

The Electoral Administrative Framework

The Electoral Commission

The 1991 Constitution established an Electoral Commission of three members appointed by the President to supervise the registration of voters, the conduct of Presidential and Parliamentary elections, and the review and delimitation of constituencies. This was followed by the Electoral Act of 1991 which, among other provisions, vested in the Commission a degree of functional autonomy. The Commission promulgated regulations which provided for the procedure and manner of conducting elections. It clearly recognised that the re-introduction of the multi-party system required the maintenance of new standards of impartiality.

The power to establish an Electoral Commission was vested in the President. This Commission had to be established in certain circumstances, namely whenever Parliament was dissolved; not less than eight or more than ten years after a constituency delimitation exercise was undertaken; whenever the number of seats in the National Assembly had been altered; and whenever a census of the population had been held. The President could, in other circumstances, establish an Electoral Commission whenever he wished.

The Electoral Act, 1991, provided that an Electoral Commission should consist of a Chairman and two other members, who would be appointed by the President. The appointee to the chairmanship or member of an Electoral Commission had to hold or have held high judicial office. Any vacancy on an Electoral Commission before the Commission was dissolved could be filled by the President. The life of an Electoral Commission was limited, and determined by the President. The Commission was not subject to the direction or control of any other authority and could, by statutory instrument, make regulations with respect to a wide range of election matters.

The Director of Elections and the Electoral Staff

The Director of Elections holds a public office, and his functions were to ensure that the election officers performed their tasks impartially; to issue instructions to election officers in order to ensure compliance with the Electoral Regulations; and to perform the functions conferred on him by the Electoral Regulations.

At the provincial level, the Permanent Secretary of each of the nine Provinces performed a co-ordinating role between the Commission and the Electoral Officers. He organised transport to carry election equipment and materials (including ballot boxes), and marshalled financial resources to support electoral activities within his province.

Election officers for each constituency were appointed by the Commission. These included an electoral officer, a registration officer, an assistant officer, a returning officer, a presiding officer, a polling assistant and counting assistants.

Preparations for the elections were the responsibility of the Chief Executives of local government administrative districts, called council areas. These officers were appointed electoral officers for the purpose of registering voters, and also served as election officers, appointed by the Electoral Commission. Their role was to ensure that the process was carried out in a proper manner. The Electoral Officer of each council area was expected to act as the agent in the field for both the Electoral Commission and the Director of Elections and was responsible for the selection and appointment of election officers to assist returning officers for constituencies in their respective council areas. There was also the added responsibility for organising transportation and establishing polling stations in their constituencies. There were 62 such council areas.

Among his other duties were the distribution of equipment and security items such as ballot papers, official marks and official seals, required for use on polling day, to the Returning Officers within his council area. It was obvious that the Electoral Officers had a pivotal role in the administration and management of elections throughout the country.

The Returning Officer's role was to ensure that the polling stations in his constituency were properly equipped and adequately staffed, and that all the procedures at the polling stations were strictly followed.

The Returning Officer for constituencies falling within the council area of the Electoral Officer had to rely on the latter to mobilise transportation and select suitable personnel for the election in their respective constituencies. Indeed, neither the Electoral Commission nor the Director of Elections had permanent staff based in the districts and so they relied on Electoral Officers as their agents in the field. Each Electoral Officer was required to prepare a list of election staff to assist the Returning Officers in his council area.

In a given constituency, the election administration was undertaken by a returning officer with counting assistants appointed by the Electoral Officer.

Annex xi illustrates the organisation of tasks in preparing for the elections for the National Assembly.

Delimitation of Constituencies

The 1991 Constitution provided for the division of the country into constituencies for elections to the National Assembly. It also stated that the boundaries of the constituencies should be prescribed by an Electoral Commission. When delimiting the constituencies, the Commission was required to act on three criteria: the availability of means of communication, the geographical features of the area, and the number of inhabitants. The population criterion was based on a formula called 'the population quota', which was obtained by dividing the number of inhabitants by the number of constituencies. The Commission could vary the strict application of the population quota in cases where either of the other criteria was found to justify such action.

Immediately prior to this election a delimitation exercise took place. This was due to the fact that the number of seats in the National Assembly had been increased to 150 from 125 by an amendment of the 1973 Constitution, and delimitation was based on the report of a Delimitation Commission which was set up under that Constitution. The terms of reference of the Delimitation Commission were similar to the provisions of the 1991 Constitution governing the delimitation of constituencies.

In their report, the Delimitation Commission indicated that they had applied the delimitation criteria when they said:

The factors that influenced the decisions of the Commission in allocating new constituencies included geographical features and means of communication and not population alone. In this case, it will be noted that rural areas gained more constituencies than urban areas and even where a rural area was allocated a constituency, such allocation was based comparatively on population and geographical features and means of communication difficulties.²

In the context of multi-party elections, we believe that there is a need to enshrine in the Constitution a clear procedure for the delimitation of constituency boundaries which could provide an important legal framework for the holding of free and fair elections.

² *Report of the Delimitation Commission, 1991.*