Court.

Two benches of judges handled hundreds of these appeals in a two-week period and reinstated 50 candidatures. A further appeal was also possible to a single appellate judge, who dealt with appeals up to the end of December 2023. The appellate judge also took a more lenient approach than the High Court, and cleared 27 further candidatures to be accepted. The appeals to court primarily related to the verification of supporting signatures for independent candidates, loan default status, dual citizenship, whether a person held an office of profit that disqualified them, and failure to complete the formalities of the nomination process.²⁴ In all cases, the candidate needed to meet the qualifying criteria by the cut-off date for nomination. In a small number of 17 cases that raised an issue of public interest, the appellate judge referred an appeal to the full bench of the Appellate Division for hearing on 2 January 2024, less than one week prior to the election day. This resulted in the election commission deferring the printing of ballot papers in these constituencies. A total of 77 candidates were reinstated by the courts, the majority being independent candidates, and 10 were from the Ganotantri party whose candidatures were rejected because of a split in the party's central committee. Numerous appeals were also made by candidates against the candidate nomination of a rival contesting candidate.

²⁴ Regarding supporting signatures, the election commission and the courts applied a lower tolerance level than the returning officers, and were satisfied if a majority of the 10 sample signatures could be confirmed; another case concerned signatories who withdrew their support, allegedly because they were intimidated, but the court rejected the candidature. An issue concerning loan defaulters was whether a court-ordered stay of their default status pending negotiations over repayment or litigation in the Money Loan Courts is effective to remove the default status; the issue regarding dual citizenship was whether a simple declaration of renunciation is sufficient, or whether the renunciation of the citizenship had to have taken effect under the other country's laws; the issue concerning office of profit was whether the urban local government position of *pourashava* mayor falls into this category.

In only one case was a candidature that had been accepted by the election commission cancelled by the courts. The apex court rejected one appeal of an Awami League candidate on dual citizenship grounds, as their renunciation of the foreign citizenship had not taken effect before the cut-off date. In contrast the apex court took an inconsistent decision in one case, allowing a candidate to stand, although the issues around their qualifying status were not resolved by the cut-off date. This decision involved an alleged loan defaulter who had rescheduled the loan with post-dated cheques after the cut-off date, and where allegations of fraud in relation to the loan were still being litigated in the High Court. The inadequate timelines in the electoral calendar for the court appeals resulted in a very short campaign period for candidates whose candidature was accepted late in the process, although reportedly some campaigned despite their candidature having been initially rejected. The election commission and each of the courts varied in how strictly or flexibly each interpreted the nomination requirements. This was partly due to the absence of detailed legal provisions to ensure consistency. It was also perceived to be a result of a lack of independence of judicial decision-making and the low levels of transparency which would have been enhanced if the judges had fully outlined the reasons for their decisions.

B. Election Offences

There are a number of institutions responsible for dealing with election offences and violations of the code of conduct. Enforcement of the laws and the code of conduct throughout the election period against campaign and election day violations was inconsistent. In some cases, reported to the election commission, these were dealt with in an unduly lenient manner and in others disproportionately harshly, and as a result not fully in line with international standards.²⁵ There were many violations, a high proportion of which went unaddressed during the election period, while severe sanctions were applied in other instances. Offences ranged from the trivial, such as campaigning outside prescribed hours, to more serious incidents, including violence and intimidation against opponents and fraudulent voting. The election commission, however, only rarely took effective action against these incidents. This is despite having extensive powers, including the ability to require alleged violators to show cause (explain their actions), issue a warning, order or instruction to the violator, and in case of non-compliance, to impose a fine, and disqualify a candidate.²⁶

Supporting the election commission to identify and investigate offences, 300 electoral enquiry committees were established made up of two judicial magistrates that operated in all constituencies. These committees investigated alleged violations of the code of conduct and had the powers of a court to compel a person to appear at a hearing and hand over documents. These committees' role was limited to submitting reports and making recommendations to the election commission and did they not have powers to impose sanctions. The electoral enquiry committees sent 757 reports to the election commission, which approved 534 for follow-up action. The commission issued candidates with hundreds of show cause notices and 280 warnings. The commission also referred 21 government employees who had campaigned on behalf of a candidate to their departments to take action for violation of civil service impartiality rules. The election commission issued only two fines, one for the relatively minor violation of early campaigning, the other for threatening violence against opposition activists.

²⁵ ICCPR Article 2(2), "Each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant." ICCPR General Comment No. 25 paragraph 11, "States must take effective measures to ensure that all persons entitled to vote are able to exercise that right.... Any abusive interference with registration or voting, as well as intimidation or coercion of voters should be prohibited by penal laws and those laws should be strictly enforced."

²⁶ A show cause notice is a formal notice issued in disciplinary proceedings requesting the accused in the offence to explain why sanctions should not be administered.

The election commission cancelled two candidatures for electoral violations, the first an Awami League ‘independent candidate,’ and the second an Awami League candidate and outgoing member of parliament. The first was cancelled on 2 January 2024 for threatening a returning officer. The High Court reinstated the candidate the following day, a decision upheld by the Appellate judge despite objections from the election commission who opposed the reinstatement on the grounds that threatening election officials is a serious offence. The second was cancelled on election day for threatening police officers. Other than these small number of serious sanctions, the election commission failed to deal with many of the other alleged candidate violations, reported to it by the enquiry committees. Instead, it referred 111 of the most serious cases to the ordinary courts for criminal prosecution which has the disadvantage that they do not have expedited procedures to produce timely outcomes. Fifty of those cases were still pending the referral letter to be sent one week after election day. The referrals included serious allegations involving violence, threats of violence, seizure of social benefit cards to be returned after voting, and attempts to bribe voters with cash and food parcels.

During the period between 5-10 January 2024, 653 judicial magistrates were appointed by the election commission to act on serious violations and irregularities, maintain law and order, and issue fines and sentences on the spot. These magistrates carried out summary trials in 64 cases on election day, for offences including ballot stuffing, vote buying, attempts to vote twice, and obstructing voters. A small number of those tried were polling officials. While it is positive that such offences are dealt with promptly, some of the sentences imposed were disproportionately high: up to five years imprisonment and a fine. During the electoral period, at the election commission’s request there were also over 1,000 mobile courts empowered to deal with election violations, formed by executive magistrates who are members of the civil administration and not judicial officials.

The Mobile Courts Act 2009 grants executive magistrates the powers to carry out summary trials of offences that they have witnessed and to issue on-the-spot fines and sentences of imprisonment up to two years. The use of executive magistrates is controversial and was subject to legal challenge in the past for breaching the separation of powers between the executive and judiciary and violating judicial independence.²⁷ According to the election commission executive magistrates issued 1,051 sanctions including 784 fines of between BDT10,000 and BDT 50,000 (€85-425) and 267 sentences of imprisonment ranging between seven days and three months.

C. Post-election Petitions

The legal framework for post-election challenges is not fully in line with international standards. There is no scope for a voter to bring a post-election petition. This is limited to only candidates. Some of the grounds for challenging the election are also too broad and could lead to inconsistent outcomes, and the timeframe in the law is unduly long. The High Court must endeavour to conclude the trial in six months, which could then be followed by appeal to the Appellate Division. The only way that a legal challenge can be brought against the outcome of the election is for a candidate to submit an election petition to the High Court under Representation of the People Order 1972, articles 49-72, alleging corrupt or illegal practices. The petitioner may seek a declaration that (1) the election of a particular candidate is void, (2) another person has been duly elected, or (3) the election as a whole is void. The grounds for the annulment of an election as a whole are that the result is materially affected by the failure of any person to comply with the

²⁷ In *Md Mujibur Rahman and others v Bangladesh represented by the Secretary, Ministry of Law and Justice and others* (2017), the High Court Division ruled parts of the Mobile Courts Act 2009 unconstitutional and ultra vires because the use of executive magistrates violates the principles of judicial independence and separation of powers. The government obtained a stay of the High Court’s judgment, which remains in place pending a full hearing of the case by the Appellate Division of the Supreme Court.

Representation of the People Order, 1972 and the associated rules, or the prevalence of extensive corrupt or illegal practice at the election.

The grounds for declaring an election of a candidate to be void include that the nomination was invalid, the election of the candidate was procured by any corrupt or illegal practice, the candidate has spent more money than the campaign ceiling of BDT2.5 million (€20,800), or the candidate or his agent have committed a corrupt or illegal practice. Without the requirement that the irregularity has a material impact on the results these last two requirements are unduly broad. An election petition must be filed within 45 days of publication of the results in the Gazette. Although the High Court is required to act expeditiously, legislation only requires the court to endeavour to conclude the trial within six months, which does not provide for a timely remedy since the parliament is sworn in shortly following the publication of the election results in the Official Gazette. An appeal from the High Court can be made to the Appellate Division.

Two post-election challenges were lodged. The first was on 9 January 2024 by a losing candidate lodging a writ petition against the result in Dhaka-4 constituency, alleging irregularities in 18 polling centres. The High Court ordered the election commission to investigate and not to publish the results in the Official Gazette, and ordered parliament not to administer the oath to the winning candidate. However, the following day an appellate judge stayed the High Court decision, the results were published and the oath was administered. The reason for the reversal of the High Court decision was that the petitioner had taken the wrong procedural route, in that they should have filed an election petition rather than a writ petition, and the election petition should have been filed after the results were published rather than seeking interim remedies. The second challenge was on 1 February 2024, when the High Court stayed the election commission's gazette declaration that the Awami League incumbent had won in Jhenaidah-1, on the grounds that he had violated the code of conduct. On 5 February 2024 the Appellate Division chamber judge stayed the High Court's order pending the full bench hearing the appeal on 13 May 2024.

XV. POLLING, COUNTING AND TABULATION OF RESULTS

A. Overview of Voting

Polling was conducted in 299 of the 300 constituencies, with the postponement of voting in Naogaon-2 following the death of a candidate in the days immediately prior to the election day. With the main opposition party, the BNP, and its alliance parties boycotting the election, there was no genuine choice for voters at the polls. This party also called for a boycott of voting. Voting was conducted in a generally organised and orderly manner according to interlocutors. Key workers, however, such as the large contingent of security personnel were not permitted to vote whilst on duty. There were some isolated incidents of violence reported on election day in the media. There were also reports by the election commission and claims made by candidates of voting irregularities in localised attempts at fraud, including ballot box stuffing. Some of these were dealt with promptly by the election commission and returning officers and 25 polling centres were suspended by the election commission. Other incidents reported in the media were not fully investigated.²⁸

Other incidents reported to have breached laws included payments to local taxis to ferry voters to polling stations, fabricated queues outside of polling booths to give the impression of higher voter turnout, and an assault on a presiding officer by a candidate all of which were recorded by documentary footage posted in the media. At the entrance to polling centres, large numbers of

²⁸ The majority of these incidents did not have a material impact on the outcome of the vote result and were therefore quarantined. Only in one constituency of Mymensingh 3 was voting rescheduled following voting irregularities in the polling centre located at Bhalukpur High School in Shabanhati.

Awami League polling agents congregated, resulting in an intimidating environment for voters. There was also a large security presence inside and around the polling centres across the country. With the exception of the Awami League, no other political party decided to deploy party agents in significant numbers at polling centres, adding to the lack of scrutiny at the polling level.

B. Counting and Tabulation of Results

The counting of ballot papers was conducted at polling centre level immediately following the close of polling with the ballot papers in the numerous polling booths in each centre counted together. Once completed, result sheets were delivered to returning officers at the constituency level for final aggregation. There were no reports of any major incidents related to counting and tabulation. Although results were posted at polling centres there was no mechanism to make a detailed breakdown of results for the public to review until after the new parliamentarians took office when a full breakdown of the results was published on the election commission's website in line with good practice.²⁹ According to the election commission, there was a provisional national voter turnout level of 40 per cent, which recorded a slight increase in turnout reported in the final two hours of voting, compared with the rates announced, at key times during the election day.³⁰ As a result of the absence of strong transparency measures including non-partisan civil society observation and a diversity of party agents from different political parties there were no alternative sources of information on turnout to verify if this turnout is accurate.

XVI. RESULTS AND POST-ELECTION ENVIRONMENT

Election results were announced by returning officers at constituency level throughout the night and were officially published in the Official Gazette within 48 hours of polling closing. Full results were posted at constituency level and also on the election commission's website. Reflecting the lack of genuine competition vote margins between candidates was significant. This has led to a large percentage of candidates, 74 percent losing their deposits because of failing to meet the minimum threshold of 12.5 per cent of votes. In only 11 per cent of constituencies do results suggest a degree of competition with a vote margin difference of lower than 10,000 votes between first and second placed candidates. The total number of invalid votes was not announced by the election commission.

Calculations of the EU EEM, based on the election commission's results, indicated a low level of 1.9 per cent of invalid votes. An implausibly high number of 1,503 polling centres (3.5 per cent) reported no invalid votes. The final turnout published by the election commission was 41.8 per cent. This was marked by wide disparities across the country. The lowest turnout was in parts of the two constituencies in the Chattogram Hill Tracts and four Dhaka and one Sylhet constituencies where turnout ranged between 0-20 per cent. The highest was in the constituencies of Gopalganj-3 and Gopalganj-2 with 87.23 and 83.19 per cent respectively.

Following the completion of the election in Mymensingh-3 constituency where re-polling was ordered after a suspension of one polling centre a total of 299 constituency seats are completed with one scheduled to be conducted on 12 February 2024. The Awami League official candidates have obtained 223 seats, independent candidates 62, nearly all of which are linked to the Awami League 'independent affiliated candidates' category, Jatiya Party 11 seats, Jatiya Samajtantrik

²⁹ ICCPR, General Comment No. 25, paragraph 19. Best practice includes that detailed results, broken down to the polling station level (or counting centre where this is the lowest level), are swiftly and publicly displayed at all levels of the Election Management Board as well as on the Internet.

³⁰ The election commission collected progressive turnout figures at three times during election day from approximately 40 per cent of polling centres: 10:00hrs: 8.37 per cent; 12:00hrs: 18.5 per cent; and 14:00hrs: 27.15 per cent.

Dal, Bangladesh Workers Party a single seat each both within the seat sharing agreement framework. The final seat was won by the Kallyan Party candidate. Immediately following the swearing in ceremony of the new parliament on 10 January 2024 opposition parties have rejected the election outcome.

XVII. RECOMMENDATIONS

| No. | FR pg. no. | Context | Recommendation | Suggested change in the legal framework | Responsible institution | Relevant international principle and commitment |
|--------------------------------|------------|--|---|--|--|--|
| Legal framework | | | | | | |
| 1 | 8 | The Representation of the People Order, 1972 was amended a number of times since its promulgation, this resulting in a highly fragmented text. Provisions related to a number of areas such as appeals for candidate nomination; campaign finance oversight and the publication of disaggregated election results are not fully developed. Other significant election related provisions are contained in subordinate legislation. | A comprehensive review of all legislation, regulations and rules related to parliamentary elections including the Representation of the People Order, 1972 could provide increased legal certainty and consistency as well as a more harmonised legal framework in line with international standards for democratic elections. This could be carried out within a process of enactment of a new consolidated law by parliament. | Representation of the People Order, 1972; Code of Election Rules, 2008; Code of Conduct for Political Parties, 2008. | Parliament; Bangladesh Election Commission. | <p>Rule of law</p> <p>Article 25 of the ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 9 “The rights and obligations provided for in [ICCPR article 25] paragraph (b) should be guaranteed by law.”</p> <p>Article 25 of the ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 19 “elections must be conducted [...] within a framework of laws guaranteeing the effective exercise of voting rights.”</p> |
| Election administration | | | | | | |
| 1 | 8 | There are large differences in the number of registered voters in constituencies within divisions that do not always reflect the principle of equality of voters in relation to seats in parliament. | Boundaries delineating constituencies could be reviewed to ensure that in each parliamentary constituency the number of voters registered, as far as practicable, reflects more fully the principle of equal weight of votes in relation to seats in parliament. | No legal changes required. | Bangladesh Election Commission. | <p>Genuine elections that reflect the free expression of the will of voters</p> <p>Article 25 of the ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 21: “The drawing of electoral boundaries and method of allocating votes should not distort the distribution of voters.”</p> |
| 3 | 9 | There were low levels of confidence in the selection committee and the final selection of the commissioners that persisted throughout the election period. | The system for appointing the board of commissioners of the Bangladesh Election Commission would be strengthened if it guaranteed a merit based and independent appointments process that works in the public interest. An independent panel in line with best practice for senior public appointments could oversee this process. | Legislation to be amended for a system for the selection of election commissioners based on article 118 of the Constitution of Bangladesh. | Parliament; Bangladesh Election Commission; Ministry of Law. | <p>Genuine elections that reflect the free expression of the will of voters</p> <p>Article 25 of the ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 20, “An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant.”</p> |
| 4 | 9 | There were low confidence levels in the appointment of district and | Consideration should be made to appoint permanent election officials as | Subsidiary legislation to be introduced to establish legal | Parliament; Bangladesh | <p>Genuine elections that reflect the free expression of the will of voters</p> |

| No. | FR pg. no. | Context | Recommendation | Suggested change in the legal framework | Responsible institution | Relevant international principle and commitment |
|---|------------|--|--|--|---------------------------------|--|
| | | deputy commissioners to act as returning officers. | returning officers and make each responsible for a singly constituency with increased supervisory and managerial control over all aspects of the process including results. | certainty on the responsibilities of election officials. | Election Commission. | Article 25 of the ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 20, "An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant." |
| 5 | 9 | The election commission's integrity and transparency measures are not sufficient to meet public accountability requirements. | Consideration could be given to increasing the levels of transparency and access to the election commission's meetings and decision-making processes. | No legal changes required. | Bangladesh Election Commission. | Transparency and access to information Article 19 ICCPR, General Comment No. 34, paragraph 18 "Article 19, para 2 embraces a right of access to information held by public bodies. Such information includes records held by a public body, regardless of the form in which the information is stored, its source and the date of production." |
| 6 | 10 | Those that have not reached the age of 18 years by 1 January 2023 were ineligible to register to vote in this election. As a result, individuals who obtained the age of 18 years in 2023, were disenfranchised. | Consideration could be made to introduce provisions for a later cut-off date to be eligible to vote to ensure those that obtain the age of 18 in the 12 months prior to an election are able to vote. | No legal changes required. | Bangladesh Election Commission. | Right and opportunity to vote Article 25 ICCPR, Genuine Elections, General Comment No. 25, paragraph 14: "The grounds for such deprivation [of the right to vote] should be objective and reasonable." |
| Registration of candidates and political parties | | | | | | |
| 7 | 10 | Some of the grounds for disqualification to stand as a candidate are disproportionate and unduly limit the right to stand for public election. | A review of the requirements established to qualify as a candidate could be considered so they are fully in line with international commitments and standards including the requirements that three years should elapse after leaving public service or working as an executive director of a civil society organisation that receives foreign funding, to be able to qualify as well as requirements for non-payment of a utility bill. | Article 12(i) and (n) of the Representation of the People Order, 1972. | Parliament. | Right and opportunity to participate in public affairs and hold office Article 25 ICCPR, General Comment No. 25, paragraph 15: "Any restrictions on the right to stand for election, such as minimum age, must be justifiable on objective and reasonable criteria. Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements." |

| No. | FR pg. no. | Context | Recommendation | Suggested change in the legal framework | Responsible institution | Relevant international principle and commitment |
|---|------------|---|--|--|--|---|
| 8 | 11 | New political parties face significant obstacles in obtaining registration because of requirements to have an extensive network of offices. | Revisions could be made to the political party registration requirements to reduce the requirement to have opened offices in so many districts and upazilas before a new party can be registered. | Legislation to be amended and chapter VIA of the Representation of the People Order, 1972 revised. | Parliament. Ministry of Law. | Freedom of association Article 25 ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 26. "The right to freedom of association, including the right to form and join organizations and associations concerned with political and public affairs, is an essential adjunct to the rights protected by article 25. Political parties and membership in parties play a significant role in the conduct of public affairs and the election process. States should ensure that, in their internal management, political parties respect the applicable provisions of article 25 in order to enable citizens to exercise their rights thereunder." |
| Election campaign and pre-election environment | | | | | | |
| 9 | 12 | Provisions that restrict campaign material and place limits on the activities of candidates and political parties are overly prescriptive and disproportionate. | Provisions in the code of conduct could be reviewed to make them less prescriptive and restrictive. | Review of the provisions of the code of conduct and penalties in the Representation of the People Order, 1972. | Parliament; Bangladesh Election Commission. | Prevention of corruption/fairness in the election campaign Article 25 ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 12: "Freedom of expression, assembly and association are essential conditions for the effective exercise of the right to vote and must be fully protected." |
| 10 | 13 | Provisions that regulate campaign finance and oversight mechanisms are inadequate to provide for full transparency of income and campaign spending of candidates and political parties. Spending ceilings are low and unduly limit campaign material. | Campaign spending limits for candidates could be reviewed to provide a balance between the need for a level playing field and public accountability and the rights of candidates to campaign. A review could also include ensuring candidates' returns of election expenses are published with full public disclosure. | Review chapter IIIA of the Representation of the People Order, 1972 and establish an appropriate auditing and financial accountability regime. | Parliament; Bangladesh Election Commission. | Prevention of corruption/fairness in the election campaign Article 25 ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 19: "Reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party." United Nations General Assembly. United Nations Convention Against Corruption. Article 7.3: "Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its |

| No. | FR pg. no. | Context | Recommendation | Suggested change in the legal framework | Responsible institution | Relevant international principle and commitment |
|-------------------------------|------------|--|--|---|---|--|
| | | | | | | domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.” |
| Media and elections | | | | | | |
| 11 | 14 | Provisions of the Cyber Security Act, 2023 are disproportionate and unduly restrict freedom of speech in the media. | A review of the provisions of the Cyber Security Act, 2023 could align provisions with international standards on freedom of expression and speech. Vague and disproportionate restrictions or proscriptions on speech could be removed. | Review the provisions of Cyber Security Act, 2023 and remove articles not in line with international standards. | Parliament; Ministry of Law; Ministry of Information. | <p>Freedom of opinion and expression</p> <p>United Nations General Assembly. Paragraph 2 of Article 19 of the ICCPR. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice [...] The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:</p> <ol style="list-style-type: none"> 1. For respect of the rights or reputations of others; 2. For the protection of national security or of public order (ordre public), or of public health or morals. |
| Participation of women | | | | | | |
| 12 | 15 | There is a disproportionately low number of women in key positions within political parties and a low number of women candidates were nominated for election. Women are underrepresented in political and public life. | Increased special temporary measures targeting political parties could be introduced to encourage more women representation in leadership positions and as candidates for public election. The framework for ensuring the ‘goal’ of reserving 33 percent of positions for women in political party structures could be strengthened with initiatives such as training of women candidates. | New provisions to be included in the Representation of the People Order, 1972. | Political parties; parliament. | <p>Women’s participation in public affairs</p> <p>ICCPR, Article 3. United Nations Human Rights Committee. 2000. General Comment No. 28: Equality of rights between men and women, paragraph, 4, “States parties are responsible for ensuring the equal enjoyment of rights without any discrimination. Articles 2 and 3 mandate States parties to take all steps necessary, including the prohibition of discrimination on the ground of sex, to put an end to discriminatory actions, both in the public and the private sector, which impair the equal enjoyment of rights.”</p> <p>United Nations Committee on the Elimination of Discrimination Against Women. General Recommendation No. 23: Political and Public Life.</p> |

| No. | FR pg. no. | Context | Recommendation | Suggested change in the legal framework | Responsible institution | Relevant international principle and commitment |
|--|------------|---|---|--|--|---|
| | | | | | | <p>Paragraph 34: “Political parties have an obligation to demonstrate their commitment to the principle of gender equality in their constitutions, in the application of those rules on their executive boards so that these bodies may benefit from the full and equal participation by both sexes.” Paragraph 22: “Political parties must endeavour to balance the number of male and female candidates.” Paragraph 28: “Political parties have a responsibility to ensure that women are... nominated in areas where they have a likelihood of electoral success.”</p> <p>UN General Assembly Resolution 66/130 on Women and Political Participation (2012): The UN General Assembly “urges all States to take, inter alia, the following actions to ensure women’s equal participation, (a) To review the differential impact of their electoral systems on the political participation of women and their representation in elected bodies and to adjust or reform those systems where appropriate.”</p> |
| Participation of minorities and persons with disabilities | | | | | | |
| 13 | 16 | Public elections to the Chattogram Hill Tracts district hill councils are the only administrative level to be elected where an election was not conducted. | Provisions in the Chattogram Hill Tracts Peace Accord related to elections of the district hill councils should be reviewed to ensure equal participation of permanent residents using the national identity card register whilst maintaining a quota for representation of indigenous groups in decision making to permit this final tier of public elections to be conducted. | No legal changes required provisions for election are included in section B of the peace accord. | Prime Minister’s Office. Ministry for Chattogram Hill Tracts Affairs. | Participation in political and public life United Nations General Assembly. Article 25 of the ICCPR. “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions [...] To take part in the conduct of public affairs, directly or through freely chosen representatives.” |
| 14 | 17 | There are inadequate requirements for the Bangladesh Election Commission to address the needs of people with disabilities to exercise their right to vote and be elected. | Measures could be introduced to address the needs of persons with disabilities to guarantee their equal right to vote and be elected in public elections. These could include adequate voter education, increased accessibility to and in polling centres and special voting provisions for persons with visual impairments. | Adequate provisions might be included in the Representation of the People Order, 1972 to ensure full participation of persons with disabilities in the election process. | Parliament; Bangladesh Election Commission. | Participation in political and public life United Nations General Assembly. Convention on the Rights of Persons with Disabilities, article 29: “States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake: (a) To ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through |

| No. | FR pg. no. | Context | Recommendation | Suggested change in the legal framework | Responsible institution | Relevant international principle and commitment |
|-------------------------------|------------|---|---|---|---------------------------------|--|
| | | | | | | freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by: (i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use; (ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate.” |
| Civil society | | | | | | |
| 15 | 17 | Provisions in the Foreign Donations (Voluntary Activities) Act, 2016 are disproportionate and unduly limit the freedoms of assembly, association and speech of civil society. | Provisions of the Foreign Donations (Voluntary Activities) Act, 2016 could be reviewed against international standards for freedom of assembly and expression to ensure civil society is able to work free of restrictions and overly bureaucratic procedures and security vetting and revised accordingly and measures to improve the environment for freedom of speech for civil society organisations increased. | Review the provisions of the Foreign Donations (Voluntary Activities) Act and remove articles not in line with international standards. | Parliament; Ministry of Law. | Freedom of association United Nations General Assembly. Article 22, paragraph 1 and 2, ICCPR, “Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests [...] No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.” |
| Complaints and appeals | | | | | | |
| 16 | 18 | There are no time limits established in the law for the Bangladesh Election Commission to review appeals to decision related to candidate nominations. The election commission set aside a five-day period for appeals to be concluded, but it was insufficient for a thorough review of such a high number of appeals. | A reasonable time limit for the review of appeals filed to the Bangladesh Election Commission against decisions of returning officers on candidates’ nominations should be included in the Representation of the People Order, 1972 allowing sufficient time for the election commission to review each appeal. | Article 14(5) of the Representation of the People Order, 1972 and article 5(5) of the conduct of election rules, 2008. | Parliament. | Right to an effective remedy United Nations General Assembly. Article 2(3)(a) of the ICCPR: “To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.” |
| 17 | 18 | As there are no time limits for the filing and adjudication of pre-election writ petitions relating to | The law should provide for reasonable and appropriate time limits for filing, hearing and adjudication of candidate | A new provision to be included in the Representation of the People | Parliament. | Right to an effective remedy United Nations General Assembly. Article 2(3)(a) of |

| No. | FR pg. no. | Context | Recommendation | Suggested change in the legal framework | Responsible institution | Relevant international principle and commitment |
|-----|------------|--|---|--|---|--|
| | | candidate nomination filed at the High Court Division of the Supreme Court and appeals against these rulings filed at the Appellate Division of the Supreme Court, and despite the expeditious examination by the courts, legal redress was delayed with petitions being determined during the election campaign and in some cases a few days before polling. The limited time for the conclusion of these cases could be a reason for the failure of the courts to outline the reasons for decisions. | nomination appeals to court so they are disposed of in a timely manner and prior to the campaign period, printing of ballot papers and in advance of election day. The electoral calendar also could take account the time period for candidate nomination appeals to court. | Order, 1972. | | the ICCPR: “To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.” |
| 18 | 19 | There are a number of institutions responsible for dealing with election offences and violations of the code of conduct. There were a large number of violations, a high proportion of which went unaddressed during the election period, while severe sanctions were applied in other instances in an inconsistent application of enforcement. | Increased investments in providing guidelines and training of the entities involved in acting against electoral violations could cover what are proportionate and effective sanctions against candidates and election day violators, so that the different entities with responsibility for this area act consistently. | No legal changes required. | Bangladesh Election Commission. | Right to an effective remedy ICCPR Art 2(3)(a), “to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy.” |
| 19 | 21 | An election petition must be filed within 45 days of publication of the results in the Gazette. Although the High Court is required to act expeditiously, legislation only requires the court to aim to conclude the trial within six months, which does not provide for a timely remedy since the parliament is sworn in shortly following the publication of the election results in the Official Gazette. | Consideration should be made to specify reasonable and expeditious time limits for the hearing and adjudication of post-election petitions so that they can be resolved promptly. | Amendments to Art 49(2) and Art 57(6) of the Representation of the People Order, 1972. | Parliament; Bangladesh Election Commission. | Right to an effective remedy ICCPR Art 2(3)(a), “to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy.” |

| No. | FR pg. no. | Context | Recommendation | Suggested change in the legal framework | Responsible institution | Relevant international principle and commitment |
|---|------------|--|---|--|---|---|
| Polling, counting and tabulation | | | | | | |
| 20 | 21 | People incapacitated, or individuals on duty on election day were not able to exercise their franchise as the postal ballot system was not functional. | Secure alternative methods for voting and implementation of legal provisions including postal voting and special voting should be ensured to guarantee a fully inclusive process that covers those individuals physically incapacitated and those unable to attend polling stations on election day such as security personnel and observers. | Amendment to the Representation of the People Order, 1972. | Parliament; Bangladesh Election Commission. | Right and opportunity to vote Article 25 of the ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 20, “States should take measures to guarantee the requirement of the secrecy of the vote during elections, including absentee voting, where such a system exists.” |
| 21 | 22 | Safeguards were not adequate to guarantee either the secrecy of the vote or the integrity of the results at polling centre level. | Increased safeguards could be developed to ensure the integrity of voting and counting processes. These should include a full moratorium on political party activities in the vicinity of polling centres, less intrusive security presence, increased transparency and security of voting and counting procedures and prosecution for illegal practices. | No legal changes required. | Parliament; Bangladesh Election Commission. | Not specified/good practice Article 25 of the ICCPR, United Nations Human Rights Committee, General Comment No. 25, paragraph 20, “States should take measures to guarantee the requirement of the secrecy of the vote during elections, including absentee voting, where such a system exists. This implies that voters should be protected from any form of coercion or compulsion to disclose how they intend to vote or how they voted, and from any unlawful or arbitrary interference with the voting process.” |

