

# **Sixth Meeting of Forum of Election Management Bodies of South Asia ( FEMBoSA )**

1<sup>st</sup> & 2<sup>nd</sup> October 2015 - Colombo, Sri Lanka

## **Summary Report**

The Sixth meeting of FEMBoSA was held on 1<sup>st</sup> and 2<sup>nd</sup> October 2015 at Hotel Galadari, Colombo, Sri Lanka with the participation of Eight Member Electoral Management Bodies (EMBs) of South Asia. In accordance with the decision taken at the Fifth meeting, the Commissioner of Elections, Sri Lanka organized this meeting with the theme 'Autonomy and Independence of EMBs'. The proceedings of the Sixth meeting are summarized below.

### **The Inaugural Session**

The inaugural session was attended by the delegates of all Member EMBs, officials of the Department of Elections, Sri Lanka and the Media. Mr. S. Achchuthan, Deputy Commissioner of Elections, Sri Lanka, formally facilitated the Inaugural Session. The inaugural session of the Sixth Meeting of FEMBoSA was graced by Hon. Justice (Rtd.) Priyantha R.P. Perera, Chairman, Human Rights Commission of Sri Lanka.

**Mr. R.M.A.L. Rathnayake, Additional Commissioner of Elections, Sri Lanka,** delivered the welcome speech and highlighted the objectives of the meeting. He also invited the attention of the audience on the overarching motto of FEMBoSA, i.e; **"FREE AND FAIR ELECTION - PRIDE OF NATION"**. He said, FEMBoSA is an organization of the SAARC countries set up for the purpose of conducting free and fair elections in their respective countries. The Fifth meeting of the Forum was held in Kathmandu, Nepal in 2014 and we are here today, for the Sixth meeting.

He further said that the Member countries are meeting in Colombo for the Sixth meeting of FEMBoSA, an event which coincides with the celebrations of sixty (60) years of the establishment of the Department of Elections, Sri Lanka, after holding well over forty elections and recently concluding two consecutive national level elections successfully, i.e; the Presidential election and the Parliamentary election, both held in 2015.

Mr. Rathnayake added that in Sri Lanka, we have a vibrant democracy. The theme for the 6<sup>th</sup> meeting of FEMBoSA, he said, is, "autonomy and independence of election management bodies" and wished that all participants will actively take part in the deliberations and will contribute to achieve the objectives of the sessions, during these two days.

**His Excellency Dr. Ayodhee Prasad Yadav, Chief Election Commissioner of Nepal**, the current Chair of FEMBoSA, delivering his statement at the inaugural session stated that he was happy to meet and address all the Members of FEMBoSA at this Sixth meeting held in Colombo and to join with all Member countries to share the spirit of the motto of FEMBoSA, “Free and Fair Election: Pride of Nation”. He said, Elections Department of Sri Lanka has sixty years of experience in conducting elections and India too has the similar experience. The other countries of FEMBoSA also have various experiences in conducting elections.

He referred to the activities carried out by FEMBoSA during the period from December 2014 to October 2015. With regard to Bangladesh, he said that it is making use of the new technology in elections and has already introduced voter education into the curriculum in schools since 2000 and encouraged gender equity in overall electoral process with steps to ensure the inclusion of women voters in the voter’s register in 2015.

Further, he said, the Election Commission of Bhutan is undertaking a research on “Campaign Finance”. Other activities include making arrangements to infuse electoral education to school curriculum etc. The Ministry of Education of Bhutan has sent officials to FEMBoSA member countries for election observation. Officials of the Election Commission of Bhutan were trained in International Democracy. “Youth in Democracy” was celebrated in 20 districts of Bhutan.

He also said, the Chief Elections Commissioner of India invited observers from Nepal for observing Assembly Election in Delhi and conducted the 3<sup>rd</sup> Special Training Course for SAARC election officials on Election Management.

**Hon. Mahinda Deshapriya, Commissioner of Elections, Sri Lanka** addressing the meeting stated that FEMBoSA has come a long way trying to achieve the objectives set at the inception. Today, we have direct contacts with each other. We are sharing experiences and learning from each other. We co-operate with one another, and enhance the capabilities of EMBs.

Our intention is to create a conducive environment for free and fair elections. Sri Lanka has experienced ups and downs in the path of having democratic elections during the previous one or two decades. With the forming of this strong organization, FEMBoSA for the region, we have committed ourselves to achieve the goals set already. This organization is now globally recognized for its commitment and we have to meet all the challenges more vigorously in future.

As the sessions of this meeting go on, we will identify our shortfalls and drawbacks, and we will be able to draw up an effective programme for the next year and for the future. One major area of our concern is the inclusivity in electoral processes. There are various sections of the society who are denied of exercising the franchise. This needs serious consideration.

The participation of women as voters and as candidates in representative bodies is another area. Youngsters are losing interest in politics due to various social and economic reasons. We need to identify the causes for this and remedies for the real causes.

Autonomy of EMBs is relatively low in some of our countries in the region. We have to look for the weaknesses in the electoral systems. Public Confidence is degrading. This is very serious in view of the development of democratic practices.

The next step of FEMBoSA is to address these issues and at the end of this meeting hopefully, we will come up with a flexible, effective and practical Action Plan for our future.

He concluded saying; “We are committed to do that; we have the courage; we have the capabilities. If any area is lacking in capabilities, we have the will power to build them.”

**Hon. Justice (Rtd.) Priyantha R. P. Perera, Chairman, Human Rights Commission of Sri Lanka**, the Chief Guest, addressing the members of the Forum, thanked for the invitation extended to him to make the key note address. He said that he agreed to accept the invitation because the Elections Department had concluded two consecutive elections this year, very successfully.

He said that the FEMBoSA is making a good contribution to ensure the voting rights of the people and it has to be mentioned that all the countries should safeguard the sovereignty of the people which is inalienable along with the fundamental rights and the franchise. All are aware that free and fair elections are very important for the legislature to maintain law and order and for all political parties to achieve their objectives. He congratulated the Department of Elections of Sri Lanka for the success achieved in this direction.

Hon. Justice R.Priyantha Perera further said that he has worked very closely with the Department of Elections and has always given priority when issues related to elections brought before him. State employees are given leave to cast their vote;

and therefore he has issued orders to the Ministry of Labour to grant leave to the private sector employees as well to cast their vote and also he has taken action to ensure the voting rights of people affected by disasters. A dialogue has been initiated regarding the enhancement of female participation in elections and he also has advised Government authorities to protect the rights of women. Observation of elections has been encouraged in order to ensure the conduct of free and fair elections.

**Mr. Saman Sri Rathnayake, Deputy Commissioner of Elections, Sri Lanka** making the vote of thanks stated that we have been conducting elections in free and fair manner. Organizing an International Conference of this magnitude is not an easy task. He thanked all the Member countries for effective communication with the organising committee in a smooth manner to make the FEMBoSA meeting a success. He also thanked the participants, the staff of the Department of Elections, Ahamas International Law Associates and the Galadari Hotel Management for their support and cooperation.

**Forum Affairs**

The General Session was chaired by His Excellency Dr. Ayodhee Prasad Yadav, Chief Election Commissioner of Nepal, the outgoing Chairperson of FEMBoSA. He stated that he was happy to be in Colombo with other Members for the Sixth meeting as scheduled, and he extended a warm welcome to the Delegates from other Member States and thanked them all for their presence at this Sixth meeting. He also thanked the Commissioner of Elections, Sri Lanka for making excellent arrangements for the inaugural session and the sessions to follow. Thereafter, he took up the items in the Agenda and requested the Members to make any suggestions if any for inclusion in the Agenda.

The Bangladesh Representative, Hon. Kazi Rakibuddin Ahamed proposed to adopt a resolution regarding the disaster that had befallen on Nepalese people, causing loss of lives and damage to properties. The resolution was seconded by Her Excellency Aum Deki Pema, Commissioner of Elections, Bhutan and expressed solidarity and sympathy of participating countries of FEMBoSA. This resolution was unanimously adopted.

The Chairman further said that two countries have not submitted their reports and he expected to receive them during the course of the sessions, for inclusion in the FEMBoSA Report. The progress of work done with regard to activities carried out of the Resolutions of the 5<sup>th</sup> FEMBoSA was briefed by each country. Reference was made to the two elections held in Sri Lanka, namely the Presidential and Parliamentary elections. Once again he thanked all the members for the cooperation extended, especially to the Elections Department of Sri Lanka for the excellent arrangements made for hosting the Sixth Annual conference.

**Handing over of Chairmanship of FEMBoSA to Sri Lanka**

The Chairman His Excellency Dr. Ayodhee Prasad Yadav, thanked all participants for the cooperation extended and said that Hon. Mahinda Deshapriya, the incoming Chairman will take it to greater heights. Thereafter, H.E. Dr. Ayodhee Prasad Yadav handed over the Stewardship documents to Hon. Mahinda Deshapriya, Commissioner of Elections of Sri Lanka. Hon. Mahinda Deshapriya in turn, appreciated the excellent work done by the outgoing Chair in Office and handed over a Plaque of Appreciation.

This event marked the transition of Chairmanship to Sri Lanka for the period 2015-2016.

Hon. Mahinda Deshapriya, accepting the Chairmanship of FEMBoSA said, “it is not only a personal honor on me as a public servant of Sri Lanka, but more importantly, to the entire Nation of Sri Lanka.”

He said, Sri Lankans have been exercising franchise since 1931, and from then onwards they have copiously been exercising their voting rights in well over 40 elections, which include, State Councils at the inception, later Parliamentary, Presidential, Provincial and Local Bodies elections, in addition to a Referendum held in 1982.

Since then we have come a long way in holding elections from time to time increasingly empowering Sri Lankans on the road to advanced democracy. Accepting the Chairmanship of FEMBOSA, which involves the eight South Asian countries, it is an opportunity to strengthen democracy in the region through interaction among Election Management Bodies.

Hon. Mahinda Deshapriya quoted Mr. Gopal Krishna Gandhi, the grandson of Mahathma Gandhi who wrote the preface to the monumental book by Dr. S.Y. Quraishi, “An undocumented wonder – The making of the Great Indian Election”. Mr. Gandhi has said, India is famous for three things; firstly, the Taj Mahal, secondly, Mahatma Gandhi and thirdly, the Indian Elections.

In conclusion, Hon. Mahinda Deshapriya said that the two day sessions on the overarching theme of Autonomy and Independence of EMBs and other topics of contemporary importance that are listed in the Agenda would provoke our thought processes and guide us to prepare a practical and implementable work plan for 2016 that would benefit the voters of our eight Member States.

He further said that he would conclude his address with another quote from Dr. S Y. Quraishi’s book;

“Democracy continues to be a work in progress towards the freedom of choice and freedom from poverty”.

**Autonomy and Independence of Election Management Bodies ( EMBs )  
for Ensuring Free and Fair Elections**

**Presentation: Sri Lanka**

**Introduction**

**Hon. Mahinda Deshapriya, Commissioner of Elections, Sri Lanka** stated that the Election Management Bodies are the institutions that bear direct responsibility of electing members for representative bodies in a democracy. They are vested with the authority to conduct an election in accordance with the law of the country. He said, in operating these institutions, depending on the nature of the relationship with the executive, they could be grouped as; independent model EMBs, possessing autonomous features, Government model EMBs operating under the directions of the Executive, where the deciding authority is entrusted to the ruling party of a country and the Mixed model is a combination of both these features.

**The Election Management Body in Sri Lanka**

He said, in Sri Lanka, the Election Management Body is called, the Department of Elections. The Head of the Department is a Public Servant and a Senior Officer of the Sri Lanka Administrative Service who is appointed by H.E. the President. The Commissioner of Elections could be removed from the post, only by a resolution passed in Parliament. The Commissioner can hold office till he reaches the age of 60 years. His salary is decided by Parliament. The Department of Elections will function until the establishment of the Election Commission.

**The Department of Elections does not fall under any Ministry**

He further stated that in each Administrative District, a District Elections Office is established to carry out the duties of the Department, under a Deputy/ Assistant Commissioner. The staff officers and other staff of the Department belong to the Combined Services. For the purposes of conducting elections in the districts, the District Secretaries/Government Agents are appointed as Returning Officers by the Commissioner of Elections. It is the responsibility of the Department of Elections to conduct elections to elect representatives at National, Provincial and Local Authorities elections and hold referenda and also to prepare annual electoral Registers. In the latter, the District Secretaries/Government Agents are appointed as Registering Officers in the respective districts.



## **Election Commission**

He said, on 03-10-2001, the 17<sup>th</sup> Amendment to the Constitution was passed with provisions to establish an Election Commission. Due to the non-appointment of the Constitutional Council, the Election Commission has not been established. Until the Election Commission is established, the powers of the Commission are exercised by the Commissioner. By the 18<sup>th</sup> Amendment to the Constitution, legal provisions relating to the Commission were amended and the 19<sup>th</sup> Amendment further amended some provisions.

The Election Commission consists of three members. The Constitutional Council recommends members with distinguished career in administrative and educational fields or who have acquired excellence. Appointment of the Commission is made by H.E. the President with the consent of the Constitutional Council. One of the members will be a senior officer who had served the Department of Elections as Deputy Commissioner of Elections or above. H.E. the President appoints one of the Members as Chairman of the Commission.

## **Commissioner General of Elections**

He said, subject to the approval of the Constitutional Council, a person is appointed by the Commission as the Commissioner General. The Commissioner General can be in service till he reaches the age of 65 years. He could be removed from office for misconduct or for incapacity by a resolution in Parliament. It is the Election Commission which decides the powers that should be exercised by the Commissioner General, which are vested with the Election Commission.

## **The main provisions of the Constitution to protect the autonomy of the Election Management Body**

He said, the objective of the Commission is to conduct free and fair elections and to conduct referenda according to Article 103(2) of the Constitution. The Commission is responsible and answerable to Parliament for exercising the powers, functions and for its performance. The work performed by the Commission for a period of one year, will be submitted to Parliament.

As per Article 104 A of the Constitution, no court can question the decisions or action taken by the Commission, except the Supreme Court, in regard to fundamental rights and the Court of Appeal over election petitions.



The Commissioner of Elections has the authority to prohibit the use of public property, during an election period to promote any political party, independent group or any candidate to get elected or to prevent one getting elected.

On the directions of the Election Commission, the Police officers and their services are provided by the Inspector General of Police for the purposes of election.

The Commission has the authority to impose guidelines, which the Commission feels as necessary, to the Media institutions (Article 104A) in order to ensure a free and fair election.

Under Clause 7(8) of the Parliamentary Elections Act within the duration of an election, the Commission may issue a code of conduct to the Political Parties of the independent groups and the candidates to follow.

As per Article 104(g) of the Constitution, all public servants while performing their duties in their positions should work under the directions issued by the Commission when conducting elections. Any officer who fails to work in cooperation with the Commission, without any valid reason commits an offence and can be sued in a court of Law.

## **Conclusion**

Concluding the presentation, he said that it is the voter and the civil society that are benefited by the performance of the EMB, when the conduct of elections is independent.

The Election Management Body should be strengthened to protect the rights of the voter and to meet the expectations of the stakeholders, which are associated with the election process.

It is useful to provide a mechanism, at the end of every election, to rectify any defect found in the election process and the performance of the Election Management Body.

## Conducting Elections in Conflict Scenario

### Presentation: Afghanistan

**H.E. Dr. Abdul Rehman Hotaki, Deputy Chairman, Independent Election Commission, Afghanistan** said that his country has experienced conducting a few elections in conflict scenarios and keen to present these experiences to the Members of FEMBoSA.

Every election conducted has been confronted with difficulties due to violence. He said there are two main obstructions in conducting elections in his country. One is the lack of control over elections and the other is the lack of proper Voters Register. The lack of Voters' Register had been a major issue, he said, and he wished to learn from the experience of other FEMBoSA Members. Every decision remains to be a problem to the Commission, as there are incidents of violence and complaints followed by an election.

Some of the problems, he said are, insurgent attacks, planting of land mines, tribal conflicts and use of power, black money and threatening voters to death. He enumerated the following problems in a conflict scenario:

- High casualties;
- Lack of control over the Polling Centres by the Election Management Body;
- Lack of National/International Observers;
- Low turnout at elections;
- Low public confidence in election results;
- Time consuming and complex procedures;
- Post election conflict resolution efforts.

He explained that during the elections held in the year 2014, there were 117 security related incidents, 84 casualties and closure of 205 polling centres. He also said that direct attacks were leveled against the polling centres, but still elections were conducted. Attackers, he said, change their strategies when moving from one area to another area.

He said, when conducting elections, the Election Management Bodies should get the public support, communicate honestly in a transparent manner, share responsibilities and disclose facts and figures to the public on a regular basis. It should assess various situations correctly and prevent endangering the voters' lives; EMB should maintain some level of tolerance; and should not rush for announcing election results until all valid complaints are considered.

During interactive segment, the delegate from Pakistan said that in his country **one election was declared void by the Supreme Court of Pakistan**. The reason was the disagreement between political parties. The complaint had been made by the election officials.

Mr. M.M. Mohamed, Additional Commissioner of Elections, Sri Lanka said, similar situations had been experienced in Sri Lanka too.

H.E. Dr. Ayodhee Prasad Yadav (Nepal) explained the trend of violence in his country's election and said the incidents are increasing.

## **Technical Session: II**

### **The importance of Participation of Women for Free and Fair Elections**

#### **Presentation: Bangladesh**

H.E. Kazi Rakibuddin Ahmad, Chief Commissioner of Elections, Bangladesh said that women are almost about 50% of the population in most of the countries and according to the Universal Declaration of Human Rights, there is no distinction between man and woman. Both men and women enjoy equal rights as far as free and fair elections; the rights and responsibilities of States; the candidature, party campaigns; and the rights and responsibilities of States, are concerned.

Security provided for men and women remains the same. In monitoring elections, the same basis is adopted. Article 65 of the Constitution lays down the number of women who should get elected to the Legislative Body. Previously, it had been 10% and later increased, and it will go up to 33% by the year 2020. Positive steps are taken to educate the children.

Today in Bangladesh, the Prime Minister, the Leader of Opposition and the Speaker of Parliament are women. At elections, there are long queues of women to cast their votes. Special security measures are taken for women to cast their votes. At two elections held recently, where total nominated had been 29, and out of them, 18 had been women. When 59 women were nominated, 19 women were elected.

Mr. Samantha Jayasinghe, Assistant Commissioner of Elections, Sri Lanka said that in our country, the female population is more than 50% but only few women are getting into politics and also to Parliament. Therefore, a mechanism adopted by Bangladesh is a good model.

Her Excellency Aum Deki Pema (Bhutan) said that it is an encouraging argument to introduce a quota for women.

While commenting, the Delegate from Bangladesh said that introduction of quota system for women entering into Parliament is a debatable question.

### Technical Session: III

#### **The Role of Election Commission in holding Free and Fair election**

##### **Presentation: Bhutan**

Her Excellency Aum Deki Pema, Commissioner of Elections, Bhutan said, there are successes and failures in democracy. There are things which are not so pleasant in her country.

She said that in the legal context, the role of Election Management Bodies ( EMBs ) is very strong, but the authority and powers given by the Constitution and the Election Laws are very vital. There are enactments for proper conducting of free and fair elections, but observed that there are also drawbacks. There are delays in passing budgets for the Election Commission. She expressed that as part of the lessons learnt, EMBs should have a good legal framework. For the purposes of maintaining consistency, and to be honest and transparent, the use of free media is necessary and what is most important is to have good intentions.

She said, not to take things granted. There is a need for innovations. She concluded that when violence of different degrees takes place all over the country, elections are not spared. But, violence and elections should not be the two sides of the coin. Ensuring same is one responsibility of EMBs.

### General Session: 3

#### **Access to all South Asian Disabilities Organisation**

##### **Presentation: South Asian Disabilities Organisation**

At the request of the South Asian Disabilities Organisation which was conducting a symposium at the same hotel, the 6<sup>th</sup> Meeting of FEMBoSA provided opportunity to several members of the Organisation to address the meeting. Mr. Javed Abidi of the Organisation said that he was instrumental and responsible for putting up a centre for disabled voters. He said that within the region, nearly 15% of the population is affected by some form of disability and the average is about 5 to 6% of the population.

He said, in India alone, about 60 to 70 million of people are disabled and most of them are asking for basic facilities and said that the right to vote is a basic need. Politicians go behind vote banks. One of them is the disabled community. Disable people go to the polling stations with great difficulties, cast their vote , return home, and just forgotten and that is the end of the story. He thanked for the opportunity given to address the FEMBoSA meeting.

Mr. Sudharson Subedi , an International Human Rights activist thanked for the opportunity given to address the meeting. He said, it is essential that election officers attend the disability forums. He also said that access is most important to the polling centres for disable persons including mothers and children. He said information and communication on accessibility are not friendly towards the disabled and said that their (disable persons) ambition in the SAARC Region is to be active partners in the democratic process.

Ms. Salma Mahbub said that disable persons are keen to participate and proposed that the disabled should be allowed to participate in the elections through postal voting. There should be legal reforms in place to protect the voting right of the disable persons. She also said that disable persons have different kinds of needs. The staff at Polling Stations should be aware of them and they should be trained to cater to their needs.

India has made some important suggestions to be adopted and the following are the suggestions:

1. Election officials and temporary election workers should receive training on disability inclusion and sensitization;
2. Disability inclusion is mainstreamed in organizational policies and there is the appointment of an inclusion focal point with EMBs;
3. All voter registration and polling centers are accessible and in easy-to-reach locations for persons with different types of disabilities;
4. Voter education is given in accessible formats, such as sign language, Braille and easy-to-read, in consultation with people with disabilities and disseminated in locations likely to reach by citizens with disabilities;
5. A database with different types of accommodations is developed and maintained in order to help plan and implement disability inclusive elections;

6. Persons with disabilities are given priority to cast their ballot as well as needs based assistance to cast their vote, including alternative methods such as postal voting and voting from home;
7. Legal reform is pursued to guarantee people with intellectual and psychosocial disabilities, the right to vote and stand for election;
8. EMB and polling staff are trained on requirements for disability accessible polling locations and have the ability to serve persons with different types of disabilities;
9. Inclusive human resource policies are developed and implemented, including the recruitment of employees with disabilities at all levels of the organization.

The Nepal delegate said that Nepal is supporting the recommendations and said training is to be provided to help the disable persons at elections. The delegates from the Maldives, Afghanistan, Bhutan, Pakistan and Sri Lanka expressed their willingness to support the list of recommendations made by the Organisation but based on the degree of capabilities of EMBs.

Mr. Javed Abidi requested that minimum standards should be maintained and said that when there is a will there is a way and observed that no person is disfranchised in a democratic process.

Members of the EMBs expressed concern over the recommendations tabled at this meeting and agreed to consider them within their legal framework, and electoral systems, and accommodate the recommendations to the optimum, back home.

#### **Technical Session: IV**

<b>Young Voters' Engagement in Democracy – Impact of Social Media</b>
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#### **Presentation: India**

His Excellency Om Prakash Rawat, Commissioner of Elections, India said that Social Media should be allowed to grow and see that correct and authentic information is provided. He said that Social Media is a reality and galloping among the young and should make use of it fruitfully. Controls will never work in the current trend.

The delegate from Afghanistan said that Social Media is growing fast. Today, the younger generation is getting highly attracted to Social Media and therefore the Election Commissions should make use of the Social Media.

H.E. Kazi Rakibuddin Ahmad, Chief Election Commissioner, Bangladesh said that the numbers engaged in Social Media are increasing and also said, Social Media and other Media should go together.

H.E. Ayodhee Prasad Yadav, Chief Election Commissioner of Nepal , said that it is difficult for many elders to understand Social Media which is more familiar to the young. If Social Media is handled properly, it is useful but when it is misused, it is difficult to control. However, it is not possible to have rules and regulations to control Social Media, he said.

Mr. Ahmed Ali, Secretary General, Election Commission of the Maldives said that the Election Commission of the Maldives has started a survey of the use of Social Media. It has been found as fifty-fifty. He said it is better not to control the Social Media, but to manage it by taking protective measures.

Hon. Mahinda Deshapriya, the Commissioner of Elections, Sri Lanka said that in Sri Lanka, recently a face book was created for the Elections Department. A message has been given on how to use the Social Media to facilitate and help the electoral process.

H.E. Dr. Ayodhee Prasad Yadav , Chief Election Commissioner of Nepal, raised the issue of managing the Social Media, vis-à-vis, the fundamental rights.

## **Technical Session: V**

### **Impact of Judiciary system on autonomy of Election Management Bodies.**

#### **Presentation: The Maldives**

**H.E. Ahmed Sulaiman, Chairman, Election Commission of The Maldives** addressing the participants said that this is a discussion on both positive and negative aspects of the Judicial System. He said that the Election Commission of The Maldives is a separate legal entity established under Section 167 of the Constitution of The Maldives. It consists of five members, functioning as an autonomous body. The Presidential, Parliamentary and Local Government Elections are conducted by the Elections Commission. The mandate is to conduct



free and fair elections without intimidation, aggression, influence and corruption. It registers and regulates the political parties.

H.E. Sulaiman said that there are two different models. One is the Conventional Independent Model and the other, the Categorized Autonomy Model. Elections are perceived cleaner, if they are managed by an independent Election Management Body, it is also perceived as cleaner, when the Election Law is a part of the Constitution and when the Election Management Body reports to the legislature.

Under the categorized Autonomy Model, there are the autonomies, such as Institutional Autonomy, Financial Autonomy, Personnel Autonomy and Functional Autonomy. Then he referred to the role of Judicial system, Resolution of Electoral disputes which is the core of the fair and honest conduct of an election and it is also an essential component in free and fair elections. In resolving disputes, the mandate of the court is limited to delivering that a person is unduly elected, but cannot declare that a particular candidate has won. The judiciary has the independence and impartiality and ensures that disputes are adjudicated based on facts and legal merits. Timelessness is another role of the judicial system. It is said that justice delayed is justice denied and the courts that hear the election petitions, must look towards ensuring that justice is delivered swiftly.

The role of the judicial system of the Maldives is coming under Articles 9.21, 113, 64, and 65 of the Constitution. The General Elections Act from the above sections, the judicial procedures to be followed, in election disputes to get relief are laid down. With regard to the influence of the Judicial system on Election Management Bodies the following impacts could be ascertained.

It can maintain checks and balances, ensure the individual's fundamental rights are protected and can make accountable. The negative impacts are undue influence, loss of public trust and confidence. Autonomy though defined by the Constitution and not practiced, court verdicts clash with mandatory work, defined by Election Acts. In conclusion he said all independent automatic elections could only be achieved with integrity and lack of influence in other areas.

H.E. Om Prakash Rawat, Commissioner of Elections, India, said that the Indian experience is that a person can spend only seven Million Indian Rupees for an election and if it is defied he will be fined. But the Election Commission has no authority to investigate. If the expenditure is hidden they get disqualified. Where there is no provision in Law, the Election Commission can make its own decision.

This specifies the authority of the Election Commission against political power , the judiciary and the civil society. The people's power is more important.

In Afghanistan, there is a question that the Supreme Court has authority to intervene. There is an independent body to investigate and it can be referred to the National Complaints Investigation Bureau. On their decision the complaint is resolved. Any dispute could be referred to the High Court of Afghanistan.

With regard to Bhutan, Her Excellency Aum Deki Pema, the Commissioner of Elections, said that she appreciates the role of the judiciary. Elections instructions are very clear as to the qualifications of a candidate. Before elections there are training sessions for the staff (civil service). *They are involved with the judiciary and positive support is given for the election.*

With regard to Nepal, H.E. Dr. Ayodhee Prasad Yadav, (CEC of Nepal) said that this is an important topic. *There are Returning Officers who are recruited from the judicial service and they play an important role.* All the District Court Judges, with the permission of the Supreme Court are deployed by the Election Commission. They maintain free and fair elections. With regard to dispute resolution, the Election Commission is given the power. The Election Commission has little to do with violation of election law. Election disputes can be resolved in the Supreme Court. With regard to autonomy, legislation is drafted to give more powers. Judiciary plays an important role in resolving the election disputes. Time is crucial because, justice delayed is justice denied, he said.

## Technical Session: VI

### Strategic Planning for Election Commissions

#### Presentation: Nepal

**H.E. Dr. Ayodi Prasad Yadav, Chief Commissioner of Elections, Nepal** said that Strategic Planning can be defined as systematic planning which facilitates the effective management of process to achieve a particular goal. Strategic planning is also a managerial activity of directing, coordinating and controlling activities from general to specific. Strategic planning also includes strategic analysis, strategic choices and strategic implementation.

He stated that strategic planning is affected by a number of factors. They are legal status, environment, work culture and resources. When the number of

stakeholders and actors are more involved, preparing strategic planning gains more importance.

The two fold aims of strategic planning are to enhance their ability to anticipate and respond to the needs that the organization may confront, and of conducting a structured and long term institutional strengthening effort. When the first strategic plan of Election Commission, Nepal (ECN) was implemented during 2008/2009 to 2013/2014, the following goals were identified:

- (1) Institutional Capacity Building;
- (2) Reform electoral Technology;
- (3) Efficient management of electoral process.

At the inception, Nepal improved the legal framework, empowered the institutional capacity in the areas of development of district offices, provided access to internet and also provided training and capacity building. Nepal also introduced voter registration and voter Identity Cards (IDs) , implementation of Geographical Information System (GIS) , mapping and reduction in conflicts between voters and the polling locations.

In addition to the above, Nepal expanded the voter education and capacity building by establishing of **Electoral Education and Information Centre (EEIC)**, introduced electoral and voting process through gender and inclusion policy and established disability friendly polling locations. By adopting this policy, Nepal has improved the percentage of participation of voters.

Mr. Yuba Raj Guragain, delegate from Nepal stated that during the Second Strategic Planning period 2015 to 2019, the vision was, the strengthening the Election Commission as a Competent Institution for electoral excellence while the mission was conducting election in *professional, efficient, transparent and credible* manner as mandated by the Constitution.

In this process, the Election Commission, Nepal (ECN) has identified five Core Strategic areas called five pillars (5 ps) of the ECN. They are as follows:

- I. Institutional Development;
- II. Organisation and Capacity building;
- III. Registration and electoral technology;
- IV. Electoral Education and Organizational outreach;
- V. Logistic Management and Electoral Operations.

He pointed out that the challenges for strategic planning, are –

- External environment;
- Internal environment;
- Human Resources;
- Financial Autonomy; and
- Information and knowledge management

H.E. Kazi Rakibuddin Ahmad, Chief Commissioner of Elections, Bangladesh said that strategic planning is required for any organization and that the strategic plan differs from conventional planning. Strategic plan activities are mobilized and timely actions taken. There are various advantages and it has to be done on time. Otherwise it comes to a grinding halt. Individually, every item is identified and thereby a clear picture is created. This system of planning will help the Member States of FEMBoSA, he said.

## **Technical Session: VII**

### **Electoral Management Autonomy – A Cross National Analysis of Pakistan**

#### **Presentation: Pakistan**

**H.E. Abbas Ali Khan, Director-General (Administration), Election Commission of Pakistan** stated –

- The Commissioner of Election Commission (CEC) and Members of the Election Commission are appointed for a five-year term. A Judge of the Supreme Court or a Judge of a High Court is appointed as the CEC.
- To be a Member of the Election Commission, a person must be a former Judge of a High Court.
- The Constitution of Pakistan empowers the Election Commission with organizing and conducting elections in an honest, just and fair manner. The Commission is required to take steps against corrupt practices in the electoral process.

He explained that the Election Management Bodies are generally divided into three categories, i.e.; **Completely independent; Completely under government control; Semi-autonomous.**

The Election Commission of Pakistan (ECP) falls into the first category.

The Election Commission's responsibilities include – Preparing electoral rolls; appointing Election Tribunals; Holding Presidential Election; Delimitation of constituencies; Conducting of elections and by-elections.

Financial and Administrative autonomy is an important issue for Election Management Bodies and largely determines their degree of independence from the Government.

As a constitutionally independent body, the ECP receives its funding from the Annual Federal Budget through the Ministry of Finance. The ECP also has a supplementary budget for electoral activities and special projects, including conduct of elections, preparation/revision of electoral rolls, IT infrastructure, etc. The mandate given to the Election Commission of Pakistan empowers it to appoint Election Tribunals to adjudicate upon any post-election disputes.

For the trial of election petitions, the Commission appoints **Election Tribunals**. An Election Tribunal shall consist of a person who has been a Judge of the District Court or High Court.

## Technical Session: VIII

### **Election Management Bodies and Public Confidence in Elections – Lessons Learnt**

**Presentation: Sri Lanka**

**Mr. M.M. Mohamed, Additional Commissioner of Elections, Sri Lanka** stated that the Election Management Bodies must ensure that elections are not only technically sound but also politically acceptable and legitimate.

Underlining the principles of public confidence at the elections are - Independence (of action as compared to institutional autonomy); Impartiality; Transparency, Efficiency, and Sustainability.

The Election Management Bodies (EMBs) cannot function in isolation. Productive and positive inter-action between the Election Management Bodies and stake holders are essential for creating public confidence.

He further stated that the nature of incidents reported in some of the elections held in Sri Lanka, were:

- Misusing Government Assets;
- Chasing away the Polling Agents and Voters during the poll day; and
- Collecting Poll cards by force, before the poll or during the poll.

Some Legal provisions were made to resolve these problems, i.e;

Compulsory identification of voters by a recognized identity document and annulling the poll and conducting re-poll in the event of incidents reported and proven.

There are three major stages of Elections where action was taken to build public confidence:

- (1) **During the Pre-Election stage**, Computerized Voters Register is prepared with National Identity Card (NIC) Number to prevent multiple registrations. Voters are educated through various methods on the right to vote and the secrecy of voters. Law-enforcement by police is carried out, instead of pushing from behind (Persuasive Method). Temporary Valid Voter Identity Documents are issued to those who are not in possession of NIC or any other valid Identity Document. Election Complaints Investigation Centers are established at the Election Head Office as well as in District Election Offices and in selected Divisional Secretariats.
- (2) Directions are issued to state officials to prevent abuse of Government assets and other resources. Guidelines are issued to media to prevent promotion and/or demotion of any Political Party or Candidate. Domestic and International Observers are invited for election observation.
- (3) **On the Polling Day**, the handling of ballot boxes is made transparent. Opportunity is given to the Polling Agents to place a seal or sticker on the box or inside the ballot box before or after the poll.
- (4) Carbonized papers are used to obtain random signatures of the Agents who were present and to paste the original copy outside the box and distribute copies to the Polling Agents.
- (5) Sealed ballot box is placed in a plastic bag and tied up with secure plastic tag.
- (6) The Agents' vehicles are allowed to follow the vehicle carrying the Ballot box until it reaches the Counting Center.

- (7) Counting of ballot papers is done in the presence of the Counting Agents.
- (8) Re-counting is done in the event of requests made by the Counting Agents.
- (9) Result sheets including tally sheets and summary sheets are signed by the Counting Agents as well.
- (10) Results are verified manually and through computerized methods.
- (11) **At the Post Election Stage**, precautionary measures are taken to prevent post election disputes.

#### General Session: 4

### Next Step for FEMBoSA

- **Suggestions for Draft Work Plan: 2015 – 2016**
- **Plenary Session for Colombo Resolutions**

The Chairperson invited the delegates to suggest a theme for the 7<sup>th</sup> meeting to be held in The Maldives. A list of proposed themes was compiled in consultation with the Member States and circulated. After discussion, the Forum Members agreed on the theme: **“Technology for Credible Elections”**. It was unanimously adopted.

Thereafter the items of Work Plan were taken up for discussion and for finalization.

A list of items identified and approved to be included in the Work Plan 2015 – 2016 was circulated and the scheduled items were assigned to the Member States, based on their preference and willingness for implementation: vide – appended List.

The delegates of the Member States put forward their proposals during the plenary session for inclusion in the **Colombo Resolution**. A thought provoking discussion took place in the plenary session and Members of the Delegation effectively contributed to identify the key proposals. The draft Colombo Resolution, after consultation and incorporating the appropriate amendments, was unanimously adopted on 2<sup>nd</sup> October 2015 during the concluding Session of the FEMBoSA Sixth (6<sup>th</sup>) meeting held in Colombo, Sri Lanka.



The unanimously Adopted Colombo Resolutions (2015) consist the following limbs:

- (1) Reiterated “Free and Fair Election: Pride of Nation” as the motto of the Forum of EMBs;
- (2) Commended the excellent role played by the Election Commission of Nepal as Chair in Office during 2014/2015 in implementing the Work Plan and playing a pivotal and active role for effective coordination among EMBs;
- (3) Decided to implement the Work Plan as approved by the Member States in the sixth meeting of FEMBoSA, held in Colombo;
- (4) Expressed the heartfelt sympathy, solidarity as well as appreciation for courage to overcome and rebuild from the devastating effects of the earthquake in Nepal which also affected the neighbouring countries;
- (5) Recommended for Disability-inclusive elections in South Asia based on their 9 points submission, unanimously support the cause and resolved to prioritize and develop common minimum standards, some of which have already been taken up while others would require more time for consideration;
- (6) Placed on record our gratitude to H.E. Dasho Kunzang Wangdi, Chief Election Commissioner of Bhutan, Chief Election Commissioners of India H.E. V.S. Sampath and H.E. H.S. Brahma, and H.E. Neel Kantha Uprety, Chief Election Commissioner of Nepal for their yeoman services in nurturing FEMBoSA.

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## FEMBoSA Work Plan: 2015 - 2016

No	Programme of Work	Assigned Member State
1.	Study on the current status of Campaign Finance; Organize Regional Seminar; Establish a Regional Research Network on Campaign Finance; Prepare the minimum requirements in the Member States	Bangladesh Bhutan India
2.	Study on the use of technology to conduct free and fair elections of EMBs; Prepare a Road Map on the way forward	Bhutan The Maldives Nepal
3.	Study on the autonomy and independence of the Member EMBs for strengthening democracy; Prepare common Minimum Requirements for the Region	Nepal
4.	Conduct a study on Media involvement, Media monitoring (including Social Media); Develop regulations in the Member States	Nepal
5.	Introduce Voter Education curriculum in schools; Expand inclusive electoral literacy	Sri Lanka
6.	Include gender equality in overall electoral processes in the Member States	Bangladesh Bhutan India
7.	Introduce measures to address Voter Registration among all sections of the society	India Sri Lanka
8.	Introduce systems to promote Voting Rights for citizens living out of the country	India
9.	Conduct capacity building programmes for officials in the Electoral Administration	India
10.	Introduce means of promoting Voter Education among females	Bangladesh Nepal The Maldives
11.	Publish the Sixth Meeting Report of FEMBoSA	Sri Lanka
12.	Publish Research Papers prepared by the Member States, Academics and Professionals	Sri Lanka
13.	Conduct the 7 <sup>th</sup> meeting in 2016 on the theme: <b>Technology for Credible Elections</b>	The Maldives
14.	A comparative study on the Organizational Structures/Strategic Management Plan and functioning of the Election Commissions in the Member States	Afghanistan The Maldives
15.	Setting up of a mechanism of Members consisting of nominees of the respective EMBs; Civil Society and relevant political parties for resolving of disputes among stakeholders (i.e; Clearing House for dispute resolution)	Sri Lanka

Schedule of Delegates, Observers, Resource Persons  
for the 6<sup>th</sup> Meeting of the Forum of Election Management Bodies of South Asia  
(FEMBOSA) held in Colombo, Sri Lanka on 1<sup>st</sup> & 2<sup>nd</sup> October 2015

**Delegates from Member Countries**

Country	Name & Designation
AFGHANISTAN	<b>Hon.Dr. Abdul Rahman Hotaki</b> Vice Chairman of Independent Election Commission
	<b>Mr. Zamari Qalamiar</b> Director of Field Operations, Independent Election Commission
BANGLADESH	<b>Hon. Kazi Rakibuddin Ahamed</b> Chief Commissioner of Elections
	<b>Mr. M.D. Mokhlesur Rahman</b> Additional Secretary, Election Commission Secretariat
BHUTAN	<b>Hon. Aum Deki Pema</b> Commissioner of Elections
	<b>Mr. Govinda Subedi</b> Deputy Chief Research Officer
INDIA	<b>Hon. O.M. Prakash Rawat</b> Commissioner of Elections
MALDIVES	<b>Mr. Ahamed Sulaiman</b> Chairman of the Election Commission
	<b>Mr. Ahmed Ali</b> Secretary General
	<b>Ms Fathimath Nathasha</b> Administrative Officer
NEPAL	<b>Hon. Dr. Ayodhee Prasad Yadav</b> Chief Commissioner of Elections
	<b>Mr. Surya Prasad Aryal</b> Under Secretary
	<b>Mr. Yuba Raj Guragain</b> Section Officer
PAKISTAN	<b>Brig (R) Abbas Ali Khan</b> Director General of Election Commission
	<b>Mr. Mujahid Hussain</b> Director General of Election Commission
SRI LANKA	<b>Mr. Mahinda Deshapriya</b> Commissioner of Elections
	<b>Mr. U. Amaradasa</b> Additional Commissioner of Elections
	<b>Mr. R.M.A.L. Rathnayake</b> Additional Commissioner of Elections
	<b>Mr. M.M. Mohamed</b> Additional Commissioner of Elections

## **Observer / Participants**

	<b>Name</b>	<b>Designation</b>
1.	Mr. Asanka Rathnayake	Assistant Commissioner of Elections
2.	Mr. D.T.I. Wickramaratne	Assistant Commissioner of Elections
3.	Mr. Suranga Ambagahathanne	Assistant Commissioner of Elections
4.	Mr. R. Sasilan	Assistant Commissioner of Elections
5.	Mr. S. Achchuthan	Deputy Commissioner of Elections
6.	Mr. Vajira Gunawardena	Assistant Commissioner of Elections
7.	Mr. P.A.S. Senaratne	Deputy Commissioner of Elections
8.	Mr. A.B.I. De Silva	Deputy Commissioner of Elections
9.	Mr. U.D.D.D. Chandrarathne	Assistant Commissioner of Elections
10.	Mr. T. Akilan	Assistant Commissioner of Elections
11.	Mr. Rasika Peiris	Deputy Commissioner of Elections
12.	Mr. T.A.C.N. Thalangama	Deputy Commissioner of Elections
13.	Mr. Dileep Nishantha	Assistant Commissioner of Elections
14.	Mr. K.J.S. Madawa	Assistant Commissioner of Elections
15.	Mr. S.D.S.A. Rupasinghe	Assistant Commissioner of Elections
16.	Mr. W.H.R. Wijekumara	Assistant Commissioner of Elections
17.	Mr. D.C. Aravindaraj	Assistant Commissioner of Elections
18.	Mr. I. Gayan Pathirana	Assistant Commissioner of Elections
19.	Mr. H.A.S. Fernando	Assistant Commissioner of Elections
20.	Mr. H.I.R. Hathurusinghe	Assistant Commissioner of Elections
21.	Mr. A.M.M. Kabeer	Assistant Commissioner of Elections
22.	Mr. M.A.P.C. Perera	Deputy Commissioner of Elections
23.	Mr. Sajith Asanga Welgama	Assistant Commissioner of Elections
24.	Mr. A.O.M. Nafeel	Deputy Commissioner of Elections
25.	Mr. R.C. Amal Raaj	Assistant Commissioner of Elections

## **Organizing Committee Members**

	<b>Name</b>	<b>Designation</b>
1.	Mr. S. Medawewa	Rtd. Addl. Secretary, Ministry of Defence
2.	Mr. M.M. Mohamed	Additional Commissioner of Elections
3.	Mr. M.K.S.S. Rathnayake	Deputy Commissioner of Elections
4.	Mr. J.A.S.P. Jayasinghe	Assistant Commissioner of Elections
5.	Mr. Nalaka Rathnayake	Assistant Commissioner of Elections
6.	Mr. Rizan M.A. Hameed	Coordinating Secretary to the Commissioner
7.	Mr. G.R. Aroshana Kumara Gamlath	Chief Internal Auditor
8.	Mr. Channa P. De Silva	Deputy Director ( Planning )

## **FEMBoSA 6<sup>th</sup> Meeting Coordinators**

	<b>Name</b>	<b>Designation</b>
1.	Mr. P.M. Siriwardhana	Rtd. Additional Commissioner of Elections
2.	Mr. S. Achchuthan	Deputy Commissioner of Elections