

# **Sustainable Development Goal 16:**

## **Preparedness, Progress and Challenges of Bangladesh**

### **A Study of Selected Targets**

## **Executive Summary**

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## **Sustainable Development Goal 16: Preparedness, Progress and Challenges of Bangladesh A Study of Selected Targets**

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# **Sustainable Development Goal 16:**

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#### **Executive Summary\***

### **1. Background and Rationale**

Sustainable Development Goals (SDGs), also termed as the New Global Agenda or Agenda 2030, have been adopted by 193 United Nations' (UN) members at the UN Sustainable Development Summit in September 2015. The implementation of SDGs started from 1<sup>st</sup> January 2016 and the member states of the UN are committed to the implementation of the targets by 2030. The SDGs are comprised of a set of 17 aspirational "global goals", which are designed to be achieved by meeting 169 targets and to be measured by analysing 244 indicators. The main difference between SDGs and Millennium Development Goals (MDGs) is that SDGs put more importance on the concept of quality rather than quantity.

One of the important goals of SDGs is goal 16, which envisions to *promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels*. This goal includes 12 targets and 23 indicators. Achievement on this goal is considered to be the prerequisite of achieving other goals as well.

Every member state of the UN is committed to reporting on target wise achievements through *voluntary national reviews* on a regular basis. Regarding this review process, an independent analysis is expected to have an important role to assess the achievements of the government. One of the main objectives of Transparency International Bangladesh (TIB) is to complement to the government for enhancing good governance in Bangladesh. This research has been undertaken to understand the state of legal and institutional arrangements of Bangladesh, current preparedness and practices, and challenges to achieving SDGs, especially the goal 16.

### **2. Objective and Scope**

The objective of the study is to assess the state of preparedness, practices and challenges of Bangladesh for achieving some specific targets under goal 16. Among the 12 targets of goal 16, four targets (16.4, 16.5, 16.6, 16.10) have been selected for this assessment. These selected targets are directly related to enhancing good governance and prevention of corruption. Among the selected targets, those which are not directly associated with corruption prevention and good governance have not been considered in the scope of this assessment.

### **3. Research Methodology**

It is a qualitative study – mainly the qualitative data have been used in this assessment while some quantitative information have been used in some applicable cases. Alongside the review of relevant literature and documents including laws and policies, national and international database, institutional reports, country reports, media reports etc., this study has employed key informant interviews (KIIs) with relevant experts, academics, practitioners, former and current public officials, and journalists. The duration of conducting this assessment is April – August 2017.

The analytical framework of this assessment has considered three aspects:

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- **Preparedness** – here the state of legal, policy and institutional frameworks regarding the selected targets have been reviewed;
- **Practices** – the practical aspects and real practices of legal, policy and institutional frameworks have been discussed here; and
- **Challenges** – the causes of gaps between preparedness and practices have been identified too.

#### **4. Initiatives taken so far for achieving SDGs in Bangladesh**

A number of initiatives have been taken by the Government of Bangladesh (GoB) and Civil Society Organisations (CSOs) to achieve SDGs in Bangladesh. As part of government initiatives, a High-Level Inter-Ministerial SDG Implementation and Monitoring Committee has been formed. Moreover, the government has identified its main agencies alongside their potential roles for the implementation of SDGs. In collaboration with Bangladesh Bureau of Statistics (BBS), General Economics Division (GED) has done a data gap analysis for monitoring SDGs. The development of SDG monitoring system is currently under process. Web-based data-collection system, termed as 'SDG tracker', has been developed to carry out results-based monitoring and evaluation. For achieving SDGs, the 7<sup>th</sup> Five Year Plan of the government has been streamlined, and the budget and strategies for implementing SDGs have been figured out. According to the estimation, Bangladesh requires US\$ 928.48 billion for the implementation of SDGs by 2030. GED prepared a 'voluntary national review' report on some of the goals suggested by the UN for 2017 and presented to the UN in July this year. In the process of taking these initiatives, GoB has consulted with relevant actors namely the NGOs, CSOs, development partners, private sector, and media. Non-government agencies in Bangladesh have formed a 'Citizen Platform for SDGs' to take part in the implementation of SDGs in Bangladesh. This platform has been playing active role by means of meeting, seminar, workshop, and research.

#### **5. Overall challenges for Bangladesh for achieving SDGs**

241 SDG indicators out of 244 are applicable for Bangladesh. According to GED's data gap analysis, the government has complete information on 70 indicators and partial information on 108 indicators. However, there is no official information on the remaining 63 indicators. For the assessment of some of the targets under Goal 16 no official information exists, particularly on corruption and bribery, public satisfaction on public services and institutions, extra-judicial killings, etc. There are partial information available on some issues such as money laundering and recovery of stolen assets. Moreover, there is a tendency of denial from a section of the government to accept information on corruption and bribery as generated through research by national and international organisations. Furthermore, there is a concern about how neutrally and objectively the government will be able to collect and publish information on politically sensitive issues like corruption and bribery where there is a serious allegation that a section of the employees of the legislature, executive, and public officials are involved in the corruption. Apart from this, a section of the government is reluctant in working with CSOs to gather information on corruption and bribery.

#### **6. Target 16.4: Significantly reduce illicit financial flows, strengthen the recovery and return of stolen assets.**

The indicator applicable for this target (16.4.1) is the total value of inward and outward illicit financial flows (in current US Dollars).

##### **6.1 Preparedness**

GoB has enacted the Money Laundering Prevention Act, 2012 (amended in 2015), and the Mutual Legal Assistance in Criminal Matters Act, 2012 for reducing money laundering. In order to reduce illicit financial flow, a number of institutions have been deployed including Bangladesh Financial Intelligence Unit (BFIU), Anti-Corruption Commission (ACC), Criminal Investigation Department (CID), National Board of Revenue (NBR), Attorney General's Office, Department of Narcotics Control, and Bangladesh Securities and Exchange Commission (BSEC). Each of these institutions has different activities and responsibilities. Moreover, the National Coordination Committee (NCC), the Working

Committee, and the National Taskforce on Stolen Asset Recovery have been formed with a view to preventing money laundering and combating terrorist financing. Two national risk assessments on money laundering and two sectoral risk assessments on the real estate and NGOs have been conducted. Furthermore, the National Strategy for Preventing Money Laundering and Combating Financing of Terrorism (2015-17) has been developed, which has set targets for the regulatory authorities. Bangladesh is also participating in the international level initiatives to prevent money laundering. Bangladesh has attained membership of Egmont Group, a network of 152 member states that facilitates such international initiatives. Bangladesh is also member of World Customs Organisation, and Regional Intelligence Liaison Offices (RILO). Bangladesh has signed MoUs with 55 countries to exchange intelligence information on financial issues.

## **6.2 Practice**

Despite of having necessary legal and institutional frameworks, the amount of illegal money flow – both inflow and outflow – is increasing. According to Global Financial Intelligence reports, the amount of illegal money from Bangladesh has increased by 120% during 2005-2014, and the estimated amount of the money smuggled at this time is US\$ 75 billion. According to another report, deposits of Bangladeshi financial institutions and individuals in Swiss Bank have increased significantly during 2011-2016 – from 4627 crore BDT in 2015 to 5560 crore BDT in 2016, though the authorities have claimed that 93% of which has been deposited by financial institutions as part of their commercial transaction. On the other side, the amount of illegal inflow to Bangladesh has increased by 120% from 2005 to 2014. Cyber criminals stole US\$ 101 million from Bangladesh Bank in 2016 – of which, US\$ 81 million were laundered to the Philippines and US\$ 20 million to Sri Lanka.

Bangladesh's achievements are very few in the cases of stolen asset recovery. From 2013 to 2015, it was possible to recover US\$ 9.35 million confiscated money; and US\$ 34.5 million stolen money by Bangladesh Bank.

Bangladesh's progress in complying international standards to prevent money laundering is noteworthy. In terms of technical compliance, 40 international standards set by Paris based Financial Action Task Force, Bangladesh's position is satisfactory – out of these 40 international standards 6 are fully compliant, 22 mostly compliant, and 12 partially compliant. According to Basel AML Index 2017, Bangladesh ranks 82<sup>nd</sup> among 146 countries for their state of preventing money laundering and terrorist financing.

There are several activities going on to prevent money laundering. A significant amount of money has been allocated to BFIU and other regulatory agencies to invest in raising awareness against money laundering. A process of collecting Suspicious Financial Reports (STRs) from various financial and non-financial institutions is also in place. The reports are transferred to law enforcing agencies for investigation. During 2010-2014, BFIU has made 17 requests to foreign partners and received 38 requests from foreign countries – the requests are associated with corruption, money laundering, fraud, forgery, drug trafficking, human trafficking, gambling, embezzlement, tax and customs duties evasion. Since 2010 till date, only ten money laundering trials have been completed with ten convictions. However, 222 money laundering prosecutions remain pending at present.

## **6.3 Challenges**

There is a lack of national and sector-wise risk assessment. Moreover, the politicisation of regulatory agencies, politico-administration collusion in corruption, involvement with politics by the board members of the securities and financial institutions, etc. have not been identified through the assessments. Besides, the risks of state-owned commercial banks to money laundering, bank loan scams, political appointment in the executive committee or board – these tri-dimensional risks have not been properly identified. There is a gap in assessing risks on how the designated non-financial business or professions (DNFBP) can do money laundering. Moreover, there are gaps in the National Strategy to Prevent Money Laundering as it has not chalked out properly the needs for technical

capacity and financial assistance. Furthermore, the Company Act, 1994 and The Trust Act, 1882 have not provided clear obligation to the companies and trusts to disclose information regarding 'beneficial ownership'.

There are deficiencies of capacity in the regulatory institutions operating for preventing money laundering. For example, there is an absence of case management unit in some regulatory institutions such as ACC, NBR, etc. Moreover, they have capacity constraints and thus the investigation and settlement of money laundering cases get delayed. It also causes delay in settling politically sensitive cases, and improper investigation of the money laundering cases as well as the sources of illegal money. The courts and Attorney General's office do not have sufficient institutional and financial capability to deal with money laundering cases. Moreover, there is deficiency in the coordination between various regulatory institutions. Besides, there exists gap in regulating DNFBPs, as well as in the institutional capacity to determine amount of laundered money.

## **7. Target 16.5: Substantially reduce corruption and bribery in all their forms**

The applicable indicators for this goal are – proportion of persons who had at least one contact with a public official and who paid a bribe to a public official, or were asked for a bribe by those public officials, during the previous 12 months (indicator 16.5.1); and proportion of businesses that had at least one contact with a public official and that paid a bribe to a public official, or were asked for a bribe by those public officials during the previous 12 months (Indicator 16.5.2).

### **7.1 Preparedness**

Bangladesh has anti-corruption laws, policies and strategies. The important laws include the Penal Code, 1860, the Criminal Procedure Act, 1898, the Anti-Corruption Act, 1947, the Anti-Corruption Commission Act, 2004, the Government Employees (Conduct) Rules, 1979, the Representation of the People Order, 1972, the Political Party Registration Rules, 2009, the Right to Information Act, 2009, the Publication of Public Interest Related Information (Protection) Act, 2011, and the Money Laundering Prevention Act, 2009. In these laws, the activities related to corruption have been defined, and the provisions for taking action against corruption are stated. There are also some national strategies including the Vision 2021, the National Integrity Strategy 2012, and the Seventh Five Year Plan (2016-2020) – pledging for preventing corruption. Bangladesh has also ratified the UN Convention on Anti-Corruption and taken some significant initiatives to implement it.

Anti-corruption agencies include ACC, Judiciary, Law Enforcing Agencies (LEAs), and the Comptroller and Auditor General Office (OCAG). As an anti-corruption agency ACC's legal independence and status as well as the Judiciary's have been well determined, alongside their legal power and authority to control and prevent corruption. Besides, the Parliamentary Standing Committee, NBR, Bangladesh Bank, Election Commission, and Information Commission as state institutions as well as media, CSOs, and development partners have been playing active role against corruption. ACC's initiatives against corruption include taking efforts to prevent, identify, and take action against corruption.

The existing anti-corruption laws have detailed out the required characteristics such as honesty, transparency and neutrality in the elected representatives and government employees; demarcated the line against receiving gift, advantage, and making friendship; and spelled out the terms of nepotism, abuse of power, conflict of interest. For example, disclosure of financial information is mandatory for the candidates of national elections, and it should be available for public. It is also stated that if a member of parliament (MP) is involved in any profitable position, his/her membership will be cancelled.

Likewise, public servants and their family member(s) are prohibited to invest in any sector where they can influence through discharging official duties, and restricted from being part of state-owned enterprises. Moreover, public officials (with a few exceptions) are required to declare their annual

return of assets and annual declaration of all kinds of property and liquid assets belonging to them and family members. There is a legal framework on the protection of whistle blower.

There are provisions for transparency and accountability in government procurement and signing contract. The Public Procurement Act, 2006, specifies the maximum purchase limit. Apart from publishing advertisements related to purchase, Central Procurement Technical Unit and relevant agencies have the obligation to disclose information proactively. Law also defines the role of private procuring entity on how they would help ensure a competitive process in selecting a bidder. Law also defines punitive measures against providing false information during financial transaction.

## **7.2 Practice**

Despite of having legal and institutional frameworks, corruption is widely prevalent in Bangladesh. TIB is regularly conducting nation-wide surveys on the amount of bribe and corruption experiences of people in receiving services from public and private sectors and institutions. It has been found in the surveys that the rate of corruption is consistently high. In the latest survey (2015), 67.8% of the surveyed households have been found to be victims of corruption, where 58.1% of the households have been forced for bribing.

Different international indexes on corruption and bribery witness that the score and position of Bangladesh is low. According to Transparency International's (TI) Corruption Perceptions Index 2016, Bangladesh scores 26 (on a scale of 0 to 100) and holds 145<sup>th</sup> position from the top out of 176 countries. Previous records of this index show that Bangladesh has stayed in the category of highly-corruption prone countries. Bangladesh scores 18.8 (out of 100) in the areas of corruption control as the World Bank Report 2016 shows. Global Competitiveness Ranking, 2014 shows that Bangladesh scores only 2.3 (out of 7) in the areas of making efforts for controlling illegal payments and bribes, and holds 140<sup>th</sup> position out of 144 countries. World Economic Forum, 2016 shows that the estimated cost of corruption in Bangladesh is equivalent to 5% of its GDP. It is 2-3% of GDP as claimed by the current Finance Minister in 2015.

Anti-corruption activities in Bangladesh have not met yet the expected level. It is seen that the rate of investigation is low in relation to the number of complaints lodged, and the overall rate of settlement of corruption cases is also low. Besides, there are allegations of partisan political influence in dealing with corruption investigation and prosecution. However, in recent times, the incidence of anti-corruption activities has increased. For example, 1543 complaints out of the 12568 received in 2016 have been taken for investigation – 543 complaints have been sent to various departments and ministries for administrative action, whereas an average of 1,020 complaints were considered for further investigation in the previous years. In 2016, 359 cases of getting benefit by illegal means were filed and 13 accused were arrested and proper action was taken against them for taking bribe. In 2016, 388 people were arrested in different cases for getting benefit by illegal means. The conviction rate in corruption cases has increased in 2017 compared to the previous years. Since 2015, ACC has been organising institution and administrative unit-wise public hearing. Apart from this, ACC has taken some initiatives in 25 selected sectors and institutions where they make visit and take preventive measures. Hotline system has also been launched by ACC so that people can report on corruption.

## **7.3 Challenges**

There are some legal limitations in corruption control and prevention. For example, the obligation for asset disclosure of government employees is not equally applicable for all; under the existing law, employees of some departments have been kept out of the obligation. Moreover, the government employees are not obliged to publish details about conflict of interest. Public Service Conduct Rules has not demarcated any cooling-off period for the government officials to accept employment in the private sector by using their former position. MPs are not obliged to disclose their financial information after being elected. There is no law or policy in Bangladesh that can provide rules on

'lobbying'. Furthermore, there is no standard referred in the laws and regulations to prevent the misuse of confidential information. There is no systematic process mentioned in any law or policy which can provide direction on how professional obligation, conflict of interest, protection of whistle blowers, and settlement of complaints can be addressed in a transparent and effective way while disclosing information relating to protection of public interest. The official purchase and contract law has not clearly specified the maximum limit of any purchase if done from a single source. Moreover, there is no obligation of the companies to disclose information on beneficial ownership while participating in tender. And there is no mechanism to stop secret collusion in public procurement.

ACC does not have any strategic plan for the prevention of corruption. Asset disclosure related information of public servants is not available in the public domains, and there is no statistics on the number of public servants who are not disclosing their assets. Online database on disclosed assets is not available that can be used for cross-checking. There is no specific designated body that can scrutinise the conflict of interest related information of elected representatives, and ownership of asset of public officials, ensure the protection of whistle-blowers. There is no uniform information disclosure system throughout the public bodies. Moreover, there is also a lack of awareness on disclosure of information, and the implementation of relevant laws is also limited.

## **8. Target 16.6: Develop effective, accountable and transparent institutions at all levels**

The indicators under this target are – (a) primary government expenditures as a proportion of original approved budget, by sector (or by budget codes or similar) (Indicator 16.6.1), and (b) proportion of the population satisfied with their last experience of public services (Indicator 16.6.2).

The institutions and sectors which are included in the National Integrity Strategy (NIS), most of which have been selected for this assessment. These institutions and sectors are: 1. Parliament, 2. Executive (the President, Prime Minister, and Cabinet Members), 3. Judiciary, 4. Local Government (LG), 5. Public Administration (PA), 6. Law Enforcing Agencies (LEAs), 7. Election Commission (EC), 8. Office of Comptroller and Auditor General (OCAG), 9. Anti-Corruption Commission (ACC), 10. National Human Rights Commission (NHRC), 11. Information Commission (IC), 12. Political parties, 13. Media, 14. Civil society/NGOs, and 15. Business sector.

### **8.1 Preparedness**

There are elaborated laws and constitutional directions providing guidance for effective functioning, transparency, and accountability of the institutions mentioned in the NIS. The Constitution of Bangladesh provides independent status to the Parliament, Judiciary, Executive, EC, and OCAG. Laws also provide independent status to the ACC, NHRC, and IC. The Constitution also provides power to the LGs, details out the provision of PA and LEAs; and ensures right to form political parties. Relevant laws also exist that legitimise activities of civil society and business. The Parliament, Executive, LGs, OCAG, EC, PA, LEAs, and ACC have well defined institutional setup, structure, human resources and activities. Some institutions have developed their strategic plans like the Parliament (2012-14), OCAG (2013-18), NHRC (2016-20), and IC (2015-21).

Various initiatives have been taken to improve quality of services in many public institutions and sectors. The initiatives include Access to Information (a2i) Project, Governance Innovation Unit established under the Prime Minister's Office; automation software developed for field-level administration and capacity building of PA staff on e-filing system; introduction of e-traffic police system by Dhaka Metropolitan Police, introduction of crime data management system at the police headquarters, online application for police clearance certificate, 'one stop service centre' at police station, and 'Victim Support Centre' at the district level; use of Web-based Result Management System in the 2016 Union Parishad elections, online voter registration, and national smart card distribution by EC; Digital Audit Management System at CAG Office; online birth and death registration LGs, etc. Moreover, central e-service, Nothi, e-tathyokosh, National Information Portal have been introduced. Among other initiatives to instil integrity, Cabinet Division has formulated



Integrity Award Policy 2017, and formed Ethics Committees in various ministries and divisions. Formation of 'Student Integrity Unit' by the ACC is also notable.

These institutions have also taken many notable initiatives related to transparency and accountability. For example, citizen charter across the public institutions has been introduced. Ward meetings and open budget sessions have been introduced in the Local Government Institutions (LGIs). Weekly public hearing has been introduced at the district and division level administration. ACC has formed Corruption Prevention Committee (DUPROK) at district and upazilla level and initiated public hearing on local service sectors. Advisory committees have been constituted at district level by the IC for implementing the Right to Information (RTI) Act. This is also noteworthy that almost all institutions publish their annual reports, bulletins, newsletters, etc. Besides, complaint redress mechanism has been developed by the Bangladesh Press Council to ensure accountability of media.

Some initiatives relating to enhancing of efficiency of the public sectors include the signing of Annual Performance Agreement (APA) between Cabinet Division and all ministries/departments, sending encouraging letters to the Deputy Commissioners (DCs) for their notable performance, and formulation of the 'Public Administration Award Policy'.

## **8.2 Practice**

In spite of having various legal and institutional instruments and initiatives as mentioned above, these institutions have been found to be not effective, transparent and accountable up to the expected level.

Weak role of the opposition in the Parliament, limited participation of MPs in law making, excessive power exercise of the ruling party by using absolute majority, absence of discussion on the reports submitted by the constitutional and statutory institutions, international treaties and crucial national issues are the common features of the Bangladesh Parliament. Although the parliament session maintain live broadcast, there is limited access of the people to other parliamentary activities. Although the MPs are bound to publish their financial statements for being candidate in the election, they do not publish the same after getting elected. Moreover, there is no provision to hold the MPs accountable except through election. They are not also accountable for their misconducts done outside of the house. 'Conflict of interest' of some Parliamentary Standing Committee members is also notable.

The Prime Minister holds all executive power, though there are other parts of the Executive. Undue influence of the Executive in almost all constitutional and statutory institutions is quite visible. The head of the state, government, and cabinet members are legally bound to disclose their asset. Moreover, audit objections place to the ministries are rarely taken into consideration for action. Apart from this, APA has not yet been introduced to track performance of the public employees. It is observed that there is a tendency of the ministers to use their executive identity in their own business.

Efficiency level of the Judiciary is not fulfilling expectation due to backlogs of cases. According to the information of 2016, 31,39,275 cases have been found pending. There are allegations of irregularities and corruption in the lower judiciary. There is a lack of transparency in the recruitment process of the High Court judges. Details of the assets of the judges and the judicial staff are not disclosed. There is an ongoing debate over the independence of the judiciary in a real sense. Control of the concerned ministry on lower judiciary is also visible.

LGIs depend on the Local Government Division (LGD) for any decision on service provisions, resource allocation, procurement and implementation. Upazila and district councils are not still effective at the expected level. There is a 'party-centric' polarisation in the LGIs and corruption in providing services to the people. Ward meeting and open budget provisions are not implemented properly.

Government and parliament members has an undue tendency to control over the elected local representatives. There is a tendency dismiss mayors of LGIs on the ground of oppositional political identity. Supervision of the LGD is also weak on LGIs.

Local public administration also depends on central administration for taking any decision, resource allocation, procurement and service delivery. There is huge allegation of corruption in the recruitment of employees in the administration. Moreover, there is deficiency in the capacity of the employees. Conflict of interest and income statements of the employees are not disclosed. There is huge deficiency of transparency in the process of promotion and transfer of the staff in PA. Moreover, it is not visibly remarkable that they take punitive measures against corrupt officials.

The effectiveness of LEAs is not also up to the expected level. In the last ten years, the crime rate in the country has remained in an unchanged state. There are allegations against LEAs for extra-judicial killings, arbitrary detention and later disappearance, non-disclosure of disappearance statistics, and lack of visible steps in investigating the allegations or filing cases against extra-judicial killings and tortures. Furthermore, there are also huge allegations of involvements of LEAs in bribery, corruption and misuse of law, negligence of duty and in some cases denial of service. Information about the conflict of interests and statements of asset ownership of the employees of LEAs are not disclosed.

There is an allegation that the EC under the immediate past leaderships has failed to hold free, fair and credible elections. People have witnessed a widespread violence and election rigging in the national and local government elections. Moreover, the EC does not verify the election expenses of the political parties and candidates that they spend in reality by exceeding the limit. EC has deficiency in taking initiative to ensure disclosure of the income-expenditure of the political parties. It is also observed that EC does not take action against the public officials who are assigned during election but violate election rules and their duties. The recruitment process of the commissioners is not transparent. Above all, there is no mechanism to hold the EC accountable to the people.

Due to the capacity constraints, the OCAg cannot audit all public offices every year. They cannot even verify the third party audit reports. The officials of OCAg don't disclose their conflict of interest related information alongside statements of assets. There is an allegation that the recruitment of the CAG is not done in a transparent way.

The ACC has not yet proved to be effective up to expected level. Lengthy process in settling corruption cases, low rate of conviction and weakness in case management are some causes of such state of ACC. Corruption prevention activities of ACC are not yet effective. There remain questions about the transparency in the ACC's investigation process. The appointment process for the commissioners is not transparent. Moreover, there is no external accountability mechanism in ACC.

The role of the NHRC and their activities are not yet visible. The Commission has huge backlogs of unsettled complaints. The appointment process of the Chairman and Commissioners are not transparent. Annual reports of the Commission do not use updated statements on income-expenditure. There is no mechanism to ensure external accountability of the NHRC.

The IC has also huge backlogs of unsettled complaints. It is also alleged that the appointment of the IC commissioners is not transparent. Like ACC and NHRC, there is no mechanism to ensure external accountability of the IC

Deficiency of internal democracy in the political parties of Bangladesh is a much discussed issue. Loyalty-based accountability to the head of the party is a common practice. Moreover, today's politics banks greatly on muscle power and money. Use of religion for political purposes is also a common practice. There is a tendency in the election winning party to treat the government as a wing of their own political party. Almost all parties do not maintain transparency in fundraising and

expending money in election and other political activities. There is a common tendency of almost all political parties in Bangladesh to breach election rules.

It is seen that mass media are mostly owned by business persons cum politicians. Moreover, the media in Bangladesh is divided by major political identities. There is a tendency in the media to impose self-censorship on reporting. There is lack of transparency in income and expenditure of media, and it is noticed that most of the media tend to be non-compliant to the provisions set in the Wage Board for media workers.

Civil society and NGOs are also biased and divided by partisan political identities. Most of the NGOs give priority on project-centric activities. In most cases, the NGO sector has to depend on foreign donations, and in many cases there is a complaint that the donor demands and agenda get more priority than the local needs. There is a lack of transparency in the income and expenditure and they do not always maintain the good practices of information disclosure. There is a tendency in many NGOs not to recruit information officers to ensure people's right to information. In many cases, internal accountability system of NGO is weak. There is also a gap in ensuring accountability to their beneficiaries. Another noteworthy reality is that all activities and decisions of NGOs are controlled by the Chief Executives. Moreover, the space for civil society to express opinions has narrowed down.

The common tendency of the business sector in Bangladesh is to get services from the government and other stakeholders in an informal way. There is also a tendency among the business persons to influence the government by politicising business organisations. Business houses are alleged for their tendency of not disclosing their profit-related information and of not being transparent in the payment of income tax. The business leaders also tend to resist labour associations. Besides, they lack the very mind to improve work place environment and provide minimum wages and benefits to the workers in line with rules of the government.

### **8.3 Challenges**

There are some gaps and limitations in the existing laws working as impediments to the effective functioning, transparency, and accountability of almost all the institutions. For instance, the Constitution provides the restriction on MPs to vote against party's decision, which hinders the potential of getting constructive criticism on their own party's decisions. There is no legal binding prevails to direct the head of the state and government as well as the cabinet members to disclose their assets. In some cases, there is absence or limitation of the law, such as there is no Public Administration Act, and the laws relating to LEAs are not updated and time-fitting. Moreover, there is no code of conduct defined for the ministers, members of similar ranks and status, and the MPs. The qualifications and selection procedures of the Supreme Court Judges, ECs, and CAG are unclear. On the other hand, broad selection criteria and procedures are followed to select Chairs and Commissioners/Members of ACC, NHRC, and IC. The Mobile Court Act 2009 provides authority to Executive Magistrates which creates confusion on the separation of Judiciary from the Executive. There is no accountability mechanism defined under any laws that could hold the MPs, CAG, chairmen and commissioners/members of EC, ACC, NHRC, IC accountable to the people. Besides, there is no legal protection for the business sector to prevent unnecessary interference that they face in getting services from government officials.

The expected level of efficiency of the institutions has not been achieved due to partisan political influence on the most of the institutions. For example, the LGIs have inadequate autonomy due to the control of the MPs and local administration. There are also allegations that some institutions such as LEAs, judiciary, LGIs, OAG, EC, ACC, NHRC, IC are sometimes used for partisan interests. Moreover, the Parliament, Judiciary, LG, OAG, EC, ACC, NHRC, IC have to depend on the government for budget allocation and administrative human resources. Government's control have been reinforced for the media, business, civil society, and opposition political parties. For example, there are some articles in the Information and Communication Technology (ICT) Act 2013, and Foreign Donation Regulation Act 2016 which have been articulated to control media and civil society

and to shrink their spaces. It is alleged that partisan political influence has been used in the appointment of the judges of Supreme Court, the chairman and other members of various constitutional and statutory bodies.

Some institutions such as the Judiciary, LEAs, EC, ACC, OAG, NHRC, and IC have shortages of necessary human resources. There is a shortage of sufficient skilled human resources in business, mass media, and some independent institutions of the state. On the other hand, Judiciary, NHRC, and IC have deficiencies of adequate infrastructure. The donor-dependency of NGOs, and the advertisement-dependency of media are also constraints for well-functioning. Small political parties have limited opportunity to collect funds. Parliament, Judiciary, PA, EC, and NHRC have capacity constraints to utilise their allotted budget. On the other hand, the LEAs and LG have weakness in forecasting their budget. Lack of public awareness about transparency, accountability and service delivery system is also prevalent.

## **9. Target 16.10: Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements**

Indicators included in this target is number of verified cases of killing, enforced disappearance, arbitrary detention and torture of journalists, associated media personnel, trade unionists and human rights advocates in the previous 12 months (16.10.1).

### **9. 1 Preparedness**

Through the Constitution of Bangladesh, some fundamental freedom has been ensured such as equity, rights to life and livelihood, freedom of thoughts and conscience and freedom of speech, freedom of assembly, freedom of religion, freedom of movement, and rights to property. Besides, other rights (such as information rights) have been confirmed according to the relevant laws. Bangladesh has signed or ratified (partially / completely) some international declarations and charters regarding various rights. Among them, UDHR (Human Rights), ICCPR (Civil and Political Rights), CRC (Child Rights), CEDAW (Elimination of Discrimination Against Women), UNCRMW (Rights of Migrant Workers), ILO Conventions (Labour Rights) are notable.

Bangladesh has formulated the RTI Act, 2009 to protect people's access to information. Under this law, definition of information, appointment of designated officers to respond to the needs of the applicants, provision of appeals without reference to information, direction of guidance for unacceptable applications, and the minimum criteria for publication of self-reported information are mentioned. Under this Act, a statutory independent body has been formed which is accountable to the head of the state. Besides, the 'Strategic Plan 2015-2021' and guidelines for the implementation of the Proactive Information Discloser, 2014 have been formulated.

### **9.2 Practice**

In spite of having appropriate legal framework, there is a tendency to diminish fundamental freedom in Bangladesh. For example, LEAs are alleged for extrajudicial killings. In 2016, 195 people, and 192 in 2012, were subjected to extrajudicial killings by LEAs. In 2016, LEAs were accused of abduction, kidnapping and murder of 97 people. One person in 2016, and five journalists or bloggers were killed in 2015.

In the field of information rights, the score and ratings of the country are moderate. According to the Freedom in the World Rating 2017, Bangladesh scores 47 out of 100, which means there exists "partially open" freedom of expression. The World Press Freedom Index 2017 shows that Bangladesh scores 48.36 out of 100 with 146<sup>th</sup> position among 180 countries. The Global Right to Information Rating 2016 shows that Bangladesh secures 107 points out of 150 with 24<sup>th</sup> position among 111 countries. The IC Report 2015 shows that 6,181 RTI applications were received in 2015, among which information were delivered to 5,954 applications (96.33% of the applicants). APAs

signed between Cabinet Division and other ministries have included the provisions of the Proactive Information Disclosure Policy as directed in the RTI Act.

### **9.3 Challenges**

The tendency of denial by the government about the violation of people's fundamental freedom is noticeable. In most of the cases, investigating into these incidents seems to have lack of goodwill from the government's end, and ignorance to the disclosure of the investigation results. There are allegations of misusing of some articles of the law against the publication of information and opinion. For example, the article 57 of the ICT Act, 2006 has been misused against mass people, which is alarming; the preventive part of article 14 of the Foreign Donation (Voluntary Activities) Regulation Act, 2016 limits the freedom of expression and independence of NGOs and CSOs. Besides, it is fearsome that the 'National Online Mass Media Policy 2017' and 'Bangladesh Press Institute Act', 'National Broadcasting Act', 'Digital Security Act' drafted as upcoming laws will be prone to increase government control and restriction on the freedom of expression.

### **10. Overall Observation**

In spite of having some gaps as identified in all the selected targets of goal 16, it is to mention that Bangladesh has adequate preparedness in terms of having laws, policies and institutional arrangements required for implementing the targets. However, there are weaknesses in some of the laws on the one hand, and in some cases there are deficiencies of required laws, on the other. In many cases, there is limited or lack of practice of laws, and in some cases, the abuse of law is noticed. It is seen that the laws are applied considering political identity.

In spite of various initiatives, corruption and bribery, money laundering, violation of fundamental freedoms and human rights are continuing in Bangladesh. The institutions included in the National Integrity System are not effective up to the expected level and the dominance of the partisan political influence, centralised power, executive and administration are the key factors for keeping the institutions less performing i.e. less effective, transparent and accountable. In most of the institutions, there exists no framework to hold them accountability to the people, and the internal accountability system of these institutions is also weak. Proactive disclosure of information of some institutions is not sufficient.

### **Recommendations**

Considering gaps in laws and practices as well as identified challenges, TIB proposes following recommendations:

#### **Legal Reform**

1. The credentials and procedures of the appointment of Chairs and Members of the constitutional and statutory bodies must be clearly defined and implemented to ensure fair and transparent appointment.
2. The MPs must be allowed to vote against their own parties / decisions except some specific instances through amendment of Article 70 of the Constitution.
3. The sections that allow control of the Ministry of Law and Parliamentary Affairs over lower courts must be repealed.
4. A Public Service Act must be enacted to ensure the transparency, accountability, rights and capacity of the public servants.
5. The Police Act 1861 must be amended and Section 54 of the Special Powers Act 1974 must be repealed to make the police force more pro-people.
6. The provision for MPs to be the advisor of local government bodies must be repealed.
7. A law on the formation of the Election Commission, appointment procedure and activities of the EC must be adopted.
8. The National Human Rights Commission must be empowered to investigate into violations of human rights committed by disciplined forces including LEAs.

9. The business, political parties and the media must be covered under the RTI Act 2009.
10. The Section 57 of the Information and Communication Technology Act 2006 must be repealed.
11. The repressive part of the Section 57 of the Foreign Donations (Voluntary Activities) Regulation Act, 2016 must be repealed.

### **Institutional Level**

12. **Increased Institutional Capacity:** The organograms of the concerned agencies should be reviewed and the staff strength, posting of own staff instead of deputation, and the level of skill and capacity, infrastructural facilities should be increased.
13. **Increased Financial Capacity:** The budgets for concerned anti-corruption institutions (ACC, OCAG, judiciary, law enforcing agencies) must be increased according to need.
14. **Increased Capacity of Preventing Money-laundering:** Dedicated money laundering investigation and prosecution units must be ensured for LEAs like ACC, NBR, and DNC. The customs authority must be empowered to identify over-invoicing, under-invoicing, over-shipment, under-shipment or phantom shipment to curb illicit flow of fund.
15. **Incentives:** Positive and negative incentives must be ensured for the transparency and accountability of public institutions.

### **Implementation Level**

16. **Baseline Survey:** The Government should conduct a nation-wide survey to determine the baseline on the state of corruption and bribery, people's satisfaction and trust on NIS institutions; it may engage organisations working on anti-corruption and governance for technical support if necessary.
17. **Target-wise Action Plan:** In the SDG Implementation Action Plan, the Government should fix targets/ milestones up to 2030 with particular emphasis on SDG 16, e.g. to what extent corruption and bribery will be reduced, or to what extent the level of satisfied service recipients will be increased up to 2030.
18. **Action against Corruption:** Measures should be taken against corrupt public representatives and high public officials, and people from other groups of the society in order to increase public confidence and showcase political will to fight against corruption.
19. **Quick disposal of corruption cases:** Effective and timely investigation and quick disposal of corruption cases must be ensured.
20. **Transparent Procurement:** E-procurement/ e-tendering must be introduced for all public procurements by all public agencies.
21. **Investigation of Extra-judicial Killings:** A judicial probe committee should be formed to investigate all extra-judicial killings and forced disappearances, and take legal measures against the perpetrators.

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