

Sustainable Development Goal 16:

Preparedness, Progress and Challenges of Bangladesh

A Study of Selected Targets

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Foreword

Transforming our World: the 2030 Agenda for Sustainable Development, otherwise known as the sustainable development goals (SDGs), are a set of 17 aspirational “global goals” consisting of 169 targets adopted in 2015 by the 193 UN member states. SDGs are a plan of action emphasising on the core principles of peace, people, planet, prosperity and partnership, which seeks to strengthen universal peace, prosperity, sustainable and inclusive development, freedom and justice. Member states are committed to conduct regular national reviews of progress made towards the achievement of these goals through an inclusive, voluntary and country-led process. While governments are for obvious reasons expected to take the lead in assessing strengths and deficits as well as reviewing progress towards the SDGs, to ensure inclusiveness such assessments and reviews need to go beyond the remit of governments and ensure participation and engagement of civil society, media, private sector and other stakeholders.

Transparency International Bangladesh (TIB) has undertaken this research to assess Bangladesh’s preparedness, reality and challenges with respect to SDGs with particular relevance to a few selected targets under Goal 16 that are directly within the mandate of TIB, namely, anti-corruption and good governance. We have focused specifically on targets 16.4 on illicit financial flows, 16.5 on bribery and corruption, 16.6 on effective, accountable and transparent institutions, and 16.10 on access to information. Our objective is to widen the scope for the government and other stakeholders to proceed towards the selected targets informed of the relevant opportunities, strengths and limitations. The study shows that notwithstanding certain deficits and limitations, Bangladesh has well-developed policy, legal, strategic and institutional potential to achieve the SDGs. Apart from the need to bridge such deficits and limitations, the key challenge remains in effective implementation and enforcement. Our report makes some recommendations for consideration of the stakeholders.

This report is based on research jointly conducted by a team of my colleagues in TIB - Shahzada M Akram, Md. Waheed Alam, A S M Juel Miah, Md. Rezaul Karim, Atia Afreen, Khaleda Akter, Nahid Sharmin, Md. Mostafa Kamal, and Md. Shahidul Islam. We thank all the key informants in the Government, relevant institutions and beyond for providing us with important information and views. For valuable guidance in preparation of the report, we express gratitude to Prof Dr Sumaiya Khair, Adviser, Executive Management of TIB; Mohammad Rafiqul Hassan, Director Research and Policy; Dr. Rezwan-ul-Alam, Director Outreach and Communications; Md. Jasim Uddin Ferdous, Director Civic Engagement and other colleagues.

We trust and hope that the government and its relevant departments as well as various institutions under the national integrity system covered by the study and other stakeholders in the private and non-governmental sector and media will find the report useful in their work for achieving SDGs. Suggestions, comments and critique are welcome for further work on the subject.

Iftekharuzzaman
Executive Director

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Background: The 2030 Agenda for Sustainable Development

Spearheaded by the United Nations, the sustainable development goals (SDGs), also known as *Transforming our World: the 2030 Agenda for Sustainable Development*, is a set of 17 aspirational “global goals”¹ and 169 targets adopted in 2015 by all the 193 UN member states, who have committed to these global goals that are intended to steer policy-making and development funding till 2030. The 2030 Agenda is a plan of action emphasising on the core principles of peace, people, planet, prosperity and partnership, which seeks to strengthen universal peace, prosperity and freedom. Eradicating poverty, including extreme poverty, has been recognised as the greatest global challenge and an indispensable requirement for sustainable development. The goals cover the three dimensions of sustainable development: economic growth, social inclusion and environmental protection.

These new global goals are much broader and comprehensive than the Millennium Development Goals (MDGs), as they attempt to address all three dimensions of sustainable development – economic, social and environmental. The MDGs were highly influential in mobilizing international efforts to reduce poverty in the developing countries during the period 2000-2015. However, despite significant progress has been made in tackling poverty, the goal of reducing maternal mortality by three-quarters has not been met in Africa and much of Asia. The MDGs’ progress review clearly suggests that achieving environmental sustainability and human wellbeing is a challenge, especially while considering the emerging threats of climate change. The fossil fuel based economic growth, unsustainable consumption, income inequality, unchecked urbanization, deforestation and climate change remain barriers to ensuring sustainable development for all.

The global community has adopted SDGs to complete the MDG’s unfinished development agenda and meet sustainability challenges. The main difference between the MDGs and the SDGs is that the new proposed development goals are universal in nature. The 17 Goals with 169 targets are broader in scope and go further than the MDGs by addressing the root causes of poverty and the universal need for development that works for all people. Building on the success and momentum of the MDGs, the new global goals cover more ground, with ambitions to address inequalities, economic growth, decent jobs, cities and human settlements, industrialization, oceans, ecosystems, energy, climate change, sustainable consumption and production, peace and justice. ‘Sustainable Development’ is not something that only ‘developing’ countries should do. Each UN member state should work towards a sustainable world for future generations. The SDGs will expand the focus of development goals to rich countries. In short, these new goals are universal and apply to all countries, whereas the MDGs were intended for action in developing countries only.²

Secondly, the fundamental difference of SDGs with MDGs, on which Bangladesh has achieved commendable progress, is a paradigm shift for quality compared to quantity alone. The pledges of inclusive society, leaving no one behind, accountable and inclusive institutions and fundamental freedoms can only be achieved through higher levels of participatory governance and corruption control. These lofty pledges on governance, accountability and anti-corruption, captured under Goal 16, are not only stand-alone targets but are meant to be mainstreamed in each of the 17 SDGs.³

¹ For the full list of SDGs, visit <http://www.un.org/sustainabledevelopment/sustainable-development-goals/> (6 July 2017).

² <http://www.un.org/sustainabledevelopment/development-agenda/> (6 July 2017).

³ Iftekharuzzaman, ‘Towards SDGs: Promoting transparency’, *The Daily Star*, 27 February 2017.

The global targets and indicators have been set for each goal with the expectation that they will be incorporated into national planning processes and policies. Countries are also encouraged to define national targets tailored to their specific circumstances and identify locally relevant indicators and data sources that will be used to measure progress towards achieving each of the SDG targets.

As part of its follow-up and review mechanisms, the *2030 Agenda for Sustainable Development* encourages member states to conduct regular national reviews of progress made towards the achievement of these goals through an inclusive, voluntary and country-led process. In addition, each year certain state parties volunteer to report on national progress to the High-Level Political Forum (HLPF). This year it has taken place in July 2017 in the USA.

Rationale for this Report

Of particular relevance to the anti-corruption agenda is SDG 16 on sustainable governance, most notably targets 16.4 on illicit financial flows, 16.5 on bribery and corruption, 16.6 on effective, accountable and transparent institutions, and 16.10 on access to information. While SDG 16 will not be reviewed in depth by the HLPF until 2019, integrity risks across the SDG framework make it essential to monitor national progress against corruption from the outset. While governments are expected to take the lead in reviewing progress towards the SDGs, national-level monitoring needs to go beyond the remit of governments to include civil society and other stakeholders.

This report is based on secondary data collected and collated by Transparency International Bangladesh (TIB). The report has been developed in response to three key issues related to the official SDG monitoring processes: the multi-dimensional nature of SDG targets, data availability and perceived credibility of data generated by government agencies. Collectively, these limitations provide a strong rationale for an independent appraisal of the government's anti-corruption efforts in the context of the SDGs.

Firstly, several of the targets under Goal 16 are multi-dimensional in the sense that they measure broad concepts like "corruption" which cannot be adequately captured by a single indicator. Moreover, the indicators in the official global set do not sufficiently cover the full ambition of the targets. For instance, target 16.5 seeks a substantial reduction in corruption and bribery "in all their forms", but the only approved global indicators measure bribery between public officials and the public or business. There are no measures of corruption within or between governments or other forms of non-governmental corruption. For some targets, the selected global indicators fail to capture critical aspects. For instance, target 16.4 seeks to combat all forms of organised crime, but there is no official indicator that measures organised crime nor an indicator related to strengthening the recovery and return of stolen assets. Thus, this report seeks to provide a more comprehensive picture of national anti-corruption progress across a range of policy areas.

Secondly, even where the official indicators are themselves capable of capturing progress towards SDG 16 targets, there is an absence of data with regard to these indicators. Many of the global SDG 16 indicators rely on data that is not regularly produced or currently have no established methodology or standards for data collection. This reporting exercise is partly an effort to compensate for insufficient coverage of and data availability for official SDG 16 indicators by presenting alternative data sources.

Finally, the official assessment of progress made towards the SDG targets will rely on data generated by government agencies, particularly national statistics offices, in our case the Bangladesh Bureau of Statistics (BBS). The reliability and credibility of official data may be open to question for two reasons. First, the national statistics office may simply be overwhelmed by the task of producing data for 169 targets. Second, politically sensitive targets, such as those related to corruption and governance, require that governments assess their own efficiency – illicit financial flows (under Target 16.4) may involve government officials, corruption (under Target 16.5) may involve government elites, while

governments may be restricting information, or even targeting journalists, trade unionists or civil society activists (under Target 16.10). Given the challenges described above, independent analysis is vital to complement and scrutinise official government progress reports related to SDGs 16.4, 16.5, 16.6 and 16.10. This shadow report is an attempt to present an independent analysis of the selected targets.

Over the last two decades TIB has continued its effort to monitor the national progress on promoting governance. TIB has undertaken this initiative to produce this report on SDG with particular emphasis on a few selected targets under Goal 16, pertaining to the mandate of anti-corruption and good governance, with an aim to facilitate the government initiatives in achieving the SDG 16.

Objective of the Report

The objective of this report is to conduct an independent appraisal of Bangladesh's preparedness, progress and challenges toward achieving SDG 16.

The scope of the report includes:

1. Four of the SDG 16 targets (16.4, 16.5, 16.6, 16.10) out of 12;
2. These targets have been selected as they are more directly related to preventing corruption and establishing governance;
3. Even among the selected targets, the issues that do not falls directly under the purview of preventing corruption and establishing governance have not been covered in the research.

Methodology

This report is largely qualitative in nature where both qualitative and quantitative data have been used. Data have been collected mainly from reviewing secondary literature available, that includes relevant laws and policies, research reports, international indices, country reports, institutional reports/ national database, and media reports. For validation and updated information key informant interviews (KIIs) with concerned experts, academics, practitioners, public officials, and journalists were conducted.

Each policy area covered in this report has been assessed against three elements:

- **Preparedness** – the legal, policy and institutional framework of the concerned area;
- **Progress** – the status of practical implementation of the legal, policy and institutional framework; and
- **Challenges** – reasons behind the lack of implementation.

Data collection and report writing has been done during April – August 2017.

Structure of the Report

This report is divided into seven chapters. The background of SDG, rationale, objective and methodology is presented in the first chapter. The second chapter consists of the national SDG implementation of Bangladesh. Chapter three deals with the SDG 16.4 on Bangladesh's efforts to reduce illicit financial flows, and to strengthen the recovery and return of stolen assets. The state of anti-corruption regime (SDG 16.5) has been described in chapter four. In chapter five the state of NIS institutions in terms of their effectiveness, accountability and transparency (SDG 16.6) has been discussed, while in chapter six public access to information and protection of fundamental freedoms under SDG 16.10 has been dealt with. Finally, the conclusion and recommendations have been presented in chapter seven.

Chapter 2

National SDG Implementation and Monitoring Initiatives

The Government of Bangladesh has taken a number of steps to develop an SDG implementation at the national level. The Government has adopted “Whole of Society” approach to ensure wider participation of NGOs, development partners, private sector, media and CSOs in the process of formulation of the Action Plan and implementation of the SDGs. To spearhead the process, the ‘SDGs Implementation and Monitoring Committee’ has been formed at the Prime Minister’s Office to facilitate and implementation of SDGs Action Plan.⁴ The General Economics Division of Planning Commission⁵ under the Ministry of Planning is the SDG Focal Point in charge of the implementation of the national SDG implementation process. Besides, the Principal Secretary to the Prime Minister is the Convener of the ‘SDG Implementation and Monitoring Committee’ and the General Economics Division (GED) is the Secretariat.

Means of Implementation

A number of measures has been undertaken for the implementation of SDGs in Bangladesh up to 2030.

Mapping of Ministries: The responsibilities of the ministries and agencies to achieve the SDGs have been identified by the government. The lead, co-lead and associate ministries against each target of the SDGs have been mapped out.⁶ This document is of its first kind regarding Bangladesh government’s efforts to implement the sustainable development agenda, and is expected to reduce duplication of efforts, enhance synergy and help formulate action plans. The 7th Five Year Plan⁷ has created the base of implementing SDGs by 2030 which will be followed by two more Five Year Plans.

Data gap analysis: Bangladesh Planning Commission conducted a review of various means of data generation in the country, through which it has analysed the data availability and status of data generation in Bangladesh regarding the indicators to measure achievement of SDGs.⁸ This analysis is the base for tracking the SDGs achievement in Bangladesh. It is also playing a pivotal role in formulating a Monitoring and Evaluation Framework for SDGs.

National Monitoring & Evaluation Framework: A Monitoring & Evaluation Framework for SDGs implementation is in the process of finalizing. This framework will have a macro level web based data repository system to facilitate data collection, analysis, progress tracking and reporting. The SDG Tracker of a2i under the Prime Minister’s Office has been tracking Bangladesh’s progress towards attainment of national development goals, particularly the SDGs, through a web-based information repository.⁹

⁴ <https://sustainabledevelopment.un.org/content/documents/14854bangladesh.pdf> (30 May 2017).

⁵ The General Economics Division of Planning Commission under Planning Ministry of Bangladesh, <http://www.plancomm.gov.bd/>, (13 May 2017).

⁶ General Economics Division, *Mapping of Ministries by Targets in the implementation of SDGs aligning with 7th Five Year Plan (2016-20)*, Ministry of Planning, <http://www.plancomm.gov.bd/wp-content/uploads/2016/03/A-Handbook-Mapping-of-Ministries-targets-SDG-7-FYP-2016.pdf> (13 May 2017).

⁷ General Economics Division, *7th Five Year Plan*, Bangladesh Planning Commission, http://www.plancomm.gov.bd/wp-content/uploads/2015/10/7th_five_year.png (13 May 2017).

⁸ General Economics Division, *Data Gap Analysis for Sustainable Development Goals (SDGs): Bangladesh Perspective*, Bangladesh Planning Commission, http://www.plancomm.gov.bd/wp-content/uploads/2017/01/Final_Data-Gap-Analysis-of-SDGs_Bangladesh-Perspective_23_02_2017.pdf (13 May 2017).

⁹ SDG Tracker, a2i under Prime Minister’s Office of Bangladesh, <http://a2i.pmo.gov.bd/data-to-policy/sdg-tracker/> (13 May 2017).

Action Plan to achieve SDGs: The Government is preparing an action plan for implementation of the SDGs in alignment with the 7th FYP. Respective ministries are working towards translating the particular targets into actionable projects/programmes/activities in this regard. Most recently the GED has published the *Bangladesh Voluntary National Review (VNR) 2017: Eradicating poverty and promoting prosperity in a changing world* in June 2017, where the progress of SDGs implementation of Bangladesh with regard to SDGs 1, 2, 3, 5, 9, 14 and 17 has been detailed out.¹⁰ The report has been presented in the HLPF, UN in July this year.

Needs Assessment and Financing Strategy: It is very important to have an estimate to determine the financing needs for SDGs implementation with a view to mobilizing resources, particularly emphasising on domestic resource mobilization. The SDGs Needs Assessment and Financing Strategy¹¹ has been completed, which reveals that Bangladesh may require around US\$ 928.48 billion worth of additional resources for full implementation of SDGs. Of this US\$ 796.09 billion would come from domestic sources and US\$ 132.39 billion from external sources for the whole period (2017-2030). Annual average total additional spending required would be US\$ 66.32 billion in course of SDGs implementation (2017-2030). The average additional amount required annually from foreign grants and aid, and FDI is US\$ 2.55 billion and US\$ 6.91 billion respectively for the whole period while domestic spending need estimated at US\$ 56.86 billion. SDGs implementation requires huge resources and a multi-stakeholder approach involving private sector, NGOs, CSOs, Media and participation of Major Group of Other Stakeholders.

Assimilation of SDGs targets in Performance Agreement: Bangladesh has introduced Annual Performance Agreement (APA), a results-based performance management system, across the whole public sector assessing individual and ministries’/ agencies’ performance. Under the APA system, each ministry enters into a memorandum of understanding with the Cabinet Division at the beginning of each financial year. The APA outlines the goals and targets of each ministry corresponding the performance indicators. The government is in the process of integrating the SDGs targets into APA system so that the long-term objectives can be translated into the annual work plan of the ministries.¹²

In the process regular dialogues with private sector and the development partners including UN agencies have been held on the role of the private sector in facilitating the implementation of SDGs. In the process, Bangladesh International Chamber of Commerce (ICC), Federation of Bangladesh Chambers of Commerce and Industry (FBCCI), Dhaka Chamber of Commerce and Industry (DCCI) organized seminars, workshops and symposia in collaboration with government and expressed deep commitment to remain engaged in SDGs implementation. The Government has also been in constant dialogues with media through seminars and workshops to share ideas regarding potential role of media in SDGs implementation in Bangladesh. However, the government has not been able to create opportunity for the civil society to contribute to the selection of national indicators.

Civil Society Initiatives

A national level “Citizen’s Platform for SDGs, Bangladesh” has been set up on 18 June 2016 focusing on the implementation process of the SDGs in Bangladesh.¹³ The objective of the national platform is to contribute to the delivery of the SDGs and enhance accountability in the process. Keeping, particular focus on *Goal 16: Peace, justice and strong institutions*, this platform has been monitoring the overall SDG implementation process from national to local level, and provide necessary observations to ensure that the process is on track. It will also look into the implementation process

¹⁰ General Economics Division, 2017, *Bangladesh Voluntary National Review (VNR) 2017: Eradicating poverty and promoting prosperity in a changing world*, Bangladesh Planning Commission.

¹¹ For details see General Economics Division, 2017, *SDGs Financing Strategy: Bangladesh Perspective*, Bangladesh Planning Commission.

¹² General Economics Division, 2017, *Bangladesh Voluntary National Review (VNR) 2017: Eradicating poverty and promoting prosperity in a changing world*, Bangladesh Planning Commission, p. 7.

¹³ A group of individuals has set up of a national level “Citizen’s Platform for SDGs, Bangladesh” on 18 June 2016, <http://bdplatform4sdgs.net/>, (13 May 2017).

to seek required transparency, accountability and proper flow of information. Centre for Policy Dialogue, a national level NGO, is the Secretariat of the platform. After formation of the platform a series of national, regional dialogues were held where discussions took place about the implementation and monitoring process as well as how transparency, accountability, proper flow of information and anti-corruption issues and targets will fit into the implementation of the national SDG plan and individual ministry, division, department and statutory body's annual work plan. A report on the status of disability in Bangladesh has already been published.¹⁴

Gaps and Challenges in SDG Implementation

Despite various efforts by both the government and non-government stakeholders, a number of gaps and challenges may be identified, particularly with regard to achieving SDG 16.

- 1. Absence of adequate data:** Among all the 244 indicators of SDGs, 241 have been identified as applicable for Bangladesh. The data gap analysis reveals that Bangladesh has data for 70 indicators and partially available data for 108 indicators but need to devise new mechanism for data mining for the remaining 63 indicators.¹⁵
- 2. Lack of data on corruption and bribery:** The data gap analysis also reveals that there is no government data on corruption and bribery (under Target 14.5), institutional effectiveness and accountability (under Target 14.6), and fundamental freedom and access to information (under Target 14.10).¹⁶ The government has only partial information on illicit financial flow and recovery of stolen assets. Therefore, the government needs to put a lot of emphasis on generating data on these indicators.
- 3. Government's approach to non-state/ international data on corruption:** The elected governments have so far been suffering from a 'denial syndrome' when it comes to admitting the existence of corruption in different public sectors and institutions, revealed by non-government and international organizations through their surveys and research reports. Instead of taking measures against corrupt practices, a segment of the government always tends to deny such reports, terming the findings as 'false', 'ill-motivated', 'politically biased' and/ or 'part of a conspiracy'.
- 4. Reliability of government data:** The reliability and credibility of official data may be open to question for two reasons. First, the BBS may simply be overwhelmed by the task of producing data for 169 targets. Second, politically sensitive targets, such as those related to corruption and governance, require that governments assess their own efficiency. For instance, illicit financial flows (under Target 16.4) may involve government officials, corruption (under Target 16.5) may involve government elites, while governments may be restricting information, or even targeting journalists, trade unionists or civil society activists (under Target 16.10). To what extent the government will remain objective and un-bias in generating such data is an issue of concern, given the position some of the politicians and government officials takes with regard to corruption data from non-government sources.
- 5. Reluctance in engaging CSOs and NGOs:** A section of public officials are reluctant in working with different CSOs and NGOs that work on governance for generating data under SDG 16. Government's strategy in addressing corruption at present is not to identify the corrupt but rather to give motivation through encouraging good practices and improving service quality by the public officials. According to the government, the data generated by the BBS is dependable and there is no need to engage any NGO.¹⁷

¹⁴ For details see <http://bdplatform4sdgs.net/> (13 July 2017).

¹⁵ General Economics Division, *Data Gap Analysis for Sustainable Development Goals (SDGs): Bangladesh Perspective*, Bangladesh Planning Commission, http://www.plancomm.gov.bd/wp-content/uploads/2017/01/Final_Data-Gap-Analysis-of-SDGs_Bangladesh-Perspective_23_02_2017.pdf (13 May 2017).

¹⁶ General Economics Division, *Data Gap Analysis for Sustainable Development Goals (SDGs): Bangladesh Perspective*, Bangladesh Planning Commission, http://www.plancomm.gov.bd/wp-content/uploads/2017/01/Final_Data-Gap-Analysis-of-SDGs_Bangladesh-Perspective_23_02_2017.pdf (13 May 2017).

¹⁷ Interview with a high government official, 12 June 2017.

Conclusion

From the above discussion, it may be concluded that the government has undertaken a multi-pronged approach to achieve SDGs. Necessary exercises of mapping of relevant bodies and gaps in data have been conducted, along with preparing monitoring mechanisms and tracking tools. The needs assessment of funds and possible sources have also been exercised. However, despite different initiatives, the government planning lacks adequate emphasis on SDG 16, as there is significant gaps in baseline data. Therefore, a lot of effort needs to be channeled for achieving this Goal.

Reducing Illicit Financial Flow and Recovering Stolen Assets

Over the last few decades, Bangladesh has achieved considerable socio-economic progress. Despite this progress, Bangladesh still faces many development challenges. To address those challenges the country needs to mobilize more financial resources. However, considerable domestic resources have been lost through capital flight or illicit financial flows, which could have been used in the forms of investment and tax proceeds to meet the much coveted resources.

According to Monterrey Consensus the developed countries pledged to ensure at least 0.7% of their Gross Domestic Income (GNI) as Official Development Assistance (ODA). However, the weakest performance had been observed in the MDG that dealt with the pledged ODA for the developing countries. On the other hand, according to the World Bank countries need effective use of available resources and mobilizing additional resources for financing post 2015 development agenda.¹⁸ In this context, combating illicit financial flows can assist developing countries to finance resources for attaining SDG goals.¹⁹ The SGD Target 16.4 and associated indicator 16.4.1 for assessing a country's progress in combating illicit financial flows and recovery of stolen asset can be instrumental in this regard. The SGD target and associated indicator are given below.²⁰

Target 16.4 aspires to “reduce illicit financial and arms flows, strengthen the recovery and return of stolen assets and combat all forms of organized crime.” The relevant indicator is the total value of inward and outward illicit financial flows (in current US Dollars) (Indicator 16.4.1).

This chapter delineates preparedness already made, practices of laws and institutional processes, their prevailing challenges in preventing illegal financial flow and recovery of stolen assets.

Preparedness

Legal and Regulatory Framework

Over the years, Bangladesh has made considerable progress in legal and regulatory frameworks for preventing money laundering and recovery of stolen assets. Bangladesh was the first among the South Asian countries to promulgate Money Laundering Prevention Act (MLPA) in 2002 in line with Financial Action Taskforce (FATF) standards. To address the shortcomings of MLPA 2002 and to meet the FATF standards revised in 2003, Bangladesh enacted the Money Laundering Prevention Ordinance in 2008 which was replaced by MLPA 2009²¹. Later the act was replaced by the MLPA 2012 again as per the recommendations of second Mutual Evaluation Report (MER) of Asia Pacific Group²² (APG) to overcome remaining shortcomings.²³ At the same time, Bangladesh promulgated the Mutual Legal Assistance in Criminal Matters Act 2012 for providing a legal framework for facilitating legal assistance with foreign countries for recovery of stolen assets.

¹⁸ Towfiqul Islam Khan and Mashfique Ibne Akbar, *Illicit Financial Flow in view of Financing the Post 2015 Development Agenda*, Southern Voice on Post-MDG International Development Goals, Southern Voice Occasional Paper 25, February, 2015. <http://southernvoice.org/wp-content/uploads/2015/02/SV-OP-25.pdf> (accessed on 1 July 2017).

¹⁹ *Ibid.*

²⁰ The SDG Target 16.4 includes two indicators (16.4.1 and 16.4.2) covering money laundering, beneficial ownership transparency, recovery of stolen asset, fight against organized crime and arms trafficking. This report deals with money laundering, beneficial ownership transparency, and recovery of stolen asset.

²¹ The People's Republic of Bangladesh, *National Strategy for Preventing Money Laundering and Combating Financing of Terrorism 2015-17*, <https://www.bb.org.bd/pub/special/amlstrategy/introduction.pdf> (accessed on 3 July 2017).

²² Asia Pacific Group (APG), *Anti-money Laundering and counter-terrorist financing measure- Bangladesh-Mutual Evaluation Report, October 2016*, <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/APG-MER-Bangladesh-2016.pdf> (accessed on 3 July 2017) is FATF style regional body.

²³ *Ibid.*

The MLPA 2012 criminalized 28 ‘predicate offences’ associated with money laundering and delineated provisions for investigations, prosecutions and punishments and powers and responsibilities of the Bangladesh Bank in restraining and preventing money laundering offenses.²⁴ The MLPA 2012 gave the sole power of investigation to the ACC. However, the ACC had been found to give emphasis on corruption related offences leaving aside other predicate offences untouched because of its apparent lack of expertise and experience dealing with other predicate offences. Thus, the law was amended in 2015 giving power to other law enforcing agencies like the Criminal Investigation Department (CID) of Bangladesh Police, National Board of Revenue (NBR), Bangladesh Securities and Exchange Commission (BSEC), Narcotics Control Department (NCD) to investigate and prosecute money laundering offences within their jurisdiction. This amendment also made Bangladesh Financial Intelligence Unit (BFIU) functionally independent from Bangladesh Bank.

Besides, rules for Money Laundering Prevention Act 2012 and Mutual Legal Assistance in Criminal Matters Act 2012 were promulgated in 2013. A number of circulars/guidelines was issued by the BFIU for financial institutions, non-financial businesses and professions, securities and insurance and NGO/ NPO sector giving directives/ guidelines for institutional arrangements and compliance requirements for reporting organizations.

Institutional Framework

The BFIU is the primary regulator and supervisor of anti-money laundering/ terrorist financing in Bangladesh. It is located within the Bangladesh bank, but is functionally independent of it. It is also the Secretariat of National Coordination Committee (NCC) headed by the Finance Minister for formulating and implementing necessary anti-money laundering policies and strategies. There is also a 22-member Working Committee involving different agencies to enhance coordination among different regulators and implement policy and strategic directives from the NCC.

The BFIU receives, analyzes and disseminates Suspicious Transaction Reports (STRs) and other financial intelligence reports relating to money laundering. Under the MLPA 2012, the BFIU collects Suspicious Transaction Reports (STRs), Cash Transaction Reports (CTRs) from different reporting organizations and other sources (Government, Semi-Government, Autonomous bodies, media, persons, groups) and disseminates those information/ intelligence to relevant LEAs. After dissemination of intelligence reports, law enforcing agencies like ACC, CID, NBR, NCD, BSEC and Attorney General’s Office (AGO) investigate and prosecute money laundering offences. It is to be noted that until the amendment of MLPA 2012 in October 2015, the ACC was solely responsible to investigate money laundering offenses. The law also authorized ACC to engage officers of any other investigation agency to investigate money laundering offences.²⁵

The BFIU has been playing a key role in suppressing illegal *hundi/hawala* activities in Bangladesh through Central Task Force and has also been providing secretarial services to the NCC and Working Committee.

National and Sectoral Risk Assessments

As per FATF recommendations countries need to identify, assess and understand money laundering and terrorist financing risks and should take actions and apply resources based on risk based approach

²⁴ Government of Bangladesh, “Money Laundering Prevention Act 2012”, Bangladesh Gazette, Extraordinary Published by the authority, Monday, 20 February, 2012, Bangladesh Parliament, http://www.satp.org/satporgtp/countries/bangladesh/document/papers/Money_Laundering_Prevention_Act_2012.pdf (3 July 2017).

²⁵ *Ibid.*

to mitigate risks.²⁶ Bangladesh conducted two National Risk Assessments (NRAs) in 2011-12 and 2015 by committees headed by the ACC with officials comprised of ACC, BFIU, and CID.²⁷

The 2015 NRA identified five high risk threat areas – corruption, fraud, forgery, smuggling and human trafficking and four highest risk sectors -banking, NBFIs, real estate, and jewelry sector.²⁸ The assessment also took into account sector-specific risks of banks, non-bank financial institutions, money changers and remitters, insurance, capital market intermediaries, NGO/NPO and Designated Non-Financial Business or Professions (DNFBPs). The assessment found few inherent economic factors that inadvertently encourage money laundering. They include cash based economy, inflow and outflow of remittances through informal channel, miss declaration in foreign trade and trade based money laundering etc. Trade based money laundering mainly occurs in the form of over-invoicing and under invoicing and over-shipments and falsely described goods and services. As most of the wage earners are illiterate, slow delivery of remittances by the formal channel and non-proximity of exchange houses, considerable amount of remittances is channeled through informal *hundi/hawala* system. According to a survey conducted by the World Bank (2007), 9.4% of total remittances were channeled through *hundi/hawala* system.²⁹ Bangladesh's geopolitical location including its seaports and long porous borders with India and Myanmar make the country vulnerable to trafficking of illegal drugs, illegal cross-border trade and smuggling as well.

Apart from NRA, Bangladesh conducted two more sector specific assessments – one on the Real Estate under DNFBP and another on NGO/ NPO (2015). As DNFBPs are less regulated than the financial sector, it is argued that they are highly attractive avenues for criminals. Therefore, FATF recommended that 'countries should require financial institutions and DNFBPs to identify, assess and take effective action to their money laundering risks'.³⁰

After these assessments reporting organizations (ROs) have made some progress in moving to a risk-based approach (RBA) implementation of preventive measures and rule-based implementation has deepened.³¹

Based on the 2015 assessment the country developed the National Strategy for Preventing Money Laundering and Combating Financing of Terrorism 2015-17. The strategy gave 11 strategic directions for all relevant regulatory agencies and reporting organizations to fight against existing money laundering challenges and short-comings.

Institutional Arrangements in Reporting Organizations and Collection of Suspicious Transaction Report (STR)

The BFIU has issued different circulars and guidelines to reporting organizations to develop institutional arrangements, supervision and compliance protocols in reporting organizations. They include structure for enforcing compliance at institutional level, internal supervision, guideline to establish business relationship with customers, customer identities, monitoring of transactions, wire transfer etc.

²⁶ FATF, The FATF Recommendation on *International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation*, February 2012, (updated October 2016), http://www.fatf-gafi.org/media/fatf/documents/recommendations/pdfs/FATF_Recommendations.pdf

²⁷ Government of Bangladesh, *National Risk Assessment Report 2015-Identifying Money Laundering and Terrorist Financing Risks in Bangladesh*, <https://www.bb.org.bd/bfiu/openpdf.php> (1 July 2017).

²⁸ *Ibid.*

²⁹ Asia Pacific Group (APG), *Mutual Evaluation Report (2016), Anti-money Laundering and Counter-terrorism Financing Measures*.

³⁰ BFIU, *Sectoral Risk Assessment of Designated Non-financial Businesses and Professions (Real Estate)*, Bangladesh Bank, <https://www.bb.org.bd/bfiu/openpdf.php> (2 July 2017).

³¹ Asia Pacific Group (APG), *Anti-money laundering and counter-terrorist financing measures: Bangladesh, Mutual Evaluation Report*, Australia. October 2016, p. 5. <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/APG-MER-Bangladesh-2016.pdf>. (June 7, 2017).

It also developed an effective mechanism to receive Suspicious Transaction Reports (STRs) from different reporting organizations especially from financial institutions. Thus, the BFIU has received a good range of STRs from an increasingly wide range of reporting organizations and the government. This has gained high level of trust of LEAs reflecting its quality disseminations and targeted supports to LEAs investigations. A total of 3050 STRs were received during 2011-2015 out of which 149 were disseminated to law enforcing agencies (LEAs). The STR reporting had increased more than 15 fold from 2011 to 2015.³²

Apart from establishing compliance mechanisms at institutional level, the BFIU and other LEAs allocated significant resources to raise awareness of anti-money laundering obligations across all sectors through imparting training on money laundering.

International Cooperation

Bangladesh's legal framework caters for efficient international cooperation proceedings. The MLPA 2012 mandated that 'the BFIU shall provide with information relating to money laundering or terrorist financing or any suspicious transaction to the Financial Intelligence Unit (FIU) of another country on the basis of any contract or agreement entered into with that country'.³³

To prevent money laundering, Bangladesh has already become the member of Egmont Group (152), founding members of Asia Pacific Group on Money Laundering, World Customs Organization, Regional Intelligence Liaison Offices (RILO), INTERPOL to exchange intelligence information regarding financial account, customs and security matters.

In order to exchange money laundering and terrorist financing information in a faster and comprehensive manner, the BFIU has signed MoUs with 55 countries (up to June 2017). Bangladesh has made a formal mutual legal assistance with India (2010). Bangladesh has signed two extradition treaties with foreign partners (India).

Practice

Recent Incidences of Money Laundering and Asset Recovery: Despite enactment of necessary laws, building of institutional framework and visibility of operational capacities, illicit financial flows from Bangladesh continues unabated. According to Washington based Global Financial Integrity (GFI), Bangladesh lost between \$6 billion and \$9 billion to illicit financial outflow in 2014 due to trade mis-invoicing and other unrecorded outflows.³⁴ The illicit financial flows amount for 2014 was 9 to 13 percent of country's total trade volume (\$70.7 billion) and 2 percent of its balance of payment leakage. The estimate for 2005 -2014 was staggering \$75 billion which is almost equal to 1.5 times the national budget for FY 2017-18.³⁵ The GFI came up with these estimates by analyzing the discrepancies between bilateral trade statistics and balance of payment as reported by International Monetary Fund (IMF). Therefore, it is believed that illicit financial flows amount could have been much higher if financial flows through informal channel like *hundi/hawla* had been included in the estimate.

In February 2016, Bangladesh Bank's money was laundered to the Philippines and Sri Lanka from its account at NY Federal Reserve Bank. Cyber hackers stole US\$ 101 million from Bangladesh Bank – of which US\$ 20 million were laundered to Sri Lanka (fully recovered) and US\$ 81 million to the Philippines (about US\$ 14.5 million recovered).³⁶ The amount laundered to the Philippines was channeled through casinos and later transferred to Hong Kong. The Philippines' National Bureau of Investigation later launched a probe and looked into the laundering of the illicit funds. A committee

³² *Ibid.*

³³ *Ibid.*

³⁴ Global Financial Integrity (GFI), Illicit Financial Flows to and from Developing Countries: 2005-2014, April, 2017, p. 28. http://www.gfintegrity.org/wp-content/uploads/2017/05/GFI-IFF-Report-2017_final.pdf (1 July 2017).

³⁵ *The Daily Star*, 3 May 2017.

³⁶ *The Daily Star*, 19 March 2016.

of the bank (Rizal Commercial Banking Corporation) through which money laundered took place also launched a separate probe into the bank's involvement in the money laundering scam. Bangladesh government also formed a three-member high-powered committee to investigate the theft.³⁷ The Committee submitted their investigation report. However, the report has not been released yet.

On 1 July 2017 the Swiss National Bank released its annual report titled Banks in Switzerland 2016 that shows that deposits of Bangladeshi banks and individual customers increased by 20.18 percent in 2016 (BDT 5,560 crore) from 2015 (BDT 4,627 crore), though there are reservations expressed by Bangladesh Bank and the government on this data. The 2016 amount is almost 4.5 times of the 2009 amount. In 2016, Bangladesh bank's deposits in Swiss Banks amounted BDT 5,160 and individual customers' BDT 400 crore.³⁸

According to media reports, there have been allegations that considerable number of Bangladeshis have invested in real estates in Malaysia, Canada and the US. Under 'Malaysia My Second Home Project', 3,546 Bangladeshis have invested in real estates in Malaysia. Bangladeshis' participation in this project is found third largest after China (8,714) and Japan (4,225). According to media estimate, capital flight of BDT 1,500 crore took place for this purpose.³⁹

Although considerable amount of illegal financial flows from Bangladesh has been continuing over the years, recovery of stolen asset has been quite small. From 2012-13, approximately US\$ 3.04 million was recovered in Arafat Rahman Koko case from Singapore (TIB, 2016). In Faruk case (A Hajj agency in the UK), Bangladesh confiscated US\$ 310 thousand and returned the amount to UK. There has been no success in recovery or inflow of stolen assets after the Koko case although the BFIU has traced a number of illicit financial flow cases and reported to LEAs. Thus, recovery of stolen asset has virtually been in a stalemate.⁴⁰

Increased Suspicious Transaction Report (STR): The BFIU has been receiving a good range of Suspicious Transaction Reports (STRs) from an increasingly wide range of reporting organizations and accordingly disseminated to LEAs. There had been marked increase of STRs in 2014 and 2015 compared to previous years. Most of the STRs came from commercial banks (1,087 out of 1,266 in 2015). DNFBPs did not file any STRs. Very low levels of STRs were shared by state-owned commercial banks (28 out of 1,266 in 2015). It is to be noted that the rate of disseminations from BFIU to LEAs has decreased in recent years largely because of the application of more sophisticated analysis techniques and closer attention to high quality disseminations.⁴¹

Preventive measures taken by BFIU: The BFIU and other regulators have allocated significant resources to raise awareness on anti-money laundering obligations, risks, relevant typologies and emerging trends. Majority of the recipients of the training came from banking sector where 119,019 people received training from BFIU from 2010 to 2014. Because of these training, submissions of STRs have increased over the years. From 2013, professionals under DNFBPs started receiving training. From 2013 to 2014, 800 professionals from real estate, accountants and lawyers received training.

Moreover, as remedial measures the BFIU issued supervisory letters, reprimands, warnings, directives and show cases and imposed fines for breaches of compliances by reporting organizations (ROs). In 2014, the BFIU issued warning letters to 180 ROs and imposed fines to 16 ROs equivalent to US\$ 70,513 and removed two directors.

³⁷ https://en.wikipedia.org/wiki/Bangladesh_Bank_robbery

³⁸ Swiss National Bank databases.

³⁹ *Daily Prothom Alo*, 14 July 2017.

⁴⁰ *Daily Prothom Alo*, 13 July 2017.

⁴¹ Asia Pacific Group (APG), *Anti-money laundering and counter-terrorist financing measures: Bangladesh, Mutual Evaluation Report*, Australia, October 2016, p. 5. <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/APG-MER-Bangladesh-2016.pdf>. (7 June 2017).

Investigation, prosecution and conviction: The number of convictions of ML cases has been low. Only ten money laundering trials completed of which ten got conviction since 2010. Due to lengthy court processes, 222 money laundering prosecutions remain pending at present.

Before October 2015, the MLPA allowed ACC to investigate ML cases. However, it had been observed that the ACC focused their investigations on corruption issues leaving aside other predicate offences relating to criminal offences, tax evasion, trafficking of drugs and human etc. In this context, the MLPA was amended in October 2015 giving other LEAs to investigate ML cases under the jurisdiction of concerned entities. Since then, parallel investigation has been conducted by LEAs along with the ACC.

International Cooperation: Bangladesh has given priority to responding to international requests in a flexible and open manner. Bangladesh has shown willingness to extradite even Bangladesh nationals. There had been 17 incoming and 13 outgoing Mutual Legal Assistance (MLA) requests from 2010 to 2014.⁴² All of them were facilitated either by AGO and MHA as mandated by the law to deal with MLA.

The BFIU has been found well engaged with international cooperation through strong policy focus on pursuing international cooperation and activated necessary resources. Since 2010, BFIU made 17 requests to foreign partners and received 38 requests from foreign countries relating to corruption, money laundering, fraud, forgery, drug trafficking, human trafficking, gambling, embezzlement, tax and customs duties evasion.⁴³ Bangladesh has a (two) number of successes with international cooperation on asset recovery.

Technical compliance: The ML prevention regime in Bangladesh has been developed in line with 40 global standards/ recommendations of the Paris based inter-governmental body – FATF. In 2015, FATF standard regional Asia Pacific Group (APG) conducted its second mutual evaluation, according to which technical compliance of money laundering prevention regime in Bangladesh is generally high. Out of 40 recommendations, Bangladesh got compliant in 6 areas, largely compliant in 22 areas and partially compliant in 12 areas.

Challenges

Shortcomings of MLPA 2012: Corruption cases under MLPA 2012 are dealt with ACC Act 2004 where private sector corruption (domestic) and bribery to foreign companies/ persons/ officials is not criminalized. Although corruption is identified as one of the money laundering predicate offences, such offences cannot be tried under MLPA 2012. Some elements of 'Smuggling of Migrants' is not included as a predicate offence in MLPA, 2012. The amount of financial penalty and punishment given in the act seems to be very low and not sufficient to restrain criminals from misuse of financial institutions on ill-motives.⁴⁴

Gaps in National and Sectoral Risk Assessments: The national and sectoral risk assessments did not comprehensively cover all the threats. The NRA mentioned corruption as one of the major money laundering threats in Bangladesh and its causes and consequences. Politicization of institutions is a hindrance for regulatory agencies to exercise rule of law and take measures impartially. But the assessment did not mention negative impact of politicization in regulatory agencies and public administration and considerable absence of meritocracy in them as a ML risk. Politico-administrative nexus among a section of politicians/elites and bureaucrats is believed to be one of the major sources of corruption in Bangladesh especially in big government procurements and awarding international contracts; however, the NRA did not mention anything about its glaring presence and as a major money laundering risk.

⁴² Asia Pacific Group (APG), *Anti-money laundering and counter-terrorist financing measures: Bangladesh, Mutual Evaluation Report*, Australia. October 2016, p. 5. <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/APG-MER-Bangladesh-2016.pdf>. (Accessed on June 7, 2017).

⁴³ *Ibid.*

⁴⁴ *Ibid.*

In the recent past the state-owned commercial banks have experienced a number of large scale fraudulent loan scams such as BASIC Bank, Sonali Bank etc. It is alleged that political appointments in the boards and managements of these banks are largely responsible for these scams. Moreover, the level of automation and record keeping in these banks compared to private commercial banks are found to be much less. However, the national risk assessments did not comprehensively cover these risks posed by state-owned commercial banks.

Inside trading and market manipulation in the securities sector are quite rife in Bangladesh. Most of the securities licenses were awarded to politically connected persons. However, this risk was not covered in the NRA.

Lack of accountability of state-owned commercial banks: The state-owned commercial banks are not subject to proper independent prudential regulation by Bangladesh Bank, with the Finance Ministry functioning as their owner.⁴⁵ The challenge is that the BB is not wholly independent of the Finance Ministry which creates some limitations on supervisory powers and full implementation of core principles in that sector, including anti-money laundering controls on market entry fit and proper and risk management.⁴⁶ Moreover, the Finance Minister is the convener of the NCC to whom the BFIU is reportable. So, it is going to be very difficult for the BFIU to make state-owned commercial banks accountable for any compliance shortfall. Consumer Due Diligence controls to ascertaining the identity of a customer and purpose of a transaction in the state-owned commercial banks found to be less implemented.

Limitations in investigations by LEAs: Sometimes lack of actions from the ACC was visible in investigating politically sensitive cases. In case of share market scam and manipulation in 2011, the BSEC and a special tribunal investigated cases associated with politically exposed persons. Despite involvement of large scale fraud and corruption, the ACC did not undertake any parallel investigations indicating that it was waiting for BSEC to complete its investigation. When 6 out of 17 cases were disposed of by the tribunal and four convictions and monetary convictions were imposed, the ACC did not commence any money laundering investigation against those cases. In case of politically sensitive BASIC Bank scam, the BFIU shared 62 STRs with the ACC in July 2013 regarding fraudulent loan advances. However, as of October 2015, the ACC could not appoint an investigation officer.⁴⁷

Sometimes, proceeds of crime are not traced, restrained and managed effectively at an early stage of investigation. Whenever a corruption complaint comes to the ACC, it normally asks the alleged person to submit wealth statement instead of freezing of account that sometimes gives the offender to destroy evidence and proceeds of crime. Sometimes, the ACC seizes or confiscates proceeds of crime. However, it does not have any guideline or manual through which it can manage those proceeds of crime. Sometimes, physical property seized or confiscated during investigation or prosecution is damaged or depreciated considerably and thus loses its value when final verdict is delivered.⁴⁸

There are also capacity constraints of some regulators especially those that have no prior expertise to investigate and prosecute criminal offences. This challenge is highly visible in regulatory agencies like the NBR. As a result, sometimes they struggle to prepare cases or gather evidences that would be helpful for the court to deliver proper judgment. Furthermore, it is also noticed that LEAs are not proactive in seeking international cooperation to complete domestic investigations and trace precedes and do not regularly pursue agency to agency.

⁴⁵ *Ibid*, p. 24.

⁴⁶ *Ibid*, p. 24.

⁴⁷ *Ibid*, p. 49.

⁴⁸ Interview with an ACC Official on 8 June 2017.

The ACC does not have any access to the National Database of other government organization including the Election Commission, NBR, Department of Passport and Immigration etc. ACC's ability to receive and verify timely and relevant information is hampered due to a lack of direct access to the databases of relevant government organizations. The ACC can obtain records based on request, but processes are mostly lengthy.⁴⁹ The provisions of the existing MLPA do not allow the enquiry officers to conduct search and seizing of such documents and arrest personnel at the time of enquiry.⁵⁰ As the ACC officials do not have the power to arrest suspected offenders while conducting enquiry of an allegation, suspected offenders can easily escape during that period and/or have the opportunity to transfer/convert/conceal their ill-gotten money/assets.

As the ACC officials do not have the power to search a suspected premise while conducting enquiry, chances are there to miss critical documents and information which would effectively contribute as evidence. To conduct enquiry of corruption and money laundering allegations, the enquiry officers of ACC often need to examine and seize bank documents related with an offence and to exhibit those documents before the court in order to prove a case. If the documents are not seized at the time of enquiry, those can be lost or misplaced/manipulated by the offenders. The provisions of the existing ACC Act 2004 or MLPA 2012 do not allow the enquiry officers to conduct search and seizing of such documents and arrest personnel at the time of enquiry.

Lack of prosecution capacity: In the absence of a dedicated independent prosecution service, each LEA has to appoint panel lawyers on a case by case basis to prosecute money-laundering cases. Moreover, there are significant challenges for LEAs in developing prosecutorial cases on financial crime for the court. Sometimes, conflicts of interest of the panel lawyers looms as they may maintain their private practice or defense work on similar matters with the accused. The AGO is seriously under-resourced in relation to its current workload in administrative and civil matters, prosecution support, special tribunals, appeals and international cooperation.⁵¹ There is no manuals or agency-level procedures for LEAs to work with the AGO or the Ministry of Home Affairs to make mutual legal assistance requests to foreign partners for assistance in criminal matters at the enquiry or investigation stages.⁵²

Under resourced courts: Prosecution of money laundering cases is considerably inhibited as courts are severely under-resourced and have a significant backlog of pending cases. They suffer from acute shortage of judges and prosecutors for the designated special courts.

Low prosecution and conviction rates: So far ten money laundering trials have been completed. Ten were convicted and 222 money laundering prosecutions are pending due to lengthy court processes during 2011-16.⁵³ Due to delays of prosecution of mutual legal assistance cases for indefinite time or over the years, the numbers of completed trials has been very low. Lengthy process of trial procedures enables defendants to drag out proceedings over a number of years, including deferring trials partially heard. This sort of convictions in itself demonstrates that Bangladesh's overall approach to sanctioning money laundering is not dissuasive.⁵⁴ The AGO cannot appoint and retain high quality prosecutors with requisite technical expertise.⁵⁵

⁴⁹ *Ibid*, p. 50.

⁵⁰ *Ibid*, p. 50.

⁵¹ *Anti-money laundering and counter-terrorist financing measures: Bangladesh*, Mutual Evaluation Report, The Asia/Pacific Group on Money Laundering (APG), Australia. October 2016, p. 50. <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/APG-MER-Bangladesh-2016.pdf> (Accessed on 7 June 2017).

⁵² *Ibid*, p. 105.

⁵³ Asia Pacific Group (APG), *Anti-money laundering and counter-terrorist financing measures: Bangladesh*, Mutual Evaluation Report, Australia. October 2016, p. 5. <http://www.fatf-gafi.org/media/fatf/documents/reports/mer-fsrb/APG-MER-Bangladesh-2016.pdf>. (Accessed on June 7, 2017).

⁵⁴ *Ibid*, p. 52.

⁵⁵ *Ibid*, p. 50.

Lack of awareness: Despite having a good understanding of the regulatory environment and applicable rules, state owned commercial banks, securities firms and all other financial institutions and DNFBPs lack a good understanding of the nature and level of their money laundering risks. Commercial banks are the one sector with a relatively sound understanding of their risks.

Limitations in monitoring DNFBPs: Total number of staff of BIFU is 59 which might be adequate for supervising financial sector. As DNFBP sector is much large and diverse, the BFIU faces resources constraints to supervise them. Moreover, most of them are not reporting Suspicious Transaction Report (STR) at the moment.

Inadequately covered the issue of ‘Beneficial Ownership’: The concept of beneficial ownership is covered in the MLPR 2013 where its definition was given and financial institutions are asked to collect beneficial ownership of transactions. Thus, as per guideline financial institutions need to maintain information on beneficiary information during establishing business relationship with clients and making any transaction on behalf of clients.

As per the Company Act 1994, companies are not legally obliged to hold beneficial ownership information. Therefore, companies do not need to report beneficially information at Joint Stock Companies during registration or changes in company ownership or Board of Directors. Thus, there is little information available on beneficial ownership of legal persons and trust. Furthermore, no entity is found to oversee the beneficial ownership. Moreover, cooperation among supervisory authorities regarding beneficial ownership remains low.

Conclusion

To prevent money laundering and illicit financial flows, the country has developed adequate legal and institutional framework and capacity consistent with international standards and good practices. However, despite the preparedness, a significant amount of money has been laundered in recent years and illicit financial flows have been increasing. A number of pressing challenges is posing hindrance to prevent money laundering and illicit financial flows. These include politicization in regulatory agencies, politico-administrative nexus in indulgence of corruption, presence of politically exposed persons and their family members in different financial institutions and securities sector. The LEAs sometimes demonstrate lack of action to investigate and dispose politically sensitive cases even getting relevant financial intelligence from the BFIU. Capacity constraints and absence of dedicated prosecution units are barriers for some regulatory agencies (e.g. ACC, NBR, DNC) to investigate money laundering offences. The courts and AGO are under-resourced to prosecute money laundering cases for which the rate of prosecution of money laundering cases has been quite low.

Chapter 4

Reducing Corruption and Bribery

The SDG Target 16.5 aspires to “substantially reduce corruption and bribery in all their forms”. The indicators that have been identified for this target are the ‘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 the ‘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).

This chapter gives a brief overview of the country’s status of preparedness, practice and challenges with regard to the SDG Target 16.5 on reducing corruption and bribery.

Preparedness

The Government of Bangladesh recognises combating corruption as critical to progress towards realising the *Perspective Plan – Vision 2021*, the 7th Five Year Plan (7FYP) and *Sustainable Development Goals (SDGs)*.

In the Vision 2021 it has been asserted that “the Government is determined to confront and root out the scourge of corruption from the body politic of Bangladesh ... (and) intends to strengthen transparency and accountability of all government institutions as integral part of a programme of social change to curb corruption.”⁵⁶ On the other hand, “Promoting good governance and curbing corruption” is listed high among 12 development goals identified by the 7FYP, which also commits to strengthen the democratic governance process to ensure participation of all citizens and sound functioning of all democratic institutions.⁵⁷ The 7FYP asserts that ensuring good governance requires establishing strong administrations and institutions, and that without a strong anti-corruption strategy the ability to implement Vision 2021 and the underlying 5 year development plans will be seriously compromised.

Moreover, in the Electoral Manifesto 2014 of the present ruling party it is also mentioned that “legal, political, social and institutional efforts will be undertaken to prevent corruption. The effectiveness of the ACC will be strengthened through developing skill. Strict measures will be undertaken to eradicate bribery, unearned money, black money, extortion, tender manipulation and criminalization. Accountability of all levels of citizens will be ensured with regard to their income and property.”⁵⁸

The present government leadership’s high level commitment to address corruption has also been reflected in a number of specific initiatives including enactment of different strategies, plans laws and rules, accession to different international treaties, and initiatives to introduce information technology in public service delivery as part of the vision of Digital Bangladesh.⁵⁹ Moreover, strong commitments

⁵⁶ Planning Commission of Bangladesh, *Perspective Plan 2010-21*, <http://www.plancomm.gov.bd/perspective-plan/> (13 May 2017).

⁵⁷ Planning Commission of Bangladesh, *7th Five Year Plan: FY 2016 – FY 2020*, http://www.plancomm.gov.bd/wp-content/uploads/2015/10/7th_FYP_18_02_2016.pdf (13 May 2017).

⁵⁸ Bangladesh Awami League, *Election Manifesto 2014*, p. 27.

⁵⁹ Ministry of Planning, Central Procurement Technical Unit (CPTU) of Implementation, Monitoring & Evaluation Division, <http://www.cptu.gov.bd/EProcurement.aspx> (13 May 2017).

to prevent corruption and bribery has been expressed by different high officials and leaders of the ruling government from time to time.⁶⁰

Anti-Corruption Legal Framework

Bangladesh apparently have a robust legal and institutional framework to fight corruption. Bangladesh became a party to the United Nations Convention Against Corruption (UNCAC) in 2007, and since then it has continued to fulfil the commitments of this Convention through enacting and amending relevant laws and policies. The laws and rules applicable for combating corruption are as follows:

1. The Penal Code, 1860
2. The Code of Criminal Procedure Act, 1898
3. The Code of Civil Procedure, 1908
4. The Anti-Corruption Act, 1947
5. The Foreign Exchange Regulation Act, 1947
6. The Representation of the People Order, 1972
7. The Special Power Act, 1974
8. The Government Servant (Conduct) Rules, 1979
9. The Anti-corruption Commission Act, 2004, and The Anti-corruption Commission Rules, 2007
10. The Registration of Political Parties Rules, 2009
11. The Right to Information Act, 2009
12. The Money Laundering Prevention Act 2009
13. The Anti-terrorism Act, 2009
14. The Public-Interest Information Disclosure Act (Provide Protection), 2011
15. The Crime Related Mutual Legal Assistance Ordinance, 2012.

Acts of Corruption

According to the Penal Code 1860, corruption is, for a public servant, accepting or obtaining, or agreeing to accept, or attempting to obtain from any person, for himself or for any other person any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or for bearing to show, in the exercise of his official functions, favour or disfavour to any person, or for rendering or attempting to render any service or disservice to any person, with the Government or Legislature, or with any public servant, and for such activities s/he can be punished of imprisonment of either description for a term which may extend to three years, or with fine, or with both.⁶¹

Most of the offences as laid in the UNCAC (in line with Articles 15, 17-20, 23-25) are clearly defined and banned by the domestic laws. For instance, bribery, embezzlement and illicit enrichment by public officials, abuse of functions, laundering of proceeds of crime, concealment and obstruction to justice have been clearly defined and made punishable offences.⁶²

The offence of embezzlement of property in the private sector appears to be adequately criminalized as “criminal breach of trust”, in general, and is based on the specific hypothesis of breach of trust (by carriers, clerks, bankers, merchants and agents).⁶³ The Penal Code criminalizes embezzlement through

⁶⁰ For instance recently the Prime Minister reiterated the government’s strong stance against corruption while talking with the Secretaries of different ministries. She urged public officials to stop corruption as the present government has increased the salaries. For details, see *Daily Prothom Alo*, 2 July 2017.

⁶¹ *The Penal Code, 1860*, Section 161. http://bdlaws.minlaw.gov.bd/sections_detail.php?id=11§ions_id=2896 (25 May 2017).

⁶² TIB and UNCAC Coalition, 2011, *UN Convention Against Corruption Civil Society Review: Bangladesh 2011*, <http://uncaccoalition.org/files/cso-review-reports/year1-bangladesh-report.pdf> (17 April 2017).

⁶³ Conference of the States Parties to the United Nations Convention against Corruption, 2012, *Review of implementation of the United Nations Convention against Corruption*, <http://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/ExecutiveSummaries/V1254364e.pdf> (17 April 2017).

the conducts of “misappropriation” and “conversion”, for the offender’s “own use”, and not for “the benefit of another person”, as required by the Convention. Moreover, the scope of application of the offence is limited to “moveable property”.

Regarding illicit enrichment, the Anti-Corruption Commission Act, 2004 criminalizes the possession of “moveable or immoveable property” in excess of the known sources of income. Possession of property disproportionate to known sources of income by a public servant or any of his dependents, for which no reasonable explanation is offered, is a criminal misconduct. The onus is on the person to prove that he had acquired the property through legitimate means.⁶⁴

The offence of the abuse of functions appears to be substantially covered in the ‘Prevention of Corruption Act (POCA) 1947’ through the offence of “criminal misconduct”. The adoption of the Money Laundering Prevention Act 2009 made domestic standards quite compatible with the UNCAC requirement.⁶⁵

This UNCAC offence includes the act of conversion or transfer for the purpose of concealing or disguising the illicit origin of any proceeds of crime; the act of concealment or disguise of the true nature, source, location, disposition, movement or ownership of, or rights with respect to, any such property; and the act of acquisition, possession or use of any such property.

The offence of concealment is covered through the offences of stolen property, dishonestly receiving it, assisting in concealing it, and dishonestly or fraudulently removing or concealing property.⁶⁶

The applicable provisions of the Penal Code 1860 are limited to criminal intimidation and therefore do not appear to take into account broader concepts required by subparagraph (a) of UNCAC Article 25, namely the use of corrupt means and coercive means. The Penal Code criminalizes the intentional insult or interruption to public servant sitting in judicial proceedings and assault or criminal force to deter a public servant from the discharge of his or her duty.⁶⁷

However, Bangladesh has not criminalized the offence of bribery of foreign public officials and officials of public international organizations. Passive trading in influence is criminalized, but not the active form of such conduct. The intention was expressed by the Government to criminalize bribery in the private sector.⁶⁸

Asset disclosure

In Bangladesh, heads of government are not required by law to declare their assets. According to the Representation of the People Order 1972⁶⁹ the aspirant candidates of the national parliamentary election have to submit some financial information (including income, assets and liabilities, personal and company loans etc.) to the Election Commission as a pre-requisite for nomination. The declarations of assets made by candidates for parliament are available to the public. While it is mandatory for the candidates to disclose a number of financial information, after being elected, there is no obligation for the MPs and cabinet members for declaring assets and income during their tenure.

According to the Government Servants (Conduct) Rules 1979, a large number of civil servants including their spouses and children (with a few exceptions) are required to disclose their assets, all moveable and immovable property and liquid assets in the month of December every year.⁷⁰ Guidelines for

⁶⁴ *Ibid.*

⁶⁵ TIB and UNCAC Coalition, *op. cit.*

⁶⁶ Conference of the States Parties to the United Nations Convention against Corruption, 2012, *op. cit.*

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

⁶⁹ Amended as the *Representation of the People Order (Amendment) Act, 2009*; for details see: http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=424 (14 May 2017).

⁷⁰ *Government Servants (Conduct) Rules 1979*, Rules 13-14.

public officials in respect to integrity, fairness, and impartiality⁷¹; gifts, benefits, and hospitality⁷²; undue preferential treatment⁷³; abuse of authority⁷⁴; and conflicts of interest⁷⁵ for ensuring the transparency and integrity in public administration have been adequately addressed. Public officials and senior civil servants are required by the above mentioned law to regularly declare potential conflicts of interest. According to this law, government servants have no authority to receive any foreign award without taking prior approval from the President.⁷⁶ However, these declarations are not accessible to the public.⁷⁷

Although, candidates of the national election and civil servants have to disclose information about their assets, income, and loans, the law does not specify which items should be covered. A standardised form is submitted by candidates to the EC, and the anti-corruption agency has also prepared a standardised form to be filled by their officials.⁷⁸

Conflict of Interest

The Constitution of Bangladesh⁷⁹ and The Representation of the People Order 1972⁸⁰ (RPO) provide for disqualification of membership of parliament if any other office of profit in the service of Bangladesh is simultaneously held, thus restricting violation of conflict of interests. The Constitution and the Representation of the People Order 1972 indirectly restrict the MPs from being policy-making and executing official at the same time as well. Furthermore, the RPO, 1972 indirectly restricts the participation of the MPs in government contracts and in state-owned enterprises as a private individual.⁸¹ These also apply to the Ministers as they are also MPs. The Rules of Procedure 2007 prohibit the conflict of interest of the members of Parliamentary Standing Committees.⁸²

For public officials The Government Servant (Conduct) Rules, 1979 has addressed the conflict of interest of public servants regarding investing in the private sector. The rules stipulate that a government servant and his/her family member has no scope to invest in any sector where s/he can influence through discharging his/her official duties.⁸³ Furthermore, a government servant or any member of his/her family cannot engage in any trade area which is the jurisdiction of a government servant.⁸⁴ In addition, the Prevention of Corruption Act 1947 indirectly restricts government servants from being part of state-owned enterprises.⁸⁵

The Penal Code 1860 provides for the imposition of fines in cases of violation of conflict of interest.⁸⁶ Moreover, the Prevention of Corruption Act, 1947 provides for the imposition of fines in case of violation of conflict of interest.⁸⁷ The Government Servants (Discipline and Appeal) Rules 1985 provides that any penalty, minor or major, can be imposed in case of misconduct such as violation of

⁷¹ *The Government Servants (Conduct) Rules 1979*, Rule 25.

⁷² *The Government Servants (Conduct) Rules 1979*, Rule 5, 6.

⁷³ *The Government Servants (Conduct) Rules 1979*, Rule 20, 30.

⁷⁴ *The Government Servants (Conduct) Rules 1979*, Rule 27.

⁷⁵ *The Government Servants (Conduct) Rules 1979*, Rule 15, 16, 17.

⁷⁶ *The Government Servant (Conduct) Rules 1979*, Rule 6.

⁷⁷ Interview with a former Secretary of Peoples' Republic of Bangladesh, 23 May 2017.

⁷⁸ U4 Anti-corruption Resource Center, 2013, *Asset declaration regimes in selected Asian countries*, U4 Expert Answer, #381,

http://www.transparency.org/files/content/corruptionqas/381_Asset_declaration_regimes_in_selected_Asian_countries.pdf (14 May 2017).

⁷⁹ *The Constitution of Bangladesh*, Article 66.

⁸⁰ *The Representation of the People Order 1972*, Article 12 (1) (a).

⁸¹ *The Representation of the People Order 1972*, Article 12 (1) (b).

⁸² *The Parliamentary Rules of Procedure 2007*, Rule 188 (2).

⁸³ Rule 15 prohibits civil servants from stock holding. Rule 16 indirectly restricts civil servants from being on boards/ CEOs or COOs/ advisors of private companies. Rule 17 (1) of the Government Servants (Conduct) Rules (1979) and Section 168 of the Penal Code, 1860 indirectly restrict government servants from having ownership of a private firm.

⁸⁴ *The Government Servant (Conduct) Rules 1979*, Rule 17.

⁸⁵ *The Prevention of Corruption Act, 1947*, Section 5(1)(d).

⁸⁶ *The Penal Code 1860*, Sections 161, 165 and 168.

⁸⁷ *The Prevention of Corruption Act 1947*, Section 5(2).

conflict of interests.⁸⁸ The same penalty also applies when the conflict of interest declaration is not made under the Government Servants (Conduct) Rules, 1979.⁸⁹

Public Procurement and Government Contracting

Bangladesh government has the Public Procurement Act, 2006 and the Public Procurement Rules 2008 to facilitate public procurement. The legal framework requires tender announcements and contract award information to be released and procurement contracts to be published in full text (above certain thresholds, possibly with partial reductions).⁹⁰

The Public Procurement Act, 2006⁹¹ defined that a procuring entity shall clearly arrange to publish the advertisement in at least one Bangla and English daily newspaper of wide circulation within the country. In addition, it will publish the advertisement on its own website. Moreover, the procuring entity has to publish the procurement plan (Section 11), and the procuring entity will issue the necessary application tender or proposal document to persons interested in submitting in application (Section 5). The procuring entity will notify in writing all the other tenderer that they have been unsuccessful (Section 37). However, there is no requirement for bidders to disclose names of their beneficial owners.

In addition, the relevant thresholds for different types of procurement (purchase of goods, works, and services) and for different sectors to which different thresholds may apply (public sector, utilities, defence) has been mentioned.⁹² Besides, the Central Procurement Technical Unit (CPTU) and relevant organisations have published information and documents related to public procurement and other relevant government contracts (such as privatisations, licenses etc.) are published proactively and are available in full text, that include annual procurement plan document⁹³, the debarment list and contact award list, the policy and procedures documents, the standard tender document, proposal document, and standard formats documents⁹⁴ through website.

Furthermore, for improving the efficiency and transparency in public procurement Bangladesh government has initiated e-Government procurement (e-GP) system – a web based system which includes the total procurement lifecycle and records of all procurement activities. Initially, the e-GP system has been applied to a few Procuring Entities (PEs) of four target agencies namely Bangladesh Water Development Board (BWDB), Rural Electrification Board (REB), Roads and Highways Department (RHD) and Local Government Engineering Department (LGED).⁹⁵

Whistle-blowing

There is a legal framework⁹⁶ to protect whistleblowers who report of any wrongdoing about public sector. According to the law, ‘Public interest information’ or ‘information’ is such an information of any agency which expresses that, any officer was, is or may be involved in:

- a. irregular and unauthorised use of public money;
- b. mismanagement of public resources;

⁸⁸ *The Government Servants (Discipline and Appeal) Rules 1985*, Rule 4(5)(c).

⁸⁹ *The Government Servants (Conduct) Rules, 1979*, Rule 27B.

⁹⁰ *The Public Procurement Rules 2008*, Schedule 2. The threshold is mentioned as below: for Tk 10 (ten) million and above for Works, Goods and related Services; for Tk. 5 (five) million and above for physical Services; and for Tk. 5 (five) million and above for intellectual and professional Services. www.cptu.gov.bd/Downloads.aspx?file=files/Public-Procurement-Rules-2008-English.pdf (25 May 2017).

⁹¹ *The Public Procurement Act, 2006*, Section 40. www.cptu.gov.bd/Downloads.aspx?file=files/Public-Procurement-Act-2006-English.pdf (25 May 2017).

⁹² *The Public Procurement Rules 2008*, Schedule 2. There are thresholds for procuring goods and related services, works and physical services, Open Tendering and Limited Tendering Methods, intellectual and professional Services, and single source procurement.

⁹³ <http://www.lged.gov.bd/DownloadForms.aspx?formType=2> (25 May 2017).

⁹⁴ <http://www.cptu.gov.bd/> (25 May 2017).

⁹⁵ <http://www.cptu.gov.bd/EProcurement.aspx> (25 May 2017).

⁹⁶ *Public-interest Information Disclosure Act (Provide Protection)*, 2011, <http://www.acc.org.bd/resources/whistleblower-protection-act-2011> (25 May 2017).

- c. misappropriation or misuse of public money or resources;
- d. abuse of power or maladministration;
- e. committing criminal offense or illegal or prohibited acts;
- f. a conduct that is harmful or dangerous for public health, safety or to the environment; or
- g. corruption.

According to the Public-Interest Information Disclosure Act (Provide Protection), 2011, a whistleblower is protected by the law. For instance, departmental suit cannot be filed against the whistleblower; demotion, harassment transfer or forced retirement or any other measures and departmental actions cannot be taken against him. The whistleblower cannot be presented as a witness as well. In addition, no one can see any book, record or document which contains the identity of a whistleblower.⁹⁷ However, the court can reveal the identity of the whistleblower if s/he has intentionally disclosed false and baseless information and if fair trial cannot be ensured without revealing the identity of the whistleblower.

Anti-Corruption Institutional Framework

The major anti-corruption institutions in Bangladesh comprise the Anti-Corruption Commission (ACC), the Office of the Comptroller and Auditor General (OCAG), Bangladesh Financial Intelligence Unit (BFIU) of Bangladesh Bank as the anti-money laundering department, the Judiciary, law enforcing agencies, and the Parliamentary Standing Committees. Other institutions including the National Board of Revenue (NBR), the Election Commission, Information Commission, and stakeholders such as the civil society, media and international community provide supporting but important roles in combating and preventing corruption in Bangladesh through playing the roles of watchdogs.

The law describes the mandate of ACC elaborately that include investigation, prevention, education, research and integrity advice for mainstreaming good practices in the work of government agencies.⁹⁸ Moreover, the ACC is entrusted with a wide range of legal authority to undertake inquiry or investigation, arrest, hear the accused, ask for declaration of properties, confiscate property in excess of known sources of income, prosecution, formulate rules etc.⁹⁹ It is not accountable to any other authority except the Office of the Comptroller and Auditor General for reviewing its financial operations. The Chairman and Commissioners of the ACC are appointed for five years,¹⁰⁰ and they are well protected from any forceful and undue removal.¹⁰¹

The Cabinet Division of Bangladesh Government approved the 'National Integrity Strategy – Commitment for Golden Bengal' in 18 October 2012,¹⁰² on the basis of which every ministry, division, statutory body created a position of NIS Focal Point and also has its own NIS annual work plan, i.e., the Ministry of Law, Justice and Parliamentary Affairs.¹⁰³

⁹⁷ *The Public-interest Information Disclosure Act (Provide Protection), 2011*, Section 5.

⁹⁸ *Anti-Corruption Commission Act 2004*, Section 17.

⁹⁹ *Anti-Corruption Commission Act 2004*, Sections 18, 19, 20, 21, 22, 26, 27, 34 & 36.

¹⁰⁰ *Anti-Corruption Commission Act 2004*, Section 6(3).

¹⁰¹ Section 10(3) of *Anti-Corruption Commission Act, 2004*, provides that no Commissioner shall be removed from office except on similar grounds and in accordance with the similar procedures as applied to the removal of a Judge of the Supreme Court.

¹⁰² 'National Integrity Strategy – Commitment for Golden Bengal', the Cabinet Division of Bangladesh Government, http://cabinet.portal.gov.bd/sites/default/files/files/cabinet.portal.gov.bd/page/f5ea77bf_4afc_4a71_bd2b_00c20ea6d7b5/CD_SPEC_GOVT_POLIC_bn_2_195.pdf, (13 May 2017)

¹⁰³ NIS annual work plan, Ministry of Law, Justice and Parliamentary Affairs of Bangladesh Government, http://lawjusticediv.portal.gov.bd/sites/default/files/files/lawjusticediv.portal.gov.bd/page/6ee960e8_0361_49ed_862e_a3f7127260a3/nis_work_plan_ljd_31_07_16.pdf, (13 May 2017).

Practice

Experience and perceptions of corruption

Despite the presence of a robust anti-corruption structure (both legal and institutional), widespread corruption exists in the country, which is reflected in different national and international surveys on the experience and perceptions on corruption.

According to the nation-wide household survey conducted by TIB on a regular interval it is observed that the proportion of households experiencing corruption and bribery while taking services from both public and private sectors and institutions continues to be quite high. In the survey of 2015, among the surveyed households that received services from different sectors, 67.8% of them experienced one or the other forms of corruption.¹⁰⁴ This proportion was 63.7% in the survey conducted in 2012¹⁰⁵, and 84.2% in the survey conducted in 2010¹⁰⁶.

Among various forms of corruption in the service sectors the most significant is the payment of unauthorised or illegitimate money paid by the service recipients. The TIB survey (2015) shows that 58.1% of the households who received services from different service sectors paid or were forced to pay unauthorised money an average of Tk 4,538 during the reference period. The rate of corruption victims among service recipient households was 67.3% in 2012 which remained at 67.8% in 2015. Using identical indicators, results of two surveys of 2012 and 2015 show corruption level remains the same in almost all sectors in 2015 from 2012 except in local government and electricity services.¹⁰⁷

The perception on the existence and spread of corruption in different international surveys and indices also reflects a similar picture. In Transparency International's (TI) Corruption Perceptions Index (CPI) 2016, Bangladesh scored 26 points on a scale of 0 (highly corrupt) to 100 (very clean), ranking 145th from the top out of 176 countries.¹⁰⁸ It may be noted that Bangladesh has continued to score below 30 since the development of this index, which indicates that Bangladesh is a corruption-prone country.¹⁰⁹

According to the Global Corruption Barometer (GCB) 2013 of TI, 34% of the survey respondents from Bangladesh think that over the past two years corruption increased a lot, while 26% said it increased a little.¹¹⁰ 22% of respondents state that their government performs "well" at fighting corruption in government, according to Transparency International's 2013 Global Corruption Barometer.¹¹¹

Two other indicators, the World Bank's Control of Corruption and the World Economic Forum's assessment of Irregular Payments and Bribes, paint a similar picture. The World Bank scores Bangladesh 18.8 for 'Control of Corruption'.¹¹² Among 15 areas of the business environment, firms in

¹⁰⁴ TIB, 2016, *Corruption in Service Sectors: National Household Survey 2015*; https://www.ti-bangladesh.org/beta3/images/2016/es_nhhs_16_en.pdf (13 April 2017). This household survey was conducted between November 1, 2015 and December 25, 2015 in 64 districts. The survey captured information on corruption and harassment the selected households experienced during the period from November, 2014 to October, 2015.

¹⁰⁵ TIB, 2012, *Corruption in Service Sectors: National Household Survey 2012*; https://www.ti-bangladesh.org/beta3/images/max_file/HHSurvey-ExecSum-Eng-fin.pdf (12 September 2017).

¹⁰⁶ TIB, 2010, *Corruption in Service Sectors: National Household Survey 2010*; http://www.ti-bangladesh.org/research/Executive%20Summary_23122010%20FINAL.pdf (12 September 2017).

¹⁰⁷ TIB, 2016, *Corruption in Service Sectors: National Household Survey 2015*, p. ; https://www.ti-bangladesh.org/beta3/images/2016/es_nhhs_16_en.pdf (13 April 2017).

¹⁰⁸ TI, *Corruption Perceptions Index 2016*, http://www.transparency.org/news/feature/corruption_perceptions_index_2016#table (13 April 2017).

¹⁰⁹ Bangladesh was earlier placed at the bottom of the list for five successive years from 2001-2005. The score of Bangladesh has been somewhat static around 24-27 over the period 2011-16. See Iftekharuzzaman, 'Bangladesh in CPI 2016: We deserve better', *The Daily Star*, 26 January 2017.

¹¹⁰ TI, *Global Corruption Barometer 2013*, <http://www.transparency.org/gcb2013/country/?country=bangladesh> (13 April 2017).

¹¹¹ *Ibid.*

¹¹² World Bank, *Worldwide Governance Indicators: Bangladesh, 1996-2014*, <http://info.worldbank.org/governance/wgi/index.aspx#countryReports> (2 December 2015).

Bangladesh are more likely to rate political instability to be the biggest obstacle to their daily operations, followed by electricity, access to finance, and corruption.¹¹³ Moreover, 47.7% of the surveyed companies reported bribery incidence (percent of firms experiencing at least one bribe payment request).¹¹⁴

According to the Global Competitiveness Ranking, Bangladesh scores 2.3 for the indicator on 'irregular payments and bribes indicator', and is ranked 140th out of 144 countries for 2014.¹¹⁵ According to a report by the US Department of State corruption still remains a serious impediment to investment and economic growth in Bangladesh.¹¹⁶

The perceived impact of corruption in fiscal terms, an estimate made by Finance Minister, Bangladesh loses as much as 2-3 percent of the GDP every year, while on the other hand the World Economic Forum estimates show that the costs of corruption equal 5 percent of the GDP.¹¹⁷

Status of Anti-Corruption Initiatives

In general the efforts for tackling corruption has not been up to the expected level. The investigation rate compared to complaints is low, and the rate of conviction is also low. The conviction rate of ACC's cases of corruption during 2012-2015 have been below 40% on an average (In 2014 the conviction rate was the highest in four years – 46%) (Table 1). The ACC suffers from backlogs of corruption cases. Corruption investigations by the ACC lacks adequate efficiency and professionalism, which is reflected in the time taken for completing investigations, and lack of proper evidence for filing a case.

It is alleged that corruption cases are withdrawn under political considerations. ACC filed very few corruption cases against leaders of the ruling party in spite of information of amassing huge wealth beyond known sources of income as disclosed in the affidavits during the 2014 election.¹¹⁸ It is also alleged that ACC is subject to political influence and not politically neutral as it has not been able to demonstrate impartiality in handling corruption cases.¹¹⁹ In some cases, as alleged by some experts, ACC played a partisan role and did not take action against all accused equally indicating selective treatment of the accused. It is also alleged that ACC lodged very few cases against powerful persons of current ruling party and takes action against staff at lower tiers whereas the main culprits remain untouched or go scot free (TIB, 2017). There have been several evidences which imply that laws and policies are not equally applied to all officials, which resulting in an increased risk for misuse of power and grand corruption.¹²⁰

¹¹³ World Bank Group, *2013 Bangladesh Enterprise Survey*, <http://www.enterprisesurveys.org/~media/GIAWB/EnterpriseSurveys/Documents/CountryHighlights/Bangladesh-2013.pdf> (13 April 2017).

¹¹⁴ *Ibid.*

¹¹⁵ World Economic Forum, *The Global Competitiveness Report 2015-2016*, <http://reports.weforum.org/global-competitiveness-report-2015-2016/economies/#indexId=GCI&economy=BGD> (2 December 2015).

¹¹⁶ US Department of State, *Investment Climate Statement 2015*, <http://www.state.gov/documents/organization/241687.pdf> (28 December 2015).

¹¹⁷ *The Daily Star*, 'Graft takes 2-3 pc off the economy: Muhith says punitive measures are not enough to deal with the problem', 10 July 2015.

¹¹⁸ 'The ACC does not find corruption information against pro-government people', *Prothom Alo*, 9 December 2015.

¹¹⁹ GAN Business Anti-Corruption Portal, *Bangladesh Corruption Report*, <http://www.business-anti-corruption.com/country-profiles/bangladesh> (23 April 2017).

¹²⁰ For instance the BASIC Bank scam. See <http://www.thedailystar.net/country/basic-bank-scam-acc-files-18-cases-146626>, (13 May 2017).

Table 1: Total number of cases under trial, ongoing trial, cases pending due to writ/ petition, convictions, acquittal (2012 – 2016)¹²¹

Commission/ Bureau	Year	Number of cases under trial	Number of ongoing trial	Cases pending in higher courts due to writ/ revision	Conviction	Acquittal	Total disposal of cases	Percentage of conviction to total cases disposed
	2012	2016	1,605	411	42	90	132	32
	2013	2380	2,030	350	67	116	183	37
	2014	2724	2,310	414	73	86	159	46
	2015	3097	2660	437	69	119	188	37
	2016	2640	2240	400	116	98	214	54.2
	Total				367	509	876	41.9
	2012	1364	971	393	15	71	86	17
	2013	1292	888	404	24	48	72	33
	2014	1223	821	402	28	56	84	33
	2015	1080	697	389	30	88	118	25
	2016	709	441	268	39	47	86	45.3
	Total				136	310	446	30.5

However, the ACC was found to have intensified its anti-corruption drive in 2016 and 2017. The rate of conviction in corruption cases filed by the ACC (54.2%) and former BAC (45.3%) slightly increased in 2016, while in 2017 (up to July) this rate has increased up to 67.74%.¹²² The initiatives of inquiry and investigation from among the complaints received and after thorough scrutiny also increased in 2016. The ACC received nearly 12,568 graft allegations, of which enquiry was conducted into 1,543 allegations and 543 allegations were sent to departments or ministries concerned of the government for action. The ACC filed 359 graft cases in 2016, and arrested 13 persons for taking bribe and took legal action against them. A total of 388 graft suspects were arrested in 2016 in different graft cases, who include 168 government officials, 13 people's representatives, eight insurance and other non-banking financial institution officials, 112 businessmen, and 87 bank officials.¹²³ Tk 3,590 million has been recovered out of the money forged from Basic Bank, and Tk 30,420 million has been re-scheduled.¹²⁴

Apart from the regular corruption prevention activities, the ACC started to conduct public hearings from 2015 in different areas and institutions to ensure accountability of public officials. It has selected 25 sectors and institutions for ensuring control of corruption through its presence. Moreover, the ACC has introduced a hotline for lodging corruption complaints from 27 July 2017. Around 120 thousand phone calls had been made up to 7 August. Among these around 300 complaints have been considered for further enquiry.¹²⁵

Asset disclosure

The asset disclosure system is partially effective as not all the public servants and elected representatives are not brought under the legal framework. Following the law, the candidates submit their financial information before and after the election, and the parties after the election to the EC. The EC then publish these documents on its website that can be accessible by anybody.¹²⁶

¹²¹ TIB, 2017, *Anti-Corruption Agency Strengthening Initiative: Assessment of The Bangladesh Anti-Corruption Commission 2016*. Data for 2016 has been taken from

http://www.acc.org.bd/assets/statistics_of_cases_dated_from_january_2016_to_december_2016.pdf (25 May 2016).

¹²² *Daily Jugantor*, 7 September 2017.

¹²³ *The Daily Star*, 'Additional Budget Allocation for Ministries, Depts: ACC suggests scrutinising rationality of demand', 25 May 2017.

¹²⁴ http://www.acc.org.bd/assets/statistics_of_cases_dated_from_january_2016_to_december_2016.pdf (25 May 2016).

¹²⁵ *Daily Prothom Alo*, 8 August 2017.

¹²⁶ Citizens can access the financial information of electoral expenditure of all political parties and individual candidates easily to the extent that are available at the EC. Anyone can download the documents from the website. Moreover, citizens can also avail copies of these documents directly from the EC on payment as instructed in the law.

The financial information provided by the candidates and parties are published in a standardized format. The financial statements are submitted in a structured format prepared by the EC. All the contributions and expenditure heads are shown along with supporting documents/ vouchers as much as possible. It is important to note that the documents are published through a readable format (such as .pdf), but not in a usable format (such as .xls or .csv) (Global Integrity, 2015).

However, asset disclosure is only applicable for the public officials and relevant other people connected to these officials including their immediate family members. Civil servants are required to disclose their asset upon taking office and after five years to demonstrate any significant change in wealth. But the information on to what extent the submission is followed is not available.¹²⁷

There were instances of allegations against elected or senior public officials for non-compliance or for intentionally providing false or incomplete information in their asset disclosure in the past three years. However, the annual statistics for such allegations is not readily available. It may be mentioned that ACC filed very few corruption cases against leaders of the ruling party in spite of information of amassing huge wealth beyond known sources of income as disclosed in the affidavits during the 10th Parliamentary Election held in 2014.¹²⁸

The administration has taken different initiatives for ensuring the transparency and accountability, that include, for instance, introducing the participatory budgetary system, open budget system and citizen's charter at local government institutions. The approach for reducing corruption adopted by the present government is providing positive incentive for improving services at the grassroots. Under the 'innovation of good practice' the service will be improved with regard to reduced time, cost and number of visits.

The Annual Performance Agreement (APA), signed between the high public officials and the government, can play a significant role in ensuring the transparency and accountability in public administration. However, the annual evaluation against the APA is not publicly disclosed.¹²⁹ In addition, the OCG can ensure accountability and transparency in the public administration through audit reports. The ACC can ensure accountability through investigating the declarations made by public officials annually and income tax return submitted to the NBR. However, information at the central level are not disclosed properly. There is no uniform information disclosure system throughout the public bodies. According to a key informant over 90% of the public officials do not declare their assets annually.¹³⁰

It may be summarized that in Bangladesh, the low level of reliance on technology to manage, analyse and store the data submitted by public officials seems to be one of the greatest challenges to ensure the effective implementation of the rules. The existence of an online database could facilitate the cross-checking of information between different agencies as well as the tracking in changing in wealth. There is a lack of trust in the system, since the responsible agency rarely follows up or questions cases where there is a clear discrepancy in the declarations presented. Another inefficiency of the Bangladesh regime relates to the lack of provisions requiring both members of parliament and the head of government to disclose their assets.¹³¹

The civil society and the media of Bangladesh have been experiencing a mixed culture of highlighting corruption risks and cases and demanding accountability from the country's political and economic

¹²⁷ Key Informant Interview of a former high public official, 23 May 2017.

¹²⁸ *Daily Prothom Alo*, 'The ACC does not find corruption information against pro-government people', 9 December 2015.

¹²⁹ Interview with a former Secretary of Peoples' Republic of Bangladesh, 23 May 2017.

¹³⁰ *Ibid.*

¹³¹ U4 Anti-corruption Resource Center, 2013, *Asset declaration regimes in selected Asian countries*, U4 Expert Answer, #381,

http://www.transparency.org/files/content/corruptionqas/381_Asset_declaration_regimes_in_selected_Asian_countries.pdf (14 May 2017).

elite. The civil society organizations including TIB, Centre for Policy Dialogue (CPD), BRAC Institute of Governance and Development (BIGD), *Ain o Shalish Kendra* (ASK), Bangladesh Legal Aid and Services Trust (BLAST), Association for Land Reforms and Development (ALRD), and Campaign for Popular Education (CAMPE) have been doing research works through which they are trying to address corruption risks in the government service delivery institutions and sectors. Besides, there have several forums/ associations/ networks been working to aware mass people by raising their voice and support the government in policy issues by forwarding policy recommendations through these forums. This is a positive scenario which indicates that the civil society is practicing to bring the corruption issues in public discourse and working the government in bringing change in the system.

Challenges

Legal Limitations

Asset disclosure related rules are not universally applicable for all public officials, and there is no conflict of interest declaration requirement. The income and asset disclosure requirements cover officials of all branches of government, except the persons for whom the Railway Establishment Codes apply, members of any police force below the rank of Inspector, Border Guard Bangladesh (formerly known as BDR), subordinate jail officers, and any other public servant distinguished by official gazette notification.¹³² Officials at all levels unless otherwise exempted have to comply with the income and asset disclosure requirements. The MPs are not bound to disclose annual financial information under any law.

The civil servants' declarations are confidential, and thus not available to common people.¹³³ It may be noted that the legal framework of Bangladesh does not instruct for establishing an oversight body to scrutinise the interest disclosures of the elected and public officials. No statistics on any sanctions imposed for not submitting asset declarations can be found. There is an absence of an online database on disclosed assets that can be used by different agencies for cross-checking. There is no designated body to scrutinise the interest disclosures of elected and public officials; receive, enforce or review the asset declarations of public officials; protection of whistle-blowers. There is no uniform information disclosure system throughout the public bodies.

The Returning Officer of the EC is responsible for receiving and verifying candidates' nomination papers to determine whether all the provisions have been complied with. There is no independent body responsible for receiving and enforcing asset declarations from civil servants.¹³⁴

There is no uniform law or policy to clearly address the issue of 'revolving door' in Bangladesh. There is no cooling-off period for members of the government and other relevant high-level decision makers to accept employment in the private sector that relates to their former position. Moreover, there is no specific revolving door policy for decision maker, such as MPs, political advisors and cabinet members, chief executives and managers of state-owned enterprises. There is no designated authority to provide advice and oversee the revolving door related allegations. However, for violating 'The Government Servants (Conduct) Rules 1979' government servants have to face two types of penalties namely minor penalties and major penalties imposed under Government Servants (Discipline and Appeal) Rules 1985.¹³⁵

¹³² *The Government Servant (Conduct) Rules 1979*, Rule 2.

¹³³ Interview with a former high public official, 23 May 2017.

¹³⁴ U4 Anti-corruption Resource Center, 2013, *Asset declaration regimes in selected Asian countries*, U4 Expert Answer, #381, http://www.transparency.org/files/content/corruptionqas/381_Asset_declaration_regimes_in_selected_Asian_countries.pdf (14 May 2017).

¹³⁵ Minor penalties include censure, withholding for a specific period, of promotion or of increment, and stoppage for a specific period at an efficiency bar in the time-scale. Major penalties include reduction to a lower post or time-scale, compulsory retirement, removal from service, and dismissal from service. See for details: <http://lib.pmo.gov.bd/legalms/pdf/Discipline&AppealRules-1985.pdf> (25 May 2017).

No law or policy that sets a framework for lobbyists and lobbying activities in Bangladesh. No rules and guidelines are there that set standards for expected behaviour for public officials, for example to avoid misuse of confidential government information.

Bangladesh has no specific domestic law that categorically criminalises the offence of bribery of foreign public officials and officials of public international organisations.¹³⁶ However, it may be mentioned that Section 2 of the Penal Code 1860 provides for criminalising any offence committed in Bangladesh by any person though the law is not directly or specifically fulfilled the UNCAC obligation. For this reason, it could be extended to include a limited number of cases of bribing foreign public officials and officials of public international organisations. Furthermore, there is no dedicated body charged to investigate the allegations of foreign bribery.

In some cases, there are specific rules or practices that relate to the transparency of corporations resulting in high corruption risks. For instance, almost all companies maintain book and records by following the accounting principles of International Accounting Standard.¹³⁷ The Companies (Bangladesh) Act 1994¹³⁸ has clearly defined the process of maintaining all financial transactions properly and fairly. In addition, publicly traded companies generally are audited by external Chartered Accountant firms.¹³⁹ However, external audit is not mandatory for non-listed or privately held companies.¹⁴⁰ According to law, penalty¹⁴¹ is compulsory if false evidence is provided intentionally. Furthermore, many companies have adopted 'code of conducts' as an integrity measure to participate in public procurement¹⁴² but there is no anti-corruption policy for employees, statements certifying that they have not engaged in illegal conduct as part of their bid.

The definition of whistle-blowing is narrow in the sense that it does not mention the breaches of obligation, miscarriages of justice, mismanagement, and conflict of interest. The law does not mention the remedy of whistleblower who suffered by detrimental action. The law does not provide transparent, enforceable and timely mechanisms to follow up on retaliation complaints. Furthermore, if a whistleblower is not able to disclose the public interest information within the workplace (this act only effective for public office) then s/he can consider the head of the oversight or investigative agencies, such as persons holding a constitutional post (President, MP, Speaker, member from judiciary, Register of Supreme Court, ACC, CAG, and Officer-in-Charge of respective police station) as a competent authority to disclose the information.¹⁴³ Finally, there are still lack of awareness and implementation of the whistle-blowing law due to inadequate campaign from the government's part.

The Public Procurement Act 2006 allows sole-sourced purchases but the threshold is not clearly defined in this act.¹⁴⁴ Regarding Domestic Procurement, direct procurement method will be applied while only a sole tenderer is available for the supply or provision of the goods, related services, works and physical services.¹⁴⁵ Moreover, a sole tenderer is also available at the International Direct Procurement Method for the supply or provision of goods, works or services because of arising any technical reason.¹⁴⁶ For procurement of intellectual and professional services, "Single source selection

¹³⁶ <http://uncaccoalition.org/files/cso-review-reports/year1-bangladesh-report.pdf> (25 May 2017).

¹³⁷ Interview with an auditor, 19 June 2017.

¹³⁸ *The Companies (Bangladesh) Act 1994*, Articles 181 to 190.

https://www.iiiglobal.org/sites/default/files/companiesact_0.pdf

¹³⁹ Interview with an auditor, 19 June 2017.

¹⁴⁰ *Ibid.*

¹⁴¹ *The Companies (Bangladesh) Act 1994*, Article 334, 335.

¹⁴² Interview with a procurement manager of an NGO, 14 June 2017.

¹⁴³ *The Public-interest Information Disclosure Act (Provide Protection)*, 2011, Section 1 and 4.

¹⁴⁴ *The Public Procurement Act 2006*, Section 32, 34, 35, 38.

¹⁴⁵ *The Public Procurement Act 2006*, Section 32. It says that "The procurement of fuel or spare parts or urgent repair by any carrier bearing national flag outside the territory of Bangladesh, which cannot plan in advance or where there is an urgency to bring the carrier back into service without delay, may be undertaken using the direct procurement method mention in section 32(b)".

¹⁴⁶ *The Public Procurement Act 2006*, Section 34.

method in the following cases- if necessary in continuation of on- going or just completed assignments; low value small assignment; a speedy selection required in an emergency situation; where only a single firm has the required qualification or rare experience required for the assignment; if an urgent need of the services is required, in the case of catastrophic event".¹⁴⁷

Challenges of Implementation

The role and power of the judiciary in trying corruption cases has a history of being undermined by political influence.¹⁴⁸ Apart from political interference the judiciary has largely been ineffectual in conducting independent prosecution of corruption cases due to lack of training in anti-corruption matters, sluggish investigation, poor administrative set-up, and inefficiency of the investigating agencies (TIB, 2014). Although, the vigilance of the prosecution lawyers is crucial for sustaining the court's keenness to see that the corrupt are brought to justice, the former, being largely composed of unskilled professionals, are unable to perform efficiently. One of the reasons behind the low conviction rate of ACC's cases of corruption is the lengthy process of disposal of cases resulting into a low turnout of witnesses (TIB, 2017).

Policy Challenges

There is a dearth of policy and long-term planning in reducing and preventing corruption. The government lacks baseline data on corruption, although the fact that corruption is pervasive and widespread in the country and needs to be reduced has been acknowledged in all the national policy documents. Despite mentioning this reality, the documents largely focus on the strategy without setting any target. For instance, there is no milestone/ target mentioned in the Vision 2021. In the mapping exercise for SDG, only the National Integrity Strategy is mentioned as the existing policy instrument, and no target mentioned in the 7FYP. Although the ACC has developed a draft 'Anti-Corruption Commission Communication Strategy' for five years (from 2015 to 2019) in 2014, the draft has not been finalized, and therefore shared in the public domain.

As mentioned earlier, the elected governments have so far been suffering from a 'denial syndrome' when it comes to admitting the existence of corruption in different public sectors and institutions, revealed by different surveys and research reports. Instead of taking measures against corrupt practices, a segment of the government tends to deny such reports.

Conclusion

In the above discussion it is observed that Bangladesh has a robust legal and institutional framework for reducing corruption. However, despite this structure corruption is rampant in the country. The institutional capacity to address corruption is questionable due to low numbers of enquiry and investigation compared to complaints, poor case disposal and poor rate of convictions, which reflects lack of adequate investigation and prosecution skills. There is also allegation of impunity on the part of corrupt political leaders that may have provided incentive for the expansion of corruption at different levels. Despite having taken some recent initiatives, the ACC has not been able to show its ability and political will to take actions against the high level politicians and public officials. Policies related to transparency and accountability in public institutions are regularly flouted. The willingness of the government to pursue anti-corruption measures is challenged due to some legal limitations, and lack of implementation.

¹⁴⁷ *The Public Procurement Act 2006*, Section 38.

¹⁴⁸ For instance, a committee was set up by the government in 2009 with an aim to review applications for withdrawal of corruption cases filed against politicians during the Caretaker Government. The committee withdrew as of March 2011, some 4,687 cases, most of which involved members of the ruling party, terming the cases as 'politically-motivated'. It dropped 12 corruption cases against the then Prime Minister and other cases filed against senior party leaders, supporters, and their relatives. On the other hand, it was reluctant to drop criminal charges filed against opposition party leaders and has refused to withdraw charges against journalists and human rights activists. See for details TIB, NIS Assessment 2014.

Developing Effective, Accountable and Transparent Institutions

As a party to the SDGs 2030, Bangladesh has pledged, under SDG 16, to “promote a peaceful and inclusive society ... provide access to justice for all and build effective, accountable and inclusive institutions at all levels”. The Goal 16.6 envisions to develop effective, accountable and transparent institutions at all levels. The indicators to measure the progress of the target are ‘Primary government expenditures as a proportion of original approved budget, by sector (or by budget codes or similar) (Indicator 16.6.1); and ‘Proportion of the population satisfied with their last experience of public services (Indicator 16.6.2).

The indicators set under 16.6 as they interpret have some clear connotations that they are not fully likely to extract in-depth progress but only the quantitative progress. If the indicators set here are followed, there will be a strong chance to avoid qualitative progress of the institutions in terms of their effective functioning, transparency, and accountability. Having these limitations taken into consideration, this reporting has adopted and followed an analytical framework. The framework has considered three dimensions – legal framework, capacity and resources, and implementation of laws and regulations (see Table 2). However, the analysis part of this report focuses on three areas – preparedness, practices, and challenges – as mentioned in the methodology.

Table 2: Analytical Framework for Target 16.6

Dimension	Indicators
	1. Relevance and Adequacy of law determining effecting functioning
	2. Relevance and Adequacy of law determining accountability mechanism
	3. Relevance and Adequacy of law determining transparency
	4. Expenditure against allocated budget
	5. Institutional capacity including infrastructure and human resources
	6. Accountability measures
	7. Transparency initiatives
	8. Effectiveness of services: People’s satisfaction on last services

This chapter focuses on the current situation of the major institutions in Bangladesh regarding their effective functioning, and state of transparency and accountability practices. This report takes into consideration major institutions mentioned in the National Integrity Strategy (NIS)¹⁴⁹ of the Government (Table 3).

Table 3: Institutions Covered

Core governance institutions	Public sector agencies	Non-government actors
1. Parliament	1. Public Administration (PA)	1. Political parties
2. Executive (President, Prime Minister, Cabinet members)	2. Law Enforcing Agency (LEA)	2. Media
3. Judiciary	3. Election Commission (EC)	3. Civil society
4. Local Government (LG)	4. Office of the Comptroller and Auditor General (OCAG)	4. Business
	5. Anti-Corruption Commission (ACC)	
	6. Information Commission (IC)	
	7. Human Rights Commission (HRC)	

¹⁴⁹ For details see Cabinet Division, *National Integrity Strategy of Bangladesh*, People’s Republic of Bangladesh, 2012, p. 4, http://cabinet.portal.gov.bd/sites/default/files/files/cabinet.portal.gov.bd/publications/936e5c09_7735_4d3d_a2f3_861e57d33d3a/CD_SPEC_GOVT_POLIC_bn_2_195.pdf (14 June 2017).

Preparedness

Legal framework

The Constitution of Bangladesh clearly spells out the formation, function and accountability mechanism of main organs of the state i.e., the parliament, judiciary, and executive. The Constitution also provides clear ideas about formation and function of some basic institutions, which includes the LG, EC, and OCA. However, the Constitution does not cover directly about other institutions taken into consideration in the NIS.

Other than the Constitution, there are a huge number of laws and policies having the determinations of the functions of the said institutions. The major laws, as well as their specificities in determining effective functioning, transparency, and accountability, are given in Annex 3. It shows that RTI Act, 2009 is the key legal instrument to ensure access to information¹⁵⁰ to different agencies. However, this law does not include the institutions like political parties, media, and business.¹⁵¹

It is observed that the existing laws are comprehensive and robust in nature. The Constitution of Bangladesh provides full independence to the parliament.¹⁵² The Parliament Secretariat Act, 1994 provides the Speaker with administrative and financial power.¹⁵³ The Higher Court on its own (*suo-moto*) or by dint of any writ petition can ask the Government to show cause as to why a law would not be declared null and void if it is deemed to be against the basic spirit and content of the Constitution (Aminuzzaman and Khair, 2017). The President has the power to dissolve the Parliament under the Constitutional provision. An MP is protected for what s/he says in the parliament.¹⁵⁴ Parliamentary sessions are open to people which are telecast live.

The structure of the Executive Body is explained in the Constitution.¹⁵⁵ The Rules of Business provides the formal and legal provisions that empower the Executive branch which includes the President, the Prime Minister, the Cabinet and its Committees. There are some accountability mechanisms. The cabinet is collectively responsible to the Parliament.¹⁵⁶ The financial accountability of the Executive in Bangladesh is discharged primarily through the work of three Parliamentary watchdog committees – the Public Accounts Committee (PAC), Estimates Committee (EC), and Public Undertakings Committee (PUC). Standing Committees of the Parliament act as the oversight bodies to ensure accountability of the respective ministries of the government.¹⁵⁷ The RTI Act 2009 requires the executive bodies to disclose information about what they do and how they work to the citizens.

The Constitution of Bangladesh guarantees the independence of the Judiciary from the Executive.¹⁵⁸ This independence has been reiterated in the landmark case – Masdar Hossain Case¹⁵⁹ - that the

¹⁵⁰ According to the Right to Information Act, 2009 “information” includes any memo, book, design, map, contract, data, log book, order, notification, document, sample, letter, report, accounts, project proposal, photograph, audio, video, drawing, painting, film, any instrument done through electronic process, machine readable record, and any other documentary material regardless of its physical form or characteristics, and any copy thereof in relation to the constitution, structure and official activities of any authority.

¹⁵¹ Right to Information Act, 2009 includes: (i) any organization constituted in accordance with the Constitution of the People’s Republic of Bangladesh; (ii) and ministry, division or office established under the Rules of Business made under article 55(6) of the Constitution of the People’s Republic of Bangladesh; (iii) any statutory body or institution established by or under any Act; (iv) any private organisation or institution run by government financing or with aid in grant from the government fund; (v) any private organisation or institution run by foreign aid in grant; (vi) any organisation or institution that undertakes public functions in accordance with any contract made on behalf of the Government or made with any public organisation or institution; or (vii) any organisation or institution as may be notified in the official Gazette from time to time by the Government.

¹⁵² *The Constitution of Bangladesh*, Article 65.

¹⁵³ Enacted as per the instruction made in Article 79 of the Constitution of Bangladesh.

¹⁵⁴ *The Constitution of Bangladesh*, Article 78.

¹⁵⁵ *The Constitution of Bangladesh*, Article 48-58.

¹⁵⁶ *The Constitution of Bangladesh*, Article 55.

¹⁵⁷ *The Constitution of Bangladesh*, Article 76.

¹⁵⁸ *The Constitution of Bangladesh*, Article 94-116.

¹⁵⁹ The case of Secretary, Ministry of Finance vs Masdar Hossain.

administrative functions of the judiciary services must vest under the Supreme Court but not under the executive branch of the government. The existing laws provide that all subordinate courts and tribunals are accountable to the High Court Division of the Supreme Court. The Chief Justice supervises both divisions of the Supreme Court.

The Constitution empowers the local government to impose taxes for local purposes, to prepare their budget and to maintain funds.¹⁶⁰ There are several tier-wise laws determining the functions and jurisdiction of the local government.¹⁶¹ The Upazila Parishad (Appeal against Order) Rules, 2016 empowers the citizens to place appeal application against any unlawful order issues by the Upazila Parishad.¹⁶² The RTI Act 2009 sets the provisions for all LGIs to disclose and share information. Different tier-wise acts of the local government have provisions of citizen charter, ward meetings, and open budget meetings and citizens right to information.

The Constitution clearly details out that the public administration would be run as per a law passed by the Parliament.¹⁶³ The Ministry of Public Administration (MoPA) is responsible for overall human resources management of the civil service of Bangladesh. There are an adequate number of Acts, Rules, and Orders that set the overall provisions to management the role and functions and performance of the public servants. The laws bar the public sector employees from any political activities. A set of laws¹⁶⁴ set the functionalities of transparency in the public administration. Accountability of public servants is determined by laws.¹⁶⁵ The requirements of internal accountability and discipline of the civil servants are also spelled out in different laws.¹⁶⁶

The Police Act of 1861 is the primary legal instrument to govern the law enforcing agencies (LEAs). The Police Regulations of Bengal 1943 provides power to the Inspector General of Police (IGP) and other senior officers to carry out inspections of police stations on their functioning. The police, like other government departments, are legally bound to provide information to citizens on demand under the RTI Act 2009.¹⁶⁷

The Constitution provides for the establishment of an Election Commission (EC) for Bangladesh.¹⁶⁸ According to the Constitution, the EC is an independent constitutional body in the exercise of its functions. Laws¹⁶⁹ provide that it shall be the duty of all executive authorities to assist the EC in the discharge of its functions. The Commission has the power to require any person or authority to perform such functions or render such assistance for the purpose of the election as it may direct. Laws provide an independent office to support the EC in functioning as an effective institution.¹⁷⁰ Citizens deserve the right to hold them accountable through a prerogative writ viz. public litigation. The Office of the CAG is responsible for ensuring post-expenditure accountability of EC. An MP can raise a petition against any irregularities of the EC.¹⁷¹ Laws provide that EC Secretariat has to publish all relevant information of any election in the government gazette.¹⁷²

¹⁶⁰ *The Constitution of Bangladesh*, Article 60.

¹⁶¹ Union Parishad, Upazila Parishad, Zila Parishad, Municipalities, City Corporation.

¹⁶² http://www.lgd.gov.bd/LGD_FILES/upz-act-2016.pdf (15 June 2017).

¹⁶³ *The Constitution of Bangladesh*, Article 133.

¹⁶⁴ Specifically, the Official Secrets Act 1923, the Government Servants (Conduct) Rules 1979, and the Right to Information Act 2009.

¹⁶⁵ *The Government Servants (Discipline and Appeal) Rules, 1985* and *The Secretariat Instruction 2008*.

¹⁶⁶ *The Public Employees Discipline (Punctual Attendance) Ordinance, 1982*.

¹⁶⁷ *The Evidence Act, 1872* and the *Public-Interest Information Disclosure Act (Protection), 2011* also provide instruction about information disclosure.

¹⁶⁸ *The Constitution of Bangladesh*, Article 118.

¹⁶⁹ *The Constitution of Bangladesh*, Article 126 and the *Representation of the People Order, 1972*, Clauses 4 and 5.

¹⁷⁰ *The Election Commission Secretariat Act, 2009*.

¹⁷¹ As per the Rule 100 of the Rules of Procedure of the Parliament.

¹⁷² As per the *Election Commission Secretariat Act, 2009*. Like other institutions, the RTI Act, 2009 is applicable for access to information of the EC.

The Constitution provides independence of the Office of the CAG and also determines its functions and authority.¹⁷³ Subsequent laws¹⁷⁴ also detail out the responsibilities of this Constitutional body. It is provided in the Constitution that the report of the OCAG relating to the public accounts shall be submitted to the President, who shall cause them to be laid before the Parliament.¹⁷⁵

The ACC is an independent and statutory body.¹⁷⁶ The RTI Act, 2009 is applicable to ACC subject to reasonable confidentiality considerations as provided by the Act itself. The ACC is not directly accountable to the Parliament as such or to any Executive authority. But it submits an annual report to the President which then is forwarded to the Parliament. All inquiry and investigation related works of the ACC can be judicially reviewed based on the application from any aggrieved person. Moreover, the financial operations of ACC are subject to audit by OCAG.

According to laws, the Information Commission (IC) is an independent body to act on people's right to information from the public and other agencies.¹⁷⁷ The President appoints all Commissioners from the list prescribed by a five-member selection committee prescribed by law. Laws provide the Commission the scope to keep the investigation process into allegations against their staff confidential. The IC is accountable to the President.¹⁷⁸

The National Human Rights Commission (NHRC) is by law an independent entity.¹⁷⁹ The President appoints its Chairman and Commissioners on the recommendation of a Selection Committee headed by the Speaker and comprising largely of members from government ministries. The NHRC is answerable to the President. The accounts of the Commission shall be audited by the OCAG.¹⁸⁰

The right to form political parties and their activities are approved in the Constitution.¹⁸¹ Laws provide that no political party can be formed with the objective of propagating any opinion or acting in a manner, prejudicial to the sovereignty, integrity or security of Bangladesh and no one will be allowed to form, organise, set up or convene a foreign-aided party.¹⁸² Furthermore, underground political activity and armed cadre are forbidden by the law.¹⁸³ Laws also provide that political parties having the purpose of participating in the Parliamentary Elections must be registered with the EC.¹⁸⁴ The laws provide safeguards against the arbitrary dissolution of Parties by the Government.¹⁸⁵ The laws detail out the options of mobilizing funds by the political parties and require disclosure of funding sources and elections expenses alongside statements of the contesting candidates' assets and liabilities. Political parties are required to submit their financial audited report (audited by a registered CA firm) to the EC in every fiscal year.¹⁸⁶

The Constitution of Bangladesh has separately guaranteed press freedom.¹⁸⁷ Laws provide some accountability mechanism to regulate the media. Laws empower the government to forfeit, by official gazette notification, and cause to be seized, all copies of any book or paper if they contain any words, signs or visible representations are indecent, obscene or scurrilous.¹⁸⁸ The government is also

¹⁷³ *The Constitution of Bangladesh*, Article 127.

¹⁷⁴ *The Comptroller and Auditor-General (Additional Functions) Act, 1974*.

¹⁷⁵ *The Constitution of Bangladesh*, Article 132.

¹⁷⁶ *The Anti-Corruption Commission Act, 2004*. The *Anti-Corruption Commission (Amendment) Act, 2011* provides more power to act as an effective institution.

¹⁷⁷ *The Right to Information Act, 2009*.

¹⁷⁸ *Ibid.*

¹⁷⁹ *The National Human Rights Commission Act, 2009*.

¹⁸⁰ Accountability mechanism is provided in the *National Human Rights Commission Act, 2009*.

¹⁸¹ *The Constitution of Bangladesh*, Article 152.

¹⁸² *The Political Parties Ordinance, 1978*. (these conditions are mentioned in Article 2(a), 3(1)).

¹⁸³ *Ibid.*

¹⁸⁴ *The Registration of Political Parties Rules, 2008*.

¹⁸⁵ The Political Parties Ordinance, 1978 (it is mentioned in Article 6(1) & (2)).

¹⁸⁶ *The Registration of Political Parties Rules, 2008* (Article 9(b)).

¹⁸⁷ *The Constitution of Bangladesh*, Article 39.

¹⁸⁸ *The Printing Presses and Publication (Declaration and Registration) Act, 1973*.

empowered to take actions if any person deliberately publishes any material in an electronic form that causes to deteriorate law and order, prejudice the image of the state or person or causes to hurt religious belief.¹⁸⁹ The Press Council Act, 1974 empowers the Press Council to take actions against newspaper or news agency for breaching the Act.

There are a number of laws that permit civil society organisations or NGOs to carry out activities.¹⁹⁰ The NGO Affairs Bureau is empowered to regulate NGOs and civil society organisations that receive foreign donations.¹⁹¹ Laws provide that no organisation, irrespective of its legal status, can receive funds from abroad unless it is registered with the NGO Affairs Bureau and has prior permission from the Bureau.

A number of legal frameworks exist to regulate the business sector.¹⁹² The Companies Act, 1994 details out the issues of company administration and management. The Institute of Chartered Accountants of Bangladesh (ICAB) has adopted 30 of the 41 International Accounting Standards (Aminuzzaman and Khair, 2017).

Institutional arrangements, capacity, and resources

All institutions covered in this report are endowed with well-defined institutional arrangement. A few institutions like the Parliament, Executive, and Public Administration are siphoned with adequate human resources. Some institutions such as the Parliament, Executive, LGs, OCAg, EC, PA, LEAs, and ACC occupy adequate infrastructure for effective functioning of their businesses.¹⁹³

According to the first indicator set against the target 6, the selected institutions are expected to have the capacity to make effective use of the resources allocated for their functioning. It is viewed that a few institutions such as the Executive (93.91%), LG (100.98%), LEAs (111.35%), OCAg (99.70%) and ACC (105.61%) have a good capacity of expenditure of allocated budget (see Table 4). Among the selected institutions LEAs (113.31%), LG (97.13%) and ACC (100%) are the best performers in terms of utilising development budget.

Table 4: Government Expenditures as a Proportion of Original Approved Budget (FY 2013-14 and 2014-15)¹⁹⁴

Institution	Total Expenditure (%)	Development Expenditure (%)
Parliament	62.43	38.88
Executive	93.91	78.84
Judiciary	89.15	78.06
Local Government	100.98	97.13
Public Administration	75.31	50.96
Law Enforcing Agencies	111.35	113.31
Election Commission	54.85	29.86
Comptroller and Auditor General	99.70	-
Information Commission	75.56	-
Anti-Corruption Commission	105.61	100
Human Rights Commission	76.79	-

¹⁸⁹ *The Information and Communication Technology (Amendment) Act, 2013.*

¹⁹⁰ *The Societies Registration Act, 1860* permits activities ranging from the promotion of science, art and culture to social development. *The Charitable Endowments Act, 1890* permits the social welfare and related activities of CSOs where the Cooperative Societies Ordinance (1984) details out activities related to operating cooperative society.

¹⁹¹ Empowered by the *Foreign Donations (Voluntary Activities) Regulation Ordinance 1978* (as amended by Ordinance XXXII of 1982).

¹⁹² *The Securities and Exchange Ordinance 1969, The Bangladesh Bank Order 1972, The Bank Companies Act 1991, The Financial Institutions Act 1993, The Securities and Exchange Commission Act 1993, The Companies Act 1994, The Bankruptcy Act 1997.*

¹⁹³ Opined by relevant experts in Key Informant Interviews.

¹⁹⁴ Ministry of Finance: https://mof.gov.bd/en/budget/year_end_fiscal/year_end%20report_2014_15.pdf and https://mof.gov.bd/en/budget/year_end_fiscal/year_end_report_2013_14.pdf (22 June 2017).

Institution	Total Expenditure (%)	Development Expenditure (%)
Political parties	NA	NA
Media	NA	NA
Civil society	NA	NA
Business	NA	NA

In terms of the institutional arrangement of the selected institutions as well as allocated and existing human resources, it is found that some institutions are well equipped with an office set up and sufficient human resources as required for effective functioning and maintaining transparency and accountability.¹⁹⁵

Practice

The Parliament

The Parliament formulated a two-year Bangladesh Parliament Strategic Plan 2012-2014 with a vision to develop a model parliament. The Parliament sessions are televised through its own channel Sangsad Television. It is also important to mention that Bangladesh Parliament discusses a lot of current issues.

However, despite a number of positive initiatives, the Parliament has not been effective at an expected level. In the 10th Parliament,¹⁹⁶ it is observed that the “main opposition” lacks the capacity and voice to play an expected role in ensuring accountability of the government (TIB 2015). It is also seen that there is the enormous use of non-parliamentary language by the MPs while the Speaker's role is not strong enough to stop them. The MPs have limited participation in the motion of law-making, question-answer, and notices on public importance. The Parliament also observes limited participation of female members in different motions. The Parliament did not have any discussion on international treaties and agreements although there is a provision. Conflict of interest in the case of some of the standing committee members and irregular meeting of the committees is also evident in the 10th Parliament. The absence of specific timeline and enforceability for implementing recommendations of the standing committees is also observed. Studies suggest limited access to the information in parliamentary business (Aminuzzaman and Khair, 2017). There is the widespread dominance of the Executive in the Legislative process. Poor parliamentary culture and dominant attitude of the ruling party is evident. There is no mechanism (such as the recall system) to hold the MPs accountable by the citizens. Rather than being involved in legislative business MPs are interested in engaging in patronage distribution which undermines their lawmaking responsibility (TIB, 2012).

The Executive

The Executive has formulated guidelines for cabinet meeting (summary formulation and presentation, participation in meeting, and procedure of implementing decisions), published on best practices in service sector, started Access to Information (a2i) project, established the Governance Innovation Unit, started video conferencing with Deputy Commissioners, and sending encouraging mail to the best performing DCs based on an annual assessment under National e-service System (NESS) and Union Information Service Centre (UISC), introduced Fortnightly Confidential Report (FCR) for the Deputy Commissioners to report to the Cabinet Division by using Information Exchange Management System (IEMS)¹⁹⁷. It also formulated the Integrity Award Policy 2017¹⁹⁸, started signing Annual

¹⁹⁵ See Annex 4.

¹⁹⁶ One of the large party and the coalition led by it did not participate in the last national election due to non-fulfilment of their demand for a non-party caretaker government. Hence, most of the MPs of the ruling party got elected without any contest from any party. The current opposition party holds 34 seats in the Parliament.

¹⁹⁷

http://cabinet.portal.gov.bd/sites/default/files/files/cabinet.portal.gov.bd/publications/5ab9615e_241a_4c7b_869b_048ce6212195/BestpracticesCopy.pdf (14 June 2017).

¹⁹⁸ For details see

http://cabinet.portal.gov.bd/sites/default/files/files/cabinet.portal.gov.bd/notification_circular/dcd10ed2_ed24_438b_9998_4ba8ee486b62/Award_GO.pdf (14 June 2017).

Performance Agreement (APA) between the Cabinet Division and other ministries and department, and formed an Expert Pool for annual performance management in ministries/ departments¹⁹⁹.

According to the Constitution, the Prime Minister and the Ministers are accountable to the Parliament and they have to answer for their action in the parliament; and Ministers are also individually accountable to the Prime Minister. In practice, parliamentary control over the Executive is weak.²⁰⁰ the Executive power is exercised by or under the authority of the Prime Minister, not by the Cabinet. Division of power amongst the legislative, executive and judicial branches of the government is largely uneven and dominated by the Prime Minister. There is no formal provision that requires asset disclosure by the head of state or government or cabinet members. There is no effective restriction on Ministers and MPs involving in business with the government.²⁰¹

The Judiciary

Some of the remarkable efforts of the Judiciary include providing legal aid to 68,430 individuals in last three years on government expenditure, completion of 30,638 criminal and civil cases on government cost, providing training to 2,040 judicial and legal officials, providing registered documents to all parties²⁰², etc.

However, the judiciary suffers from a huge number of pending cases, which was 31,39,275 in September 2016. Even after the formal separation of the judiciary from the executive, the subordinate courts continue to be influenced by the executive. The budget for subordinate courts is managed by the Law and Justice Division of the Ministry of Law, and not by the Supreme Court.²⁰³ There is allegation of political manipulation by the ruling government in appointments, promotions, removals, and conduct of judges.²⁰⁴ Lack of capacity building initiatives for judges in dealing with cases and inadequate budget allocation for the proper functioning of the judiciary is alleged, which is leading to the backlog of unresolved cases.²⁰⁵ An inadequate number of judges compared to the number of cases dealt by every court is also causing the congestion.²⁰⁶ Dual control of judiciary by the Supreme Court and the Law and Justice Division is also evident.²⁰⁷

Local Government

There are a lot of efforts taken to enhance transparency and accountability of the LGIs, such as the introduction of the open budget system and citizen's charter at LGIs, and Ward Shava at Union Parishad and Town Level Coordination Meeting at Municipalities. Production of an operational manual for each tier of LGIs is an example of the efforts to enhance the efficiency of the LG. the LGD constructed a number of LGIs buildings in the recent years to enhance the active functioning of the LGIs.²⁰⁸ Online based birth and death registration at LGIs is a good example of moving towards e-governance.²⁰⁹

¹⁹⁹ For details see

http://cabinet.portal.gov.bd/sites/default/files/files/cabinet.portal.gov.bd/notification_circular/86f0b16f_bd42_4f28_af42_dec5a6dede98/Expert%20Pool0001.pdf (14 June 2017).

²⁰⁰ *Ibid.*

²⁰¹ *Ibid.*

²⁰² For details see

http://lawjusticediv.portal.gov.bd/sites/default/files/files/lawjusticediv.portal.gov.bd/page/b3f8b7c7_c37c_464e_9257_c2_0cc6aa6e07/ljd_molipa_apo_2016_17.pdf (14 June 2017).

²⁰³ <http://epaper.prothom-alo.com/view/dhaka/2017-06-06/11> (15 June 2017).

²⁰⁴ *Op cit.*, TI 2014.

²⁰⁵ <http://epaper.prothom-alo.com/view/dhaka/2017-06-06/11> (15 June 2017).

²⁰⁶

http://lawjusticediv.portal.gov.bd/sites/default/files/files/lawjusticediv.portal.gov.bd/page/b3f8b7c7_c37c_464e_9257_c2_0cc6aa6e07/ljd_molipa_apo_2016_17.pdf (14 June 2017).

²⁰⁷ KII with legal expert (5 June 2017).

²⁰⁸ http://www.lgd.gov.bd/LGD_FILES/lg-apa-16-17.pdf (15 June 2017).

²⁰⁹ <http://br.lgd.gov.bd/> (15 June 2017).

The LGIs are resource poor, so they depend on the central government for the budget. The control on LGIs by the central government bears the characteristics of ‘de-concentration’ rather than true ‘decentralization’. There is direct and indirect control of the MPs, by which LGI leadership gets politicized and suffers from an image crisis for alleged corrupt practices. The monitoring mechanism of the Monitoring and Evaluation Wing of LGD is weak, inadequate and ineffective (Aminuzzaman and Khair, 2017). Authority and functions of Upazila and Zila Parishad are not tangible as they are not much empowered according to laws. There are visible tensions between LGIs and bureaucracy about mutual understanding on their roles and functions. For instance recently a number of elected mayors and councilors of city corporations and municipalities have been dismissed by the local administration. Options to mobilize funds by the LGIs on their own are inadequate. They also lack the capacity for financial management and to incorporate ICT-based service to ensure transparency and accountability.²¹⁰ Party-based local government election system introduced through law amendment²¹¹ in 2016 has led to ‘party-archy’ and polarization at the local level and finally a weak local government system.²¹²

Public Administration

Some significant efforts in the Public Administration include the use of automation software at field level, weekly public hearing at Divisional Commissioner and Deputy Commissioners’ offices, publication of Bangladesh Journal of Public Administration (half-yearly), Public Administration Bulletin (yearly), and Public Administration Periodicals (quarterly)²¹³, formulation of NIS implementation and monitoring plan²¹⁴, capacity building of 442 staff to introduce e-filing system, formulation of Public Administration Award Policy²¹⁵, formulation of action plan to achieve SDG 16²¹⁶, and citizen charter on the web page²¹⁷.

The public administration in Bangladesh is centralized in terms of service delivery, resource allocation, procurement, and implementation of projects. There are allegations of politicization of officials, which has led to large numbers of civil servants have been placed as Officers on Special Duty (OSD) on political considerations, though their salaries are paid from public money in spite of requiring no duties from them. Integrity and recruitment procedures of public officials have been questioned. The promotion system is not transparent and done with promotions often based on arbitrary decisions of the government (Aminuzzaman and Khair, 2017). The MOPA does not publish the conflicts of interest related cases of civil servants.²¹⁸

Law Enforcing Agencies

A number of efforts is carried out by the LEAs, which include establishment of one-stop service centres at every police station and victim support centres at every district, introduction of e-traffic police system at Dhaka Metropolitan City and Crime Data Management System at Police Headquarters²¹⁹, providing basic training to incorporate instruction on the appropriate use of force as part of efforts to implement community-based policing²²⁰.

²¹⁰ http://www.lgd.gov.bd/LGD_FILES/lg-apa-16-17.pdf (15 June 2017).

²¹¹ http://www.lgd.gov.bd/LGD_FILES/pou1-2207-1.pdf and http://www.lgd.gov.bd/LGD_FILES/UP%20Act-2015.pdf (15 June 2017).

²¹² <http://archive.newagebd.net/186396/local-government-elections-in-bangladesh-and-democracy/> (15 June 2017).

²¹³ http://cabinet.portal.gov.bd/sites/default/files/files/cabinet.portal.gov.bd/publications/5ab9615e_241a_4c7b_869b_048ce6212195/BestpracticesCopy.pdf (14 June 2017).

²¹⁴ <http://www.mopa.gov.bd/uploads/2016/reports/discipline3-2016-1184-1.pdf> (15 June 2017).

²¹⁵ <http://www.mopa.gov.bd/uploads/2016/reports/apa-2016-2017.PDF> (15 June 2017).

²¹⁶ <http://www.mopa.gov.bd/uploads/2016/reports/admin2-2016-714-3.pdf> (15 June 2017).

²¹⁷ http://www.mopa.gov.bd/uploads/2015/citizen/Institutional_CC.pdf (15 June 2017).

²¹⁸ Interview with a public administration expert on 23 May 2017.

²¹⁹ http://cabinet.portal.gov.bd/sites/default/files/files/cabinet.portal.gov.bd/publications/5ab9615e_241a_4c7b_869b_048ce6212195/BestpracticesCopy.pdf (14 June 2017).

²²⁰ Bangladesh Human Rights Report 2016, <https://www.state.gov/documents/organization/265744.pdf> (15 June 2017).

Despite the recent success of crippling the terrorist activities by the Islamist fundamentalists, the crime rate remains almost the same over the last several years.²²¹ The roles played by different law enforcing agencies continue to raise controversies. There are continued allegations of corruption and abuse of power against the law enforcing agencies. However, the government took limited measures to investigate and prosecute cases of abuse and killing by security forces, including through the Internal Enquiry Cell of the Rapid Action Battalion (RAB).²²² The government neither released statistics on total killings by security personnel nor took comprehensive measures to investigate cases in 2016.²²³ There is political and bureaucratic interference in the cases which resulted in police inefficiency and abuse including illegal detention, death in custody, torture and pervasive corruption. It is alleged that the police collude with others at different levels within the Force in extracting bribes and the proceeds accruing from the process are mutually shared.

Election Commission

There is an allegation that barring a few exceptions the EC has failed to ensure free, fair and credible elections in the last few years. The EC failed to exercise legal authority to prevent violence and rigging. In the last elections especially of the LGs, the EC did not prove its control on the law enforcing agencies and failed to stop election violence. A number of 573 persons died and 32,183 injured during 2013-15 elections. Moreover, it is alleged that there was huge rigging in UP elections of 2016 where voters could not cast their votes smoothly.²²⁴ No measures were taken to public officials who failed to perform duties and candidates who breached electoral rules. It is alleged that the appointment of the Election Commissioners is made on political consideration, and the process is not transparent. Hence, lack of trust on the ECs prevails. The EC does not invest into the scrutiny on the income statements and election expenses submitted by the candidates as well as the statements of the political parties on their funding sources and expenditures. The income-expenditure statements and audit reports of the political parties are not made available on the EC's webpage. The EC has to depend on government officials during an election where there is a huge chance of result manipulation by the officials having the partisan political affiliation of the ruling parties (Aminuzzaman and Khair, 2017).

Comptroller and Auditor General

Important efforts of the OCAG carried out in recent years are the formulation of the five-year strategic plan (2013-18),²²⁵ the introduction of digital audit management system,²²⁶ and increasing trend of conducting a performance audit.²²⁷

The CAG is supposed to submit the yearly report to the President, and the Prime Minister is notified about the report as per the rules of business. However, a practice continues that the CAG also submits the report to the Prime Minister while submitting to the President. The CAG office can place audit objection on financial issues and claim for the return of the money but cannot file any case itself. Hence, they rarely receive any feedback from the agencies charged on audit objections. The CAG even cannot charge punishment to their own staff. The Ministry of Finance deserves this authority. The CAG does not invest in further inspection due to a shortage of human resources. It is also alleged that audit report sent to the President is rarely presented and discussed in the Parliament.²²⁸

²²¹ For the crime rate from 2002 to 2015 see <http://www.police.gov.bd/Crime-Statistics-comparative.php?id=208> (14 September 2017).

²²² Bangladesh Human Rights Report 2016, <https://www.state.gov/documents/organization/265744.pdf> (15 June 2017).

²²³ *Ibid.*

²²⁴ BIGD 2016: The State of Governance Bangladesh 2016.

²²⁵ http://www.cagbd.org/publication/strategic_plan_2013-2018.pdf (17 July 2017).

²²⁶ <http://www.cagbd.org/in.php?cp=newsdtls&id=46> (17 July 2017).

²²⁷ <http://www.cagbd.org/in.php?cp=perfoaud> (17 July 2017).

²²⁸ Interview with an OCAG expert on 24 May 2017.

Anti-corruption Commission

Despite various efforts, the ACC has not been performing as an effective anti-corruption body. It has huge backlogs of unsettled complaints and cases. The rate of conviction is quite low considering the average for the last five years for cases filed by both the Commission, and by the abolished Bureau of Anti-corruption. Corruption investigations by the ACC lacks adequate efficiency and professionalism, which is reflected in the time taken for completing investigations, and lack of proper evidence for filing a case. It is also alleged that ACC lodged very few cases against powerful persons of current ruling party and takes action against staff at lower tiers whereas the main culprits remain untouched or go scot free. There is also allegation of political interference and influence in exercising its authority (TIB, 2017). Current ACC seems active compared to previous Chairs and Commissioners; however, they are active in selected cases. They have no tangible efforts to take actions against the Bank scams.²²⁹ Studies suggest that appointment of ACC Chair and Members are made on political consideration. There is no transparent mechanism applied in the appointment process. There is a huge allegation of using ACC as a weapon against political opponents (Aminuzzaman and Khair, 2017). As per laws ACC annual report is submitted to the President but not discussed in the Parliament (TIB 2017).

National Human Rights Commission

Recent efforts of the NHRC include the formulation of the five-year strategic plan (2016-20) and Standard Operating Procedures, and identification of limitation of the Commission and gaps in existing laws including the Constitution. NHRC resolved 241 complaints (46%) in 2015.²³⁰

The NHRC has no significant visibility in terms of taking actions against massive human rights violations. They could not prove their significant role to deal with the critical issues like controversial amendment of the Child Marriage Restraint Act 2016, Tanu murder, journalists Sagar-Runi murder, extrajudicial killing, the disappearance of people having opponent political views, etc. However, their visibility is very much statement-based, which is very often limited to visiting the victims and talking in media against violation of human rights.²³¹

Information Commission

IC's recent efforts include the formation of the advisory committee at every district to help implement RTI Act, formulation of the five-year strategic plan (2014-18).²³² The IC organized a wide-ranging awareness campaign on RTI over the years.

The IC depends on the designated information officers who have tendencies of hiding contact details in order to avoid information seeking in their agencies. The World Bank has drafted a Strategic Plan 2014-2018 to implement RTI Act, which states that lack of awareness, the capacity issue of the IC, need of increased political support, and lack of coordination body within the government are hampering the Commission's performance.²³³ There is a tendency of frequently transferring DOs and lack of training for the officer, which hampered the commission's activity.²³⁴ Although the complaint settlement rate has increased from previous years, still the settlement process is lengthy and there is always backlog of unsettled complaints.

²²⁹ Sonali Bank and Basic Bank scams where a few members of the board of directors are accused of having involvement but are out of reach to take action against because of their powerful affiliation with ruling political parties.

²³⁰ NHRC, *Annual Report 2015*, <https://drive.google.com/file/d/0B0Fm43gJLWjcQ2ktWG1kRzN2ekk/view> (25 May 2016).

²³¹ Interview with a relevant expert on 24 May 2017.

²³²

http://cabinet.portal.gov.bd/sites/default/files/files/cabinet.portal.gov.bd/notification_circular/c255bb5a_1b89_4dbc_9b48_1c642b4f0659/Notification-AbuShahin0001.pdf (14 June 2017).

²³³ <https://www.article19.org/resources.php/resource/38129/en/country-report:-the-right-to-information-in-bangladesh> (15 July 2017).

²³⁴ *Ibid.*

Political Parties

Confrontational political culture prevails in Bangladesh, although it is observed that political parties have devoid from violent political movements like *hartal* for more than a year. This is much talked that there are significant deficiencies of internal democracy within the political parties of Bangladesh. In almost all parties in Bangladesh supreme power is overwhelmingly provided to the party chief. There is a tendency among the elected parties to treat the Government as a device of their own party to harass the opponents. They have a lack of transparency in fundraising and use of funds. There is a tendency of the criminals and business community in Bangladesh to get in politics to abuse power for personal gain. This tendency has led to criminalisation and commercialisation of politics in Bangladesh (Aminuzzaman and Khair, 2017). The tendency of using religion for political gain is another common trend. There are allegations of violating electoral rules and code of conduct against most of the political parties.

The Media

Politically divided media jointly protested against Journalist Sagar-Runi murder, which was a significant positive effort made by the media. The media has made some good effort by regularly reporting on corruption. Their reporting on women rights and human rights violation, minority, violence and environmental issues are the very positive side of media.²³⁵ There is also a complaints redress mechanism in Bangladesh Press Council.²³⁶

There is an increasing trend of having partisan political affiliation among leading journalists. Most of the media houses are owned by big business persons having strong political connections. This trend leads to working in favour of their political alignment without respecting fair and ethical journalism. Journalists feel a controlling environment supported by the law and political attitude of the government as there is a subtle restriction on online speech and the press controlled by the ICT Act.²³⁷ This non-conducive environment has led to biased and self-censored media reporting to avoid harassment.²³⁸ On the other hand the media lacks transparency and accountability with regard to their income and expenditure. There is no compliance of Wage Board by most of the media houses.²³⁹

Civil Society/ NGOs

A recent effort by the civil society was very much visible in their movement on environmental issues with regard to saving the Sundarbans from the ongoing coal-fired power plant projects at Rampal. Over the years CSOs have played a strong role in protesting violence against women and girls and violation of human rights, establishing education and health rights, empowering women and the poor, working on the issues of disaster and climate change, corruption, etc.²⁴⁰

CSOs and NGOs are driven by project-centric activities, mostly with funds from foreign donations. The funding flow is decreasing and thus the CSO/NGO workers are facing staff cut. The projects having donor dependency are mostly guided by donor demands, rather than local priorities. There is a strong presence of civil society in Bangladesh, most of those are accused of having unexpected partisan political affiliation. The civil society is divided into groups and their neutral position is questionable.²⁴¹

Business

The business community has recently developed a liaison with the government for the establishment of one-stop service cell by the government to provide services to the entrepreneurs.²⁴² Also due to

²³⁵ Interview with a media expert on 4 June 2017.

²³⁶ <http://www.presscouncil.gov.bd/index.php/component/rsform/form/6-complain-form> (2 July 2017).

²³⁷ Bangladesh Human Rights Report 2016, <https://www.state.gov/documents/organization/265744.pdf> (15 June 2017).

²³⁸ Interview with a media expert on 4 June 2017.

²³⁹ *Ibid.*

²⁴⁰ Civil society, Health, and Social Exclusion in Bangladesh, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2928100/> (3 June 2017).

²⁴¹ Interview with a relevant expert on 24 May 2017.

²⁴² Interview with a business expert on 30 May 2017.

their demand government is bring effective e-governance and i-governance across several ministries.²⁴³ Businesses are supporting the government to draft the “Anti-Competition Act” to prevent syndication and this will provide seamless service for the business.²⁴⁴ A suggestion box has been set up by the government, and digitization of services has been initiated at the Privatization Commission.²⁴⁵ Strong business associations like FBCCI, BGMEA, and BKMEA are playing an important role in putting business forward in this country.

The business community complains that there are undue interferences and controlling attitudes of public officials towards businesses in Bangladesh. It lacks the culture of transparency of sharing information on profit with workers. Like other sectors, the business associations are also divided on partisan issues. There is a tendency to remain reluctant in maintaining compliance of improving work environment in factories and providing minimum living wages to the workers. There are questions about the ethical behaviour of companies and business persons in making a profit. The business community also tends to apply informal mechanisms in managing the relationship with the government and other stakeholders. The tendency of resisting workers’ union is also an unresolved issue.

Challenges

Gaps in Laws and Policies

It is found that the existing laws of the NIS institutions are more or less comprehensive and robust in nature. However, some gaps and limitations have been identified, which might impede effective functioning, transparency, and accountability of these institutions.

Although the MPs are protected by what they say in the parliament, the Constitution restricts MPs of voting beyond their party’s decision.²⁴⁶ Moreover, the Parliament is not answerable to the people as such under any way or even by Rules of Procedures. There is no ‘Code of Conduct’ applicable for the MPs’ activities outside the Parliament.

The Parliament is supposed to be the important institution to control and ensure check and balance of performance of the Executive of the Government. Neither the Constitution nor any law restricts the provisions that the same person cannot be the Leader of the House as well as the Head of the Government alongside the leader of the ruling party. By means of this non-provision, a person remains the president of the ruling party as well as act as the Prime Minister alongside the Leader of the House i.e. the Parliament. As a result, it becomes tricky to hold the Executive accountable in the Parliament. As per Rules of Business, all proceedings of the Cabinet meetings and records are treated as “secret documents”.²⁴⁷ There is no legal provision to disclose assets either for the Head of State or Government. Moreover, there is no specific Code of Conduct for members of the executive such as Ministers and members of similar rank and status (Aminuzzaman and Khair, 2017).

The requisite qualifications for Supreme Court Judges as stated in the Constitution²⁴⁸ are unclear as to what constitutes “qualifications as may be prescribed by law for appointment as a Judge of the Supreme Court”. No such law has been enacted as yet to make it clear. The Mobile Court Act, 2009 created some confusions as this law provided authority to the executive magistrates to conduct mobile courts ostensibly to prevent ‘anarchy’ during general strikes.

²⁴³ *Ibid.*

²⁴⁴ *Ibid.*

²⁴⁵ For details see Cabinet Division, *Best Practices in Public Institutions*, Government of Bangladesh, December 2013, http://cabinet.portal.gov.bd/sites/default/files/files/cabinet.portal.gov.bd/publications/5ab9615e_241a_4c7b_869b_048ce6212195/BestpracticesCopy.pdf (14 June 2017).

²⁴⁶ *The Constitution of Bangladesh*, Article 70.

²⁴⁷ *Rules of Business 1996*, Clause 24.

²⁴⁸ *The Constitution of Bangladesh*, Article 95.

As the Constitution does not detail out different aspects of local government management in detail as it does for the Parliament, the Executive and the Judiciary, the Central Government has modified laws and rules relating to local government in their own ways. The laws empower the National Government in such way that they can carry out inquiries into the affairs of LGIs. They can also take actions against elected members of LGIs under certain circumstances. As a consequence, little autonomy of the LGIs exists, and the local government bodies have become mere adjuncts to the Government machinery (Aminuzzaman and Khair, 2017). On the other hand, the laws related to Upazila Parishad and Zila Parishad provide the provisions of MPs to play an advisory role, which has created a scope to keep under the control of central political decisions. Moreover, the laws do not detail out the role of women members elected on reserve seats as well as the selection criteria of the standing committee members.²⁴⁹ There is no formal process to lodge a complaint against the elected public representatives of the LGIs.

The Acts, Rules, and Orders that set the overall provisions to management the role and functions and performance of the public servants are not adequate. There is an absence of a Civil Service Act, which is required for the adequate safeguard of civil servants from political manipulation of the Executive.

The Police Act of 1861 is the primary legal instrument to govern the LEAs. However, the main function of police under the law is to 'control', rather than 'protect', the citizens. This Act vests the administration of the police in local jurisdictions in the District Superintendent or Assistant District Superintendents but subject to the control and direction of the concerned Magistrate of the area. Such dual controls over the force not only compromise police functions but also marginalize the Inspector General of Police and his Deputies from effective supervision of the police.²⁵⁰ The Code of Criminal Procedure Act 2009 has reinstated the bureaucratic control like the Police Act 1861 over the various metropolitan police forces.²⁵¹ Some provisions of the Evidence Act, 1872 have created unnecessary hardships for smooth police functioning when collecting evidence from suspects.²⁵² The police are exempted from disclosure of information related to the investigation of crimes, police operations to contain law and order, and police activities aimed at ensuring internal security of the country, and anything likely to be harmful to the public interest under both the RTI Act 2009 and The Evidence Act 1872. The police have extensive discretionary powers of arrest and remand²⁵³, which are likely to be abused for mere political purposes of the ruling party (Aminuzzaman and Khair, 2017).

As instructed by the Election Commission (Officers and Staff) Rules 1979, the EC depends on the PSC for the recruitment of senior staff of the EC.²⁵⁴ Election Commissioners are recruited by the President. However, there is no legal framework that defines the selection criteria and qualifications of the Commissioners. There is a lack of an overarching law, which clearly states the powers of the EC in relation to having an accountability mechanism if the Government fails to comply with EC's directions during the election as they are supposed to provide support during the election.

Laws have not spelled out the appointment criteria and qualification, and there is no code of conduct or specific rule regarding conflict of interest prescribed for the CAG. Promotions of Class I and II Officials of the OCAG are decided through Departmental Promotion Committee (DPC) of Public Administration and Finance Ministries, and therefore, the accountability of CAG officials has become weak (TIB, 2015).

²⁴⁹ TIB 2014: https://www.ti-bangladesh.org/beta3/images/2014/es_ds_lg_study_14_bn.pdf (7 June 2017).

²⁵⁰ Muhammad Nurul Huda, *Bangladesh Police: Issues and Challenges*, Dhaka, 2009, p. 3 in Governance and Integrity: The National Integrity Systems in Bangladesh, The University Press Limited (UPL), 2017.

²⁵¹ Dr. Habib Siddiqi (2016) *Bangladesh Police: Time For Reform* <http://www.eurasiareview.com/29022016-bangladesh-police-time-for-reform-oped/> (24 April 2017).

²⁵² Farhana Helal Mehtab and Sheikh Hafizur Rahman (2014), 'Identifying The Problems of Bangladesh Police & Rapid Action Battalion: Recommending Way Out', *DIU Journal of Humanities and Social Science*, Volume 2 July 2014.

²⁵³ Under the Special Powers Act 1974, Section 54 of The Criminal Procedure Code 1898 and Section 86 of The Dhaka Metropolitan Police Ordinance 1976.

²⁵⁴ Interview with a former CEC on 4 May 2017.

The ACC has a dependency on the government for the approval and specification of the budget, which is supported by law. But critics have noted that such amendments as adopted by the Cabinet were aimed at establishing political and administrative control over the Commission (Aminuzzaman and Khair, 2017). Laws have not ensured that the appointment of the ACC Chairman and the Commissioners are fair as there is no instruction about how the process could be more transparent (TIB, 2017).

Although The RTI Act 2009 sets the procedures and criteria for the appointment of the positions of the Chairman and Commissioners of the IC, they are broad and vague in nature. The Act also keeps some clauses which create a dependency of the Commission on the government particularly on fixing the benefits of the Commissioners as well as the budget for the Commission. Though the RTI Act, 2009 is also applicable to the Commission, the Act provides them the scope to keep the investigation process into allegations against their staff confidential. The RTI Act, 2009 excludes a wide range of information types and authorities from the obligation of providing access to information.

The process of appointing Chairman and Commissioners of the NHRC leaves a scope to appoint people having a partisan political affiliation. Besides, the criteria set for the appointment is quite broad. The independent functioning of NHRC is restricted by law from investigating human rights violations by 'disciplined forces' that technically include the law enforcement agencies. The NHRC is visibly restricted in its role and function primarily because it has been founded by the government and is operating as a statutory body but not as a constitutional one. Consequently, any human rights violation by the police and the Rapid Action Battalion (RAB) cannot, by law, be investigated independently by the Commission (Aminuzzaman and Khair, 2017).

Although the Constitution has separately guaranteed press freedom subject to any reasonable restrictions imposed by law in the interests of the security of the State²⁵⁵, the term 'reasonable' has not been clearly spelled out. There creates the opportunity to misinterpret the term and restrict media freedom. For example, the Penal Code, 1860 suggests that "disaffection towards the government" is a punishable offense. This section was added in the Penal Code to punish people showing hatred towards the British colonial administration. The existence of this section in the penal legislation of independent Bangladesh indicates the media to apply 'self-censorship' while playing its role in uncovering the questionable accomplishments of the government.²⁵⁶ The ICT (Amendment) Act, 2013 (Section 57) empowers the government to take action against social media users for their offensive comments, which undervalue the right of the freedom of expression guaranteed in the ICCPR.²⁵⁷ The legal framework on media transparency is not adequate particularly for the print media. No specific transparency measures in terms of internal staff, reporting and editorial policies are required for print media. The Press Council's oversight role is excluded from the electronic and broadband media (Aminuzzaman and Khair, 2017).

The Foreign Donations Regulation Act 2016 provides that 'malicious' and 'derogatory' statements if done by NGOs are a punishable offense. However, the terms are not properly spelled out. Hence, there might be a possibility to misinterpret the words to harass the activities of NGOs and civil society.

The RTI Act, 2009 is not applicable to the business sector. The Institute of Chartered Accountants of Bangladesh (ICAB) has adopted 30 of the 41 International Accounting Standards (as BAS). The Standards in Bangladesh provide significant discretion to the company to not to disclose financial and non-financial details necessary for a full assessment of a company's operations, financial situation and prospects (Aminuzzaman and Khair, 2017).

²⁵⁵ *The Constitution of Bangladesh*, Article 39.

²⁵⁶ *The Daily Star*, 3 May 2016, 'Interview with Dr. Mohammad Nazmuzzaman Bhuiyan, <http://www.thedailystar.net/law-our-rights/law-interview/press-freedom-ensure-responsible-journalism-1217593> (11 June 2017).

²⁵⁷ A J M Shafiul Alam Bhuiyan, 'Social media, freedom of expression and the ICT Act', *The Daily Star*, 25 August 2015, <http://www.thedailystar.net/op-ed/politics/social-media-freedom-expression-and-the-ict-act-131878> (12 June 2017).

Institutional and other Challenges

Some more challenges have been identified that limit the scope of proper functioning, transparency, and accountability of the selected institutions.

- There is a deficiency of own human resources at the administrative level of some institutions such as the Parliament, Judiciary, EC, ACC, HRC, IC. This deficiency creates dependency on MoPA.
- There are deficiencies of adequate human resources in a number of institutions such as Judiciary, LEAs, EC, ACC, OCA, HRC, IC. They are understaffed compared to the volume of their works. Lack of adequate skilled human resources is also a reality in the business, media as well as in some public institutions having unskilled staff who are unable to use ICT.
- There are some challenges relating to the scope of utilizing trained persons. IC experiences frequent transfers of DOs which hamper smooth implementation of RTI Act. The EC also experiences the gaps induced by frequent transfers of trained up presiding officers.
- There are capacity constraints to utilize allocated budget in some institutions such as the Parliament, Judiciary, PA, EC, and HRC. There are also deficiencies in projection capacity in the LEAs, ACC and LG (see Table 4).
- There is a lack of awareness about transparency, accountability, and service providing mechanisms among the mass people.
- Undue interferences and controlling attitudes of the government create controlling environment for media, business, civil society and political parties for narrow political purposes.
- There are huge budget constraints among the non-government institutions, hence, it is found donor dependency of civil society, advertisement centric media, less scope of fundraising by small political parties.
- Corruption in the recruitment process in most of the public institutions clearly leads to recruiting less capable staff who intend later to recover bribed money. This trend creates bad impact on quality of services and lessens trust among the people at the demand side.

Conclusion

Bangladesh has achieved a good state of preparedness in terms of having a legal framework and clear institutional arrangement of all selected NIS institutions. However, there are huge gaps in implementation and practices of laws and policies. There are many laws to determine effective functioning, transparency, and accountability of NIS institutions. However, subtle gaps are there which create a scope of dismantling independent status of them in a real sense. Real independence of the NIS institutions is far reaching unless laws are formulated and enacted to cut off the dependency on the Executive.²⁵⁸ Many transparency and accountability initiatives are prevalent on paper. There are significant gaps in implementation especially in the areas of human rights violation, corruption and holding the powerful political elites accountable. Controlling attitude and practices are evident in the Executive to use and control LEAs, ACC, EC, media, civil society and business by means of shaping legal framework as well as by creating disabling climate. Independent institutions suffer from mistrust and inefficiency which is derived from faulty appointment procedures of the chiefs and members of institutions, which is mostly made on political consideration. There are shortages of human resources and budget as well as capacity constraints in many of the selected institutions, which might hamper true progress of the institutions for being effective, transparent and accountable in a true sense.

²⁵⁸ The President is bound to act on the advice of the Prime Minister as per Article 48(3) the Constitution.

Chapter 6

Public Access to Information and Protection of Fundamental Freedoms

This chapter deals with the preparedness, practices and challenges with regard to the SDG Target 16.10 that urges the states to “ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.” The indicator under this Target applicable is the ‘Number of verified cases of killing, kidnapping, enforced disappearance, arbitrary detention and torture of journalists, associated media personnel, trade unionists and human rights advocates in the previous 12 months’ (Indicator 16.10.1).

Preparedness

Access to Information as a fundamental right

Freedom of thought, conscience and speech are identified as the significant fundamental human rights in the Constitution of Bangladesh.²⁵⁹ Having considered the right to information as the precondition of ensuring civil liberties, the Government of Bangladesh enacted the Right to Information (RTI) Act, 2009. The foremost aim and objective of this Act is to reduce corruption and ensure good governance, transparency and accountability in all public and private organizations.²⁶⁰ The preamble of the legal framework contains a specific statement of principles calling for a broad interpretation of the RTI law and emphasizes the benefits of the right to information.²⁶¹ However, the right to seek, receive and impart information is not explicitly mentioned, although the preamble of the RTI Act 2009 stipulates that this right is an inalienable part of freedom of expression.²⁶²

There are specific formats of the application form and the appeal form in the Right to Information Rules adopted in 2009. Both the Bangla and English versions of the act are available to the public in print and online.²⁶³ In addition, the Bangladesh Information Commission (IC) has published a book²⁶⁴ with important questions and answers on the RTI Act 2009 and RTI Rules 2009” for free distribution.²⁶⁵

The RTI Act 2009 extensively defines the ‘information’ including raw data.²⁶⁶ It implies the right to ask questions and any documentary material relating to the constitution, structure and official activities of any authority regardless of its physical form or characteristics (including machine readable records) fall within the definition of information.

An individual seeking information is required to fill out a form to request documents. If the form is not easily available, the information may be requested in writing (without a form) or in an electronic form.

²⁵⁹ *The Constitution of Bangladesh*, Article 39.

²⁶⁰ Information Commission of Bangladesh, *Annual Report 2011*, http://infocom.portal.gov.bd/sites/default/files/files/infocom.portal.gov.bd/annual_reports/4078b890_d5bb_49b6_b7ea_edb44dd86dea/annual_report_2011_english.pdf (19 April 2017).

²⁶¹ Global Right to Information Rating, Indicator 3, (description 3.1 & 3.2) http://www.rti-rating.org/view_country/?country_name=Bangladesh (9 July 2017).

²⁶² RTI Act 2009, Preamble, p. 2, http://infocom.portal.gov.bd/sites/default/files/files/infocom.portal.gov.bd/law/ec81a874_3b89_498c_92b5_be30da12af3c/Right%20to%20Information.pdf (19 April 2017).

²⁶³ The act can be downloaded free of cost from www.moi.gov.bd. In addition, the RTI act, rules and regulations and the relevant application and appeal forms are available at www.infocom.gov.bd

²⁶⁴ A handbook with important questions and answer in Bangla, <http://www.infocom.gov.bd/site/page/f411262c-4bfc-4516-85d1-3754188b2cc3/FAQ> (14 May 2017).

²⁶⁵ Information Commission, FAQ-34 and 54 (English), <http://www.infocom.gov.bd/site/page/3f63cb13-3d30-4169-a379-9fb5c343950b/FAQ> (30 April 2017).

²⁶⁶ See for details *RTI Act 2009*, Section 2(f).

The requester needs to identify him/herself only by name and address, describe the information sought so that it can be identified, and note the form in which they wish to obtain the documents. Individuals have the right to receive a copy, inspect the documents, take notes or use any other “approved method”.

A Designated Officer (DO) is bound to respond to an applicant within a stipulated time.²⁶⁷ The DO of the concerned authority must provide the information within 20 working days, unless information relates to life and death, arrest or release of persons, where the deadline is 24 hours. In case of failure of the DO to provide information within the timeline, the applicant may appeal to the appellate authority within the next 30 days.²⁶⁸ Within 15 days the appellate authority will either give directives to the concerned DO to provide information or reject the appeal if it found to lack grounds. If the applicant becomes aggrieved with the decision, s/he may submit a complaint with the Information Commission within the next 30 days.²⁶⁹

If more than one authority is involved in the decision-making, the information may be provided within 30 working days. If the authority decides to refuse access, the decision must be issued within 10 working days. In case of administrative silence, the request is presumed to be rejected.²⁷⁰

Exceptions to the Right of Access

The access to information regime put forward by the RTI Act takes supremacy over any impediments laid down in other laws. There is a list of 20 exemptions of the act which broadly protect the following interests: state security; international relations; commercial secrets and intellectual property rights; tax and budget information; law enforcement; judicial activities; investigations; privacy; “secret information” of a person; life or physical safety of individuals; and others.²⁷¹ The information that is generated through research (i.e. technical or scientific experiment) which is kept secret for “strategic” reasons²⁷² and secret information of a person which is protected by law, which is overly broad also have restrictions for access.²⁷³

Partial access is provided by the law. No request may be fully rejected if it is reasonably possible to allow access to non-exempt portions of requested information. The authority must inform the requester of the reasons for refusal. Information may be refused only with a “prior approval from Information Commission”.²⁷⁴ It may be noted that the exceptions to the right of access are partially consistent with international standards.²⁷⁵

Some of the articulated 20 exemptions mentioned as protected interest under Section 32 of the act are subject to a harm test, but there is no public interest override. The only similar provision relates to information on human rights breaches or corruption held by security and intelligence services, which are otherwise excluded from the scope of the law, but in this case fall inside the scope.²⁷⁶

Harm test applies partially to the exemptions of any information pertaining to a purchase process before it is complete or a decision has been taken about it²⁷⁷, and any document including summaries

²⁶⁷ RTI Act 2009, Section 9.

²⁶⁸ RTI Act 2009, Section 24.

²⁶⁹ RTI Act 2009, Section 25.

²⁷⁰ Article 19, *Country Report: The Right to Information in Bangladesh*, <https://www.article19.org/resources.php/resource/38129/en/country-report-the-right-to-information-in-bangladesh> (9 July 2017).

²⁷¹ RTI Act 2009, Section 32.

²⁷² RTI Act 2009, Section 7(o).

²⁷³ RTI Act 2009, Section 7(r).

²⁷⁴ RTI Act 2009, Section 7 (t).

²⁷⁵ Global Right to Information Rating, Bangladesh, Indicator 29, http://www.rti-rating.org/view_country/?country_name=Bangladesh (9 July 2017).

²⁷⁶ *Ibid*, CR, Article 19 (25 April).

²⁷⁷ RTI Act 2009, Section 7(p).

to be placed before the Cabinet, or as the case may be, Council of Advisers and information relating to discussions and decisions of such meetings.²⁷⁸

Minimum standards on mandatory proactive publication of information

The RTI Act includes a long list of information that should be proactively published, although it does not explicitly mention that such information should be available online. This includes information on decisions, activities, policy related documents and reasons for their adoption. On an annual basis, every authority shall publish a report containing information about its structure and activities, rules and regulations, conditions on accessing services and information on freedom of information officers.²⁷⁹

According to the law, every authority under the law is “to publish and publicise all information pertaining to any decision they have taken, any proceeding or activity they have executed or proposed, by indexing them in such a manner as may easily be accessible to the citizens”.²⁸⁰ It also states that in “publishing and publicising such information, no authority shall conceal any information or limit its easy access.”

The disclosure requirements include the organizational structure, activities, responsibility of the officers and employees; description and process of decision-making; lists of all laws, acts, ordinance, rules, regulations, notifications, directives, manuals, etc., of the authority including the classification of all information lying with it. The provisions further include that public authorities must disclose “all information pertaining to any decision they have taken” and “description and process of decision-making”. They are also required to “explain the reasons and causes in support of such policies and decisions”. The IC has published RTI Rules on disclosure and publicity, which further came into action on 2011.²⁸¹

Setting up of the Information Commission

Under section 12 of the act the Information Commission was established. It is an independent appeal authority with strong competences which is formed of a Chief Commissioner and two Commissioners, appointed by the President with respect of a gender balance requirement. The Ministry of Information gives secretarial support to the Commission. Powers and functions of the Information Commission are clearly stated, by which this oversight body handles appeals against refusal decisions, administrative silence, imposition of unreasonable fees, incomplete, misleading or false information and other violations of the RTI Act.²⁸² The IC may conduct inspections, has other strong oversight powers and issues binding decisions.²⁸³

Protection of Fundamental Freedoms

The Constitution of Bangladesh guarantees the right to freedom of expression. Fundamental freedoms including equality before law, right to life and livelihood, freedom of thought and conscience and speech, freedom of association and assembly, exercise religion, freedom of movement, rights of property ensured in the Constitution of Bangladesh.²⁸⁴ Other rights (such as right to information) have been ensured in respective laws.

²⁷⁸ RTI Act 2009, Section 7 (t).

²⁷⁹ Article 19, *Country Rating: The Right to Information in Bangladesh, Proactive Disclosure*, <https://www.article19.org/resources.php/resource/38129/en/country-report-the-right-to-information-in-bangladesh>, (9 July 2017).

²⁸⁰ RTI Act, 2009, Section 6.

²⁸¹ RTI Rules on Disclosure, infocom.portal.gov.bd/sites/default/files/files/infocom.portal.gov.bd/law/dee1e9c7_7f51_4d2a_beb0_d45443f5134f/Disclouser%20of%20Information.pdf (14 May, 2017).

²⁸² RTI Act, 2009, Section 13.

²⁸³ RTI Act, 2009, Section 13 (2).

²⁸⁴ *The Constitution of Bangladesh*, Part III (Fundamental Rights).

Bangladesh is either party to or has accessed to different international conventions that entails the basic human rights and rights of different groups. Some of these conventions include the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the Convention on the Rights of Child (1989), Convention on the Elimination of All Forms of Discrimination against Women (1979), the UN Convention on the Rights of Migrant Workers and Members of their Families (1990), and different ILO Conventions on the rights of labors.²⁸⁵

Practice

According to the Global Right to Information Rating 2016, Bangladesh has earned 107 points (out of 150),²⁸⁶ is ranked 24 among 111 countries, as its transparency law adequately guarantees access to information, when compared with other countries.²⁸⁷

According to the Annual Reports of the IC more than 10,000 RTI requests are filed annually, but many of these actually related to general information requests which could have been handled by proactive disclosure.²⁸⁸ In 2015, a total number of 6,181 RTI applications were received among which 5,954 applications were filled to the public authorities respectively, which revealed 96.33% of RTI filling rate.²⁸⁹ Information was provided against 5,940 applications, which is about 96.10% and 192 applications were not answered.²⁹⁰

Over the last two years a number of developments have been made with regard to the public access to information.

- a. Approximately 21,000 DOs have been appointed, including in all Districts and Upazilas.²⁹¹ In 25 April 2017, with the support from the World Bank and MRDI, the IC introduced an online RTI training Course for the DOs countrywide.²⁹²
- b. In 2014, an RTI Working Group was established comprising representatives of the Cabinet Division, IC, and the Ministry of Information.
- c. The Strategic Plan 2015-2021 has been developed with a joint undertaking of the Government and the IC to ensure that there are more strategic and sustainable efforts to implement the RTI Act. Under this, leadership and coordination for boosting the *demand-side* for information and activities to strengthen the *supply-side* lie broadly with the IC.
- d. Under the APAs introduced in 2015, the majority of ministries and divisions are committed to comply with the RTI Act, especially in terms of proactive disclosure.

²⁸⁵ For a list of treaties and conventions where Bangladesh is a party, see https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/vwTreatiesByCountrySelected.xsp?xp_countrySelected=BD (14 September 2017).

²⁸⁶ The Global Right to Information Rating is a comparative assessment of the strength of legal frameworks for the right to information around the world. The indicators are divided into seven different categories, namely: Right of Access, Scope, Requesting Procedures, Exceptions and Refusals, Appeals, Sanctions and Protections, and Promotional Measures. See for details, Global RTI Rating, Methodology, <http://www.rti-rating.org/methodology/> (11 May 2017).

²⁸⁷ Global Right to Information Rating, Bangladesh, <http://www.rti-rating.org/country-data/> (9 July 2017)

²⁸⁸ Cabinet Division, *Connecting Government to Citizens, Implementing Right to Information Act 2009 in Bangladesh, Strategic Plan 2015-2021*, p. 8, http://cabinet.portal.gov.bd/sites/default/files/files/cabinet.portal.gov.bd/page/b6ea9806_1d1c_4f63_817d_26f268cf83cd/FINAL%20DOCUMENT-%20Connecting%20Government_draft%2027%20July%20%283%29.pdf (12 May 2017).

²⁸⁹ Information Commission of Bangladesh, *Annual Report 2015*, p. 47, <https://drive.google.com/file/d/0BzeB02QuA9iCZVkvzTJITVVDWW8/view> (3 July 2017).

²⁹⁰ Similarly, in 2014, 8,442 RTI applications were received among which 8,315 applications filled to the public authorities respectively, which revealed 98.50% of RTI filling rate. Information was provided against 7870 applications, which is about 93.22%. A total of 542 applications were rejected and 30 applications were under process. *Source*: The Information Commission, *Annual Report 2014*, p. 58, http://infocom.portal.gov.bd/sites/default/files/files/infocom.portal.gov.bd/annual_reports/7ae40972_4403_4e2a_b5d1_031fcd7cbd30/Annual%20Report-2014.pdf (25 April 2017).

²⁹¹ *Op. cit.*, Cabinet Division, p. 6.

²⁹² *Ibid*, Online RTI Training Course (Bangla), <https://eliademy.com/catalog/catalog/product/view/sku/69237b2c9a> (14 May 2017).

- e. NGOs are also called on to play their role in monitoring the activities and outputs under the Strategic Plan.²⁹³
- f. The a2i project aims to provide information to the citizens as per the RTI Act, 2009 and bringing about a change in the Bangladesh Civil Service to a citizen-centric service delivery system.²⁹⁴ The a2i therefore convinced the DC Offices to pilot *Nothi* – a system that digitalised the paper-based application and file processing system and enabled the tracking of file movement within government offices.²⁹⁵ It allowed citizens to send applications to any government office from their own computers or from the nearest Digital Centre.²⁹⁶ Deputy Commissioners are able to monitor precisely how many service requests were pending, which officers were responsible for processing them and the latest progress status, time to actually deliver the services come down from 5-7 days to only 1-2 days depending on the nature of the case. While an officer could process only 5-10 files a day under the paper-based filing system, with *nothi* this number increased to 25 plus.
- g. In 2013, the Cabinet Division issued a circular on the development, expansion and maintenance of the National Portal and the Information Commission issued ‘Proactive Information Disclosure Guidelines, 2014’ – wherein clear instructions were provided regarding the kinds of information one should provide in government websites.²⁹⁷

According to a status by Ministry of Information (2014), a total 477 print media, 353 daily newspapers, 82 weekly papers, 26 TV channels, 1 state owned radio centre, 1 state owned radio FM transmitter, 12 private FM radios and 14 community radios are registered with the approval of government.²⁹⁸ Besides, there are a significant numbers of online news portal is working. This status indicates that an open culture exists in Bangladesh. The governance, corruption and human rights issues come in front of mass people to make them aware and raise their voice through this media. The government also comes to know what is happening around them.

In spite of the above developments, a number of laws and policies, for instance, the National Online Media Policy 2017 and the proposed Bangladesh Press Institute Act, National Broadcasting Act,²⁹⁹ Digital Security Act³⁰⁰ in 2015 and 2016 are feared to increase restrictions on freedom of expression. The government adopted the Foreign Donations (Voluntary Activities) Regulation Act, 2016 on 13 October 2016, where there is a provision that may be used or abused to control non-government organizations (NGOs) from freedoms of expression and association.³⁰¹ The government continues to use the overly broad and vague Information and Communication Technology Act, 2006³⁰² against people critical of decisions and activities of senior government officials or their families.

²⁹³ *Op. cit.*, Cabinet Division, p. 8.

²⁹⁴ https://en.wikipedia.org/wiki/Access_to_information_in_Bangladesh#cite_note-5 (15 May 2017).

²⁹⁵ Nothi, less-paper office, <http://a2i.pmo.gov.bd/less-paper-office-2> (12 May 2017).

²⁹⁶ Digital Centre, <http://a2i.pmo.gov.bd/one-stop-service-centre/> (15 May 2017).

²⁹⁷ a2i, <http://a2i.pmo.gov.bd/data-to-policy/policy-reform/> (11 May 2017).

²⁹⁸ Routledge Handbook of Contemporary Bangladesh, edited by Ali Riaz and Md. Sajjadur Rahman, (see page 326), https://books.google.com.bd/books?id=nC9-CwAAQBAJ&pg=PA326&lpg=PA326&dq=total+status+of+media+in+bangladesh&source=bl&ots=jM8bHY4Ycf&sig=Bdq1Ep_sZfR1lixZbZDtjve_fk&hl=en&sa=X&redir_esc=y#v=onepage&q=total%20status%20of%20media%20in%20bangladesh&f=false, (25 May 2017).

²⁹⁹ Ministry of Information of Bangladesh, <http://www.moi.gov.bd/site/files/aa0e8c0c-84e2-4174-b749-041a2e70e190/খসড়া-আইন/নীতিমালা>, (Accessed on 23 April 2017)

³⁰⁰ Information & Communication Division of Ministry of Information & Communication Technology of Bangladesh, http://ictd.gov.bd/uploads/documents/Digital_Security_Act_03_04.2016%20final.pdf, (23 April 2017)

³⁰¹ *Foreign Donations (Voluntary Activities) Regulation Act, 2016*, Article 14. <http://www.icnl.org/research/library/files/Bangladesh/FDVA.pdf> (6 June 2017).

³⁰² *Information and Communication Technology Act, 2006*, Article 57, http://ictd.gov.bd/uploads/files/rules_57861e381bafb.pdf, (15 May 2017).

The aggregate score of Bangladesh in 'Freedom in the World Rating 2017' is 47 out of 100 (0 = Least Free & 100 = Most Free), which is termed as 'Partly Free'.³⁰³ Bangladesh's rank is 146 out of 180 countries and score is 48.36 in the '2017 World Press Freedom Index'.³⁰⁴

With regard to protecting fundamental freedoms, there are a number of issues to be worried about. Despite the continuous protests of various human rights organizations, extra-judicial killing, arbitrary or unlawful detentions, and forced disappearances by government security forces has continued. Compared to 2014 and 2015, the rate of such killings increased in 2016 in many different forms, such as 'crossfire', 'gunfight', 'exchange of bullets', 'encounter between police and the convict(s) etc. In 2016, a total number of 195 people were killed in 'crossfire', 'gunfight, bullet-exchange, and also in the custody of law enforcement authorities. The figure was 192 and 128 respectively in the years 2015 and 2014. In addition, the government continued to deny even the existence of any extra-judicial killing as always.

There are policies in place that undermine the ability of journalists, bloggers, researchers, human rights advocates and other civil society actors to exercise their fundamental rights, including uncovering and reporting on all forms corruptions, and holding leaders accountable. Many provisions contained in domestic laws such as the Special Powers Act (1974), the Anti-terrorism Act (2009) (amended in 2012 and 2013), the Information and Communication Technology Act (2006) (amended in 2009 and 2013), the Mobile Court Act (2009) and Foreign Donations (Voluntary Activities) Regulation Act (2016) are incompatible with Bangladesh's obligations under the International Covenant on Civil and Political Rights (ICCPR)³⁰⁵ and curtail universally recognised liberty of individuals.

The Anti-Terrorism Act (2009), also known as the ATA, provides a very broad and vague definition of "terrorist activities" which opens the door to human rights abuses under the guise of the so-called "fight against terror," which is becoming increasingly prevalent in Bangladesh.³⁰⁶

According to the Annual Report 2016/2017 of Amnesty International, the government continued to use a range of repressive laws to restrict the right to freedom of expression extensively. It increasingly used the Information and Communications Technology Act which arbitrarily restricted expression of opinions online. Up to August 2017 in this year, cases have been lodged against 19 journalists under the Section 57 of this law. People who are close to the concerned ministers and MPs have filed cases against 11 of these journalists.³⁰⁷

Bangladesh witnessed a spate of violent attacks against secular bloggers, academics, gay rights activists, foreigners, and members of religious minorities in 2016.³⁰⁸ One blogger was killed in 2016, while five were killed in 2015.

³⁰³ Freedom House, *Freedom in the World Rating 2017*, <https://freedomhouse.org/report/fiw-2017-table-country-scores> (Accessed on 23 April 2017). The Freedom Rating: 4/7 (Political Rights 4/7 and Civil Liberties 4/7 {1 = Most Free & 7 = Least Free}).

³⁰⁴ Reporters Without Borders, *World Press Freedom Index 2017*, <https://rsf.org/en/ranking/2017#> (23 April 2017).

³⁰⁵ UN, *International Covenant on Civil and Political Rights (ICCPR)*, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>, (25 May 2017).

³⁰⁶ One example of the ATA being used to target human rights defenders and journalists is the case of Mahmudur Rahman, Acting Editor of the *Daily Amar Desh*. On 6 June 2010 he was charged with "printing banned leaflets" and for "conspiring against the State". Mahmudur Rahman was later acquitted of these charges, but the judicial harassment against him continues to this day. Finally he has been released on bail. Joint NGO Alternative Report to the UN Human Rights Committee on Bangladesh (119th session: 6-29 March 2017), by United Nations Human Rights: Office of the High Commissioner, see page 4, http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/BGD/INT_CCPR_CSS_BGD_26483_E.pdf, (25 May 2017).

³⁰⁷ *Daily Prothom Alo*, 2 August 2017.

³⁰⁸ Human Rights Watch, *World Report 2017*.

Table 6.1: Journalist, citizens journalist, media assistant killed during 2012 – 2016³⁰⁹

Category	2012	2013	2014	2015	2016
Journalist	4 ³¹⁰		1 ³¹¹		
Citizens journalist		1 ³¹²		4 ³¹³	1 ³¹⁴
Media assistant				1 ³¹⁵	

Though the High Court has made it illegal for law enforcement agencies to arrest or pick up a person in civil dress, a good number of such incidents took place. According to a report 97 people were forced to disappear, kidnapped and killed by the law enforcement agencies in 2016.³¹⁶ In the first six months of 2017, 90 people have been killed in ‘crossfires’ by law enforcement agencies, and 44 peoples were picked up (not arrested). Among them seven returned, bodies of two were rescued and three were shown arrested later.³¹⁷ A total number of 284 disappeared or were victims of kidnapping during the period between January 2014 and June 2017. Among them bodies of 44 were rescued, 36 were shown arrested later, and 27 came back to their families. There is no information of the rest 177.³¹⁸

In the new wave of terrorist attacks by the Islamist militants³¹⁹ the violation of human rights by the law enforcing agencies became more eminent. In June 2016, security forces arrested nearly 15,000 people, mostly young men, in connection with a series of attacks targeting writers, minority religious leaders, and activists. Following the attack on the Holey Artisan Café in July 2016, security forces reportedly arbitrarily detained and in many cases killed suspected militants. Two of the hostages in the attack were secretly arrested and detained for over a month until international and national pressure forced the government to admit to holding them in detention.

Journalists are also a common target. The editor of the English-language Daily Star, Mahfuz Anam, faces a total of 54 criminal defamation cases and 15 sedition cases. Fifty-five cases have been filed against editor Matiur Rahman and some journalists associated with the country’s highest circulation daily, Prothom Alo, for criminal defamation and “hurting religious sentiment.”³²⁰

The year 2016 also witnessed several brutal attacks on different ethnic and religious minorities. At different times of the year, Hindu priests, temple servers, and Christians were killed and severely injured. There were 66 such instances of attack in 2016, and five were killed. This year the number of torture on minorities is 25 where one has been killed.³²¹ Also, the Hindu residences, their temples and idols were vandalized and set on fire, and they were evicted out of their houses. Beside the continued attack on people of other faiths, the indigenous people were not spared-they were attacked, tortured and evicted.

³⁰⁹ Reporters Without Borders, *Violations of press freedom barometer*, <https://rsf.org/en/barometer?year=>

³¹⁰ Mehrun Runi, *ATN Bangla Television*, 11 February 2012; Sagor Sarwar, *Maasranga TV*, February 11, 2012; Jamal Uddin, *Gramer Kagoj*, 15 June 2012; Talhad Ahmed Kabir, *Dainik Narshingdi Bani*, 25 October 2012.

³¹¹ Sadrul Alam Nipul, *Dainik Mathabhanga*, 21 May 2014.

³¹² Ahmed Rajib Haider, 15 February 2013.

³¹³ Avijit Roy, 26 February 2015; Washiqur Rahman Babu, 30 March 2015; Ananta Bijoy Das, 12 May 2015; Niloy Chakrabarti - Niloy Neel, 7 August 2015. All of them were bloggers.

³¹⁴ Samad Nazim Uddin, *Gonojagoron Moncho*, 6 April 2016.

³¹⁵ Faysal Arefin Dipan, Editor of Avijit Roy’s book *Muktadhara*, 31 October 2015.

³¹⁶ Ain O Salish Kendra, *Human Rights Situation Bangladesh: An Analysis*, <http://www.askbd.org/ask/2017/03/28/human-rights-situation-in-bangladesh-2016/>, (15 May 2017)

³¹⁷ *Daily Prothom Alo*, 1 July 2017.

³¹⁸ *Daily Prothom Alo*, 5 July 2017.

³¹⁹ On July 1, armed gunmen attacked the Holey Artisan Bakery, a café in Dhaka, killing 21 people, including foreigners, while holding Bangladeshi staff and guests hostage until security forces stormed the café the next morning. On July 8, three people were killed at a checkpoint when gunmen carrying bombs tried to attack a gathering to mark the Muslim Eid holiday.

³²⁰ Human Rights Watch, *World Report 2017*, https://www.hrw.org/sites/default/files/world_report_download/wr2017-web.pdf, (Accessed 15 May 2017)

³²¹ *Daily Prothom Alo*, 1 July 2017.

Challenges

The following may be identified as the shortcomings of the access to information regime.

- a. There is a limited public interest override against the general exemption for security services if the information involves corruption or human rights violations. Despite having a broad scope, there are blanket exemptions for police, security and intelligence services from providing such information.³²² On the other hand, the Act will not be applicable for the Special Branch of Bangladesh Police and intelligence cell of the RAB.³²³ However, any information related to corruption of the organisation or human rights violations is to be provided upon prior approval of the IC.³²⁴
- b. Due to frequent transfers, having RTI-skilled DOs in place remains a challenging task.³²⁵
- c. Information management and record keeping and archiving is a major concern which hinders the implementation delays as well as timely information providing to the applicants, especially when the demand pattern matures and people start to seek very specific information.³²⁶
- d. Publicity about information laws and their provisions is critical. Awareness is still low, especially among women, the rural population, and marginalised groups. More than 75% of respondents identified inadequate publicity of the law as the biggest challenge in accessing information.³²⁷
- e. Most of our citizens are accustomed to the culture of secrecy that shielded all government work from public view for centuries, and we are understandably reluctant to ask for information from public offices. In fact, many are afraid that the authorities concerned might even retaliate if the information they seek is considered sensitive. They also do not feel confident that the defense mechanism built into the system, via the IC, will be able to protect them from uncooperative or irate officials. While some citizens have overcome this fear in recent times, it is still far from what is required for any systemic change.³²⁸
- f. There is noticeable ambiguity in some sections especially on appellate authority. Since the provision of pre-permission is not very clear, the IC faces problem to take decision in many cases. Beside this, there is another ambiguity about either the government granted organisations and those which are licensed from government and receiving subsidy are under the RTI Act or not.³²⁹
- g. Although media persons show a lot of interest to RTI Act, they are not aware to follow this Act when they are collecting information from other organisations. They require instant information and do not pay for it. As a result, the concerned DO falls in a dilemma and it creates embarrassing situation between designated person and others.³³⁰

Protection of Fundamental Freedoms

The legal framework with regard to the protection of fundamental freedoms often contains provisions that threaten or undermine the ability of journalists, bloggers, researchers, human rights advocates and other civil society actors to exercise their fundamental rights, to uncover and report on all forms corruptions, and to hold leaders accountable. The phrase ‘inapplicability of this Act in case of certain

³²² Global Right to Information Rating, Bangladesh, indicator-31 and Introduction, http://www.rti-rating.org/view_country/?country_name=Bangladesh (25 April, 2017).

³²³ RTI Act 2009, Schedule 7 under Section 32.

³²⁴ Information Commission, FAQ-37 and 44 (English), <http://www.infocom.gov.bd/site/page/3f63cb13-3d30-4169-a379-9fb5c343950b/FAQ>, English (25 April, 2017).

³²⁵ *Op. cit.*, Cabinet Division, p. 11.

³²⁶ Anti-Corruption Resource Centre, *Right to Information Laws: Impact and Implementation*, U4 Expert Answer, www.u4.no (15 May 2017).

³²⁷ RTI Forum, *Right to Information in Bangladesh: Challenges of Implementation*, November 2012, p. 20, http://www.mrdibd.org/RTI%20Repository/35_RTIA%20in%20Bangladesh,challenges%20of%20implementation.pdf (12 May 2017).

³²⁸ *The Daily Star*, 13 April 2017, <http://www.thedailystar.net/perspective/promoting-open-government-through-the-rti-act-1390402> (11 May 2017).

³²⁹ Information Commission of Bangladesh, *Annual Report 2011*, p. 79.

³³⁰ Information Commission of Bangladesh, *Annual Report 2014*, p. 102, http://infocom.portal.gov.bd/sites/default/files/infocom.portal.gov.bd/annual_reports/7ae40972_4403_4e2a_b5d1_031fcd7cbd30/Annual%20Report-2014.pdf (12 May 2017).

organizations and institutions³³¹ allows not to share information of such organisations which are involved in state security and intelligence mentioned in the Act Schedule. This provision creates a scope of undermining the ability to uncover and report on all forms of corruptions, and to hold leaders as well as high officials accountable.

At the same time, the reverse scenario also exists in Bangladesh. The Government has adopted (13 October 2016) the 'Foreign Donations (Voluntary Activities) Regulation Act, 2016' to regulate and monitor of NGO activities. According to the Act, any foreign funded NGO which engages in anti-state activities and finances extremism and terror activities, or "making derogatory comments about the Constitution and constitutional institutions" of Bangladesh would be considered as offences. The NGO Affairs Bureau (NGOAB) supervised by the Prime Minister's Office are granted authority to cancel or withhold the legal registration of foreign funded NGO or ban its activities for committing the offence.

Although the Constitution guarantees the right to freedom of expression, Article 39 of the Constitution states that freedom of thought and conscience is "subject to any reasonable restrictions imposed by law in the interests of the security of the State, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence." These restrictions go beyond those allowed by Article 19 of the ICCPR, which states that restrictions must be "necessary" rather than "reasonable." Additionally, the ICCPR does not allow for restrictions in the interests of "friendly relations with other States" or "contempt of court," two rationales that are often used to justify the repression of dissenting voices in Bangladesh. On 6 October 2013, the National Parliament of Bangladesh passed the ICT (Amendment) Act (2013). Ignoring protests by rights groups, the Act increased the punishment for cybercrimes from the previous ICT Act from 10 years' imprisonment to 14 years or a fine of Tk 10,000,000 or both. Moreover, in the original ICT Act, adopted in 2006, provisions were non-cognisable and bail-able, and arrests were subject to prior approval from governmental authority or court. Offences under Sections 54, 56, 57 and 61 of the ICT Act, 2006 are now changed to 'cognisable' and 'non-eligible for bail'. Consequently, law enforcement officials are empowered to arrest anyone without a warrant.³³²

Conclusion

This chapter reveals that in ensuring access to information and protection of fundamental freedoms, Bangladesh fares well with regard to legal and institutional structure compared to many other countries. However, in reality the right to information regime is yet to be fully effective. Violations of basic human rights and fundamental freedoms by different state organs are still going on with the support of some legal loopholes.

³³¹ *Right to Information Act, 2009*, Section 32;

http://infocom.portal.gov.bd/sites/default/files/files/infocom.portal.gov.bd/law/ec81a874_3b89_498c_92b5_be30da12af3c/%E0%A6%85%E0%A6%A7%E0%A6%BF%E0%A6%95%E0%A6%BE%E0%A6%B0%20%E0%A6%86%E0%A6%87%E0%A6%A8.pdf, (23 April 2017).

³³² United Nations Human Rights: Office of the High Commissioner, Joint NGO Alternative Report to the UN Human Rights Committee on Bangladesh (119th Session: 6-29 March 2017), p. 3, http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/BGD/INT_CCPR_CSS_BGD_26483_E.pdf, (25 May 2017).

Conclusion and Recommendations

Conclusion

This report has attempted to provide an assessment, mainly based on reviewing the secondary literature, of the preparedness, practice and challenges of Bangladesh in meeting some of the SDG 16 Targets pertaining to promoting good governance, strong and accountable institutions, access to information and fundamental freedoms.

From the above discussion, it may be concluded that the government has undertaken a multi-pronged approach to achieve SDGs. Necessary exercises of mapping of relevant bodies and gaps in data have been conducted, along with preparing monitoring mechanisms and tracking tools. The needs assessment of funds and possible sources have also been exercised. However, despite different initiatives, the government planning lacks adequate emphasis on SDG 16, as there is significant gaps in baseline data. Therefore, a lot of effort needs to be channeled for achieving this Goal.

To prevent money laundering and illicit financial flows, there is adequate legal and institutional framework, along with necessary capacity consistent with international standards and good practices. However, the amount illicit financial flows have been increasing. Politicization in regulatory agencies, politico-administrative nexus in indulgence of corruption, presence of politically exposed persons and their family members in different financial institutions and securities sector are there. Capacity constraints and absence of dedicated prosecution units are barriers for some regulatory agencies to investigate money laundering offences. The rate of prosecution of money laundering cases are also quite low.

From the discussion it is observed that despite having a robust legal and institutional framework for reducing corruption, corruption is rampant in the country. The institutional capacity to address corruption is questionable due to low numbers of enquiry and investigation compared to complaints, poor case disposal and poor rate of convictions, which reflects lack of adequate investigation and prosecution skills. There is also allegation of impunity on the part of corrupt political leaders that may have provided incentive for the expansion of corruption at different levels. Despite having taken some recent initiatives, the ACC has not been able to show its ability and political will to take actions against the high level politicians and public officials. Policies related to transparency and accountability in public institutions are regularly flouted. The willingness of the government to pursue anti-corruption measures is challenged due to some legal limitations, and lack of implementation.

Bangladesh has achieved a good state of preparedness in terms of having a legal framework and clear institutional arrangement of the NIS institutions. However, there are huge gaps in implementation and practices of laws and policies. Subtle gaps are there in laws which create a scope of dismantling independent status of them in a real sense. Real independence of the NIS institutions is far reaching unless laws are formulated and enacted to cut off the dependency on the Executive. There are significant gaps in implementation especially in the areas of human rights violation, corruption and holding the powerful political elites accountable. Controlling attitude and practices are evident in the Executive to use and control law enforcing agencies, ACC, EC, media, civil society and business by means of shaping legal framework as well as by creating disabling climate. Independent institutions suffer from mistrust and inefficiency which is derived from faulty appointment procedures of the heads and members of institutions, which is mostly made on political consideration. There are shortages of human resources and budget as well as capacity constraints in many of the selected

institutions, which holds back the institutions from being effective, transparent and accountable in a true sense.

In ensuring access to information and protection of fundamental freedoms, Bangladesh fares well with regard to legal and institutional structure compared to many other countries. However, in reality the right to information regime is yet to be fully effective. Violations of basic human rights and fundamental freedoms by different state organs are still going on with the support of some legal loopholes.

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.

Target-specific Recommendations

Target 16.4

1. Dedicated money laundering investigation and prosecution units must be ensured for LEAs like ACC, NBR, and DNC.
2. A case management system for money laundering must be developed in the AGO.
3. 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.
4. Appropriate legal framework for Asset Recovery must be ensured.
5. The Company Act 1994 and Trust Act 1882 must be amended to include beneficiary ownership information for registration of legal persons and trusts.
6. Automatic exchange of financial account information with other countries must be established.

Target 16.5

1. The budgets for concerned anti-corruption institutions (ACC, OCAG, judiciary, law enforcing agencies) must be increased for:
 - (a) logistical support for enquiry and investigation (such as transportation, equipment, restoration of confiscated goods etc.)
 - (b) prevention activities (such as public hearing, research etc.)
 - (c) hiring highly skilled and efficient lawyers
 - (d) training for increasing skill of staff
2. The organograms of the concerned agencies should be reviewed and the staff strength should be increased
3. Measures should be taken to increase the conviction rate for anti-corruption cases
4. A proper structure for protecting the whistle-blowers should be developed
5. Independent oversight mechanisms should be developed for the concerned agencies. Independent committees comprising public representatives, present/ former bureaucrats and civil society members of high integrity, credibility and acceptability may be formed to advise, monitor and evaluate key agencies
6. 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
7. Effective and timely investigation and quick disposal of corruption cases must be ensured
8. Relevant laws should be amended or enacted to ensure
 - (a) Annual financial information disclosure of MPs and the Executive
 - (b) Asset declarations of public servants available to common people
 - (c) Protection of whistle-blowers if suffering from harmful action
 - (d) Dedicated mechanism / hotline for whistle-blowing/ lodging complaints on corruption
 - (e) Evaluation of APAs made public

9. E-procurement/ e-tendering should be introduced for all public procurements by all public agencies

Target 16.6

1. Laws must be reformed to ensure functional independence of constitutional bodies (Parliament, Judiciary, OCAG and EC) and reframe the status of Information Commission, NHRC, ACC as constitutional bodies to enhance their functional independent role.
2. Clear framework and procedures of the appointment of Chairs and Members of the independent institutions must be defined to ensure fair and transparent appointment.
3. The NHRC Act 2009 must be reformed to empower the HRC to investigate into violation of human rights committed by disciplined forces including LEAs.
4. A Public Service Act must be enacted to provide safeguard to the public servants from political manipulation and apply performance management tools for individual public servants.
5. The budgets and human resources for judiciary, LEAs, EC, OCAG, ACC, NHRC, and IC must be increased on the basis of needs.

Target 16.10

1. Relevant laws must be amended or enacted:
 - a. Article 57 should be removed from the ICT Act 2013 to ensure media freedom as well as the obscure terms used in Article 14 of the Foreign Donation Regulations Act 2016 to provide enough space to CSOs/NGOs for working.
 - b. The scope of RTI Act should be broadened and political parties, media and business should be brought under its jurisdiction.
 - c. The wide range of information types getting exemptions must be narrowed down.
 - d. Exemptions of information disclosure on human rights breaches or corruption held by security and intelligence services must be reduced.
2. 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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Annex 1

STRs reported (by sector) and percentage of STRs included in BFIU disseminations

Institutions	Number	2009	2010	2011	2012	2013	2014	2015	Total
Banks (Total)	56 (8,079 branches)	38	77	184	266	474	658	1,087	2,784
State-owned Commercial Banks	6	0	4	2	0	1	6	28	
Private Commercial and Specialized Banks	41 (3602 branches)	14	40	138	153	209	188	324	1,066
Foreign Banks		22	23	32	109	236	412	417	1,251
Islamic Banks		2	10	12	4	28	52	318	426
Stock Dealers/Brokers	386	0	0	0	0	0	72	31	103
Merchant banks	55	0	0	0	0	0	37	28	65
Non-banking Financial Institutions	19	0	0	0	0	0	6	15	30
Insurance Companies	77	2	0	0	0	2	1	5	10
NGOs	697 Micro finance institutions	0	0	0	1	0	0	0	1
Money Remitters	227	0	0	0	0	0	32	85	117
DNFBPs	1198 Real Estate Developers 415 Dealers of Precious Metals or Stones 2500 Accountants	0	0	0	0	0	0	0	0
Total STR received		40	77	184	267	482	815	1266	3131
% of STR included in disseminations		12%	22%	21%	33%	9%	8%	5%	

Source: Mutual Evaluation Report 2016.

Annex 2

Number of RO staff involved in BFIU training on obligations and risks

Sectors	2010	2011	2012	2013	2014	Total
Banks	17,472	23,603	24,263	24,265	29,416	1,19,019
NBFIs	155	75	248	895	1126	2,499
Insurance	91	410	535	637	995	2,668
Capital Market	16	43	79	439	463	1,040
DNFBPs						
a) Lawyers	-	-	-	50	200	250
b) Accountants	-	-	-	60	140	200
c) Real Estate Developers	-	-	-	50	300	350

Source: Mutual Evaluation Report 2016.

Annex 3

Existing laws determining efficiency, transparency, and accountability of selected institutions

Institutions	Effective functioning	Transparency	Accountability
Parliament	<ul style="list-style-type: none"> ▪ The Constitution of Bangladesh ▪ The Parliament Secretariat Act, 1994 ▪ The Rules of Procedures (ROP) ▪ Representation of the People Order (Amendment) Act, 2009 	<ul style="list-style-type: none"> ▪ The Right to Information Act, 2009 ▪ Public-Interest Information Disclosure Act (Protection), 2011 	<ul style="list-style-type: none"> ▪ The Constitution of Bangladesh ▪ The Rules of Procedures (ROP) ▪ The Members of Parliament (Determination of Dispute) Act, 1980
Executive	<ul style="list-style-type: none"> ▪ The Constitution of Bangladesh ▪ The Rules of Business 1996 ▪ General Financial Rules (GFR) ▪ The Prime Minister's (Remuneration and Privileges) Act, 1975 ▪ The Special Powers Act, 1974 	<ul style="list-style-type: none"> ▪ The RTI Act, 2009 ▪ The Public Interest Information Disclosure (Protection) Act, 2011 	<ul style="list-style-type: none"> ▪ The Constitution of Bangladesh ▪ The Rules of Business 1996
Judiciary	<ul style="list-style-type: none"> ▪ The Constitution of Bangladesh ▪ The Code of Civil Procedure 1908 ▪ The Supreme Court (High Court Division) Rules, 1973 	<ul style="list-style-type: none"> ▪ The RTI Act, 2009 ▪ The Public-Interest Information Disclosure Act (Protection), 2011 	<ul style="list-style-type: none"> ▪ The Constitution of Bangladesh ▪ The Government Servant (Conduct) Rules 1979
LG	<ul style="list-style-type: none"> ▪ The Constitution of Bangladesh ▪ City Corporation Amended Act-2011 ▪ Upazila Parishad Amended Act-2011 ▪ Upazila Parishad Program Implementation Rules-2010 ▪ Municipality Amendment Act-2015 ▪ Municipality Amended Act-2010 ▪ Union Parishad Act-2009 ▪ Union Parishad Tax Schedule Rules-2012 ▪ Union Parishad Accounts & Audit Rules-2012 ▪ Village Court Act-2006 	<ul style="list-style-type: none"> ▪ The RTI Act 2009 ▪ The Public-Interest Information Disclosure Act (Protection), 2011 	<ul style="list-style-type: none"> ▪ The Local Council Servants (Efficiency and Discipline) Rules 1968 ▪ The Constitution of the People's Republic of Bangladesh
PA	<ul style="list-style-type: none"> ▪ The Government Servant (Conduct) Rules 1979 	<ul style="list-style-type: none"> ▪ The RTI Act 2009 ▪ The Public-Interest Information Disclosure Act (Protection), 2011 	<ul style="list-style-type: none"> ▪ The Prevention of Corruption Act, 1947 ▪ The Government Servants (Discipline and Appeal) Rules, 1985 ▪ The Public Servants (Dismissal on Conviction) Ordinance, 1985 ▪ The Government Servants (Review of Penalties) (Dissolution of Review Board) Ordinance, 1978
LEA	<ul style="list-style-type: none"> ▪ The Constitution of Bangladesh ▪ The Police Act, 1861 ▪ The Police Regulations, Bengal, 1915 	<ul style="list-style-type: none"> ▪ The RTI Act, 2009 ▪ Information and Communication Technology Act, 2006 ▪ The Evidence Act, 1872 	<ul style="list-style-type: none"> ▪ The Police Act, 1861 ▪ Civil Rules and Orders [Annual Confidential Report – ACR)

Institutions	Effective functioning	Transparency	Accountability
		<ul style="list-style-type: none"> ▪ The Public-Interest Information Disclosure Act (Protection), 2011 	
EC	<ul style="list-style-type: none"> ▪ The Constitution of Bangladesh ▪ The Election Commission Secretariat Act, 2009 ▪ The Election Commission (Office staff) Recruitment Rules, 2008 	<ul style="list-style-type: none"> ▪ The RTI Act, 2009 ▪ The Public-Interest Information Disclosure Act (Protection), 2011 ▪ The Election Commission Secretariat Act, 2009 	<ul style="list-style-type: none"> ▪ The Election Commission Secretariat Act, 2009 ▪ The Election Commission (Office staff) Recruitment Rules, 2008 ▪ The Election Officer (special rules) Act, 1991
OCAG	<ul style="list-style-type: none"> ▪ The Constitution of Bangladesh ▪ The Comptroller and Auditor-General (Additional Functions) Act, 1974 	<ul style="list-style-type: none"> ▪ The RTI Act, 2009 ▪ The Public-Interest Information Disclosure Act (Protection), 2011 	<ul style="list-style-type: none"> ▪ Code of ethics ▪ The Comptroller and Auditor-General (Additional Functions) Act, 1974
ACC	<ul style="list-style-type: none"> ▪ The Anti-Corruption Act, 2004 ▪ The Money Laundering Prevention Act, 2012 	<ul style="list-style-type: none"> ▪ The RTI Act, 2009 ▪ The Public-Interest Information Disclosure Act (Protection), 2011 	<ul style="list-style-type: none"> ▪ The Anti-Corruption Act, 2004
IC	<ul style="list-style-type: none"> ▪ The RTI Act, 2009 ▪ The RTI (Information Disclosure and Dissemination) Rules, 2010 ▪ The Disclosure of Public Interest Information (Protection) Act, 2011 	<ul style="list-style-type: none"> ▪ The RTI Act, 2009 ▪ The Public-Interest Information Disclosure Act (Protection), 2011 	<ul style="list-style-type: none"> ▪ The RTI Act, 2009
HRC	<ul style="list-style-type: none"> ▪ The National Human Rights Commission Act, 2009 	<ul style="list-style-type: none"> ▪ The RTI Act, 2009 ▪ The Public-Interest Information Disclosure Act (Protection), 2011 	<ul style="list-style-type: none"> ▪ The National Human Rights Commission Act, 2009
Political parties	<ul style="list-style-type: none"> ▪ The Constitution of Bangladesh ▪ The Political Parties Ordinance, 1978 ▪ The Political Party Registration Rules, 2008 ▪ The Conduct of Election Rules 1972 	<ul style="list-style-type: none"> ▪ The Representation of the People Order, 1972 ▪ The Political Party Registration Rules, 2008 	<ul style="list-style-type: none"> ▪ The Political Parties Ordinance, 1978 ▪ The Political Party Registration Rules, 2008 ▪ The Conduct of Election Rules, 1972
Media	<ul style="list-style-type: none"> ▪ The Constitution of Bangladesh ▪ The Press Council Act, 1974 ▪ The Information and Communication Technology Act, 2013 		<ul style="list-style-type: none"> ▪ The Information and Communication Technology Act, 2013 ▪ The Press Council Act, 1974
Civil society	<ul style="list-style-type: none"> ▪ The Foreign Donation Regulations Act, 2016 ▪ The Societies Registration Act, 1860 	<ul style="list-style-type: none"> ▪ The RTI Act, 2009 ▪ The Public-Interest Information Disclosure Act (Protection), 2011 	<ul style="list-style-type: none"> ▪ The Foreign Donation Regulations Act, 2016
Business	<ul style="list-style-type: none"> ▪ The Financial Institutions Act, 1993 ▪ The Securities and Exchange Commission Act, 1993 ▪ The Companies Act, 1994 ▪ The Bankruptcy Act, 1997 		<ul style="list-style-type: none"> ▪ The Financial Institutions Act, 1993 ▪ The Companies Act, 1994 ▪ The Bankruptcy Act, 1997

Annex 4

Institutional arrangement and human resources in selected institutions

Institution	Institutional arrangement	Infrastructure	Human resources
Parliament	<ul style="list-style-type: none"> ▪ Speaker and deputy speakers ▪ Deputy leader of the Parliament ▪ Leader, and Deputy leader of the opposition ▪ Chief Whip and other Whips ▪ Standing Committees ▪ MPs 	<ul style="list-style-type: none"> ▪ Parliament building ▪ Parliament Secretariat – six wings ▪ Offices, lounges Committee rooms 	<ul style="list-style-type: none"> ▪ Total staff: 123,333 ▪ Permanent staff for Parliament Secretariat ▪ Provision of deputation of staff from MoPA for heading the wings of the Secretariat³³⁴
Executive	<ul style="list-style-type: none"> ▪ The President ▪ The Prime Minister ▪ The Cabinet and its committees 	<ul style="list-style-type: none"> ▪ Office of the President ▪ Office of the Prime Minister ▪ Bangladesh Secretariat and different ministry offices 	<ul style="list-style-type: none"> ▪ Permanent staff for Cabinet Division ▪ Provision of deputation of staff from MoPA³³⁵
Judiciary	<ul style="list-style-type: none"> ▪ The Chief Justice and other justices ▪ Judges of the Supreme Court and Subordinate Courts ▪ Judges of Special Courts and Tribunals ▪ Law and Justice Division 	<ul style="list-style-type: none"> ▪ Court buildings at district and metropolitan areas ▪ Supreme Court Building 	<ul style="list-style-type: none"> ▪ Own judicial staff ▪ Provision of reliance on the Law and Justice Division for administrative task, budget, recruitment, transfer, promotion etc.³³⁶
Local Government	<ul style="list-style-type: none"> ▪ Tier-wise LGIs ▪ Local Government Division (LGD) 	<ul style="list-style-type: none"> ▪ Own buildings of LGIs ▪ LGD office at Bangladesh Secretariat ▪ Tier-wise office of different departments 	<ul style="list-style-type: none"> ▪ Own administrative staff ▪ Dependency of LGIs on LGD for administrative task, budget, recruitment, transfer, promotion, monitoring etc.³³⁷
Public Admin	<ul style="list-style-type: none"> ▪ Ministry of Public Administration ▪ Upper tier: The central secretariat at national level consisting of the ministry and divisions ▪ Lower Tier: Department/directories attached to the ministries and division 	<ul style="list-style-type: none"> ▪ Office at the Bangladesh Secretariat ▪ Tier-wise own administrative offices 	<ul style="list-style-type: none"> ▪ Own administrative staff
Law Enforcing Agency	<ul style="list-style-type: none"> ▪ Ministry of Home Affairs ▪ Several branches of police, stationed at different tiers 	<ul style="list-style-type: none"> ▪ Office at the Bangladesh Secretariat ▪ Police headquarters, police station, barracks, outposts 	<ul style="list-style-type: none"> ▪ Own staff
Election Commission	<ul style="list-style-type: none"> ▪ Chief Election Commissioner and other Commissioners appointed by the President 	<ul style="list-style-type: none"> ▪ Election Commission Secretariat ▪ Field offices across the country 	<ul style="list-style-type: none"> ▪ Own staff of EC ▪ Provision of deputation for top-level staff from MoPA³³⁸ ▪ Provision of seeking service of other government and

³³³ http://www.parliament.gov.bd/images/pdf/Orgnogram_Final.pdf (13 June 2017).

³³⁴ Governance and Integrity: The National Integrity Systems in Bangladesh, The University Press Limited (UPL), 2017

³³⁵ *Ibid.*

³³⁶ *Ibid.*

³³⁷ *Ibid.*

³³⁸ *Ibid.*

Institution	Institutional arrangement	Infrastructure	Human resources
			non-government staff during election ³³⁹
OCAG	<ul style="list-style-type: none"> Prime Minister nominated and the President appointed CAG 	<ul style="list-style-type: none"> Office of the CAG Office of different secretariat of CAG 	<ul style="list-style-type: none"> Dependency on Ministry of Finance and MoPA for recruitment of staff³⁴⁰ Not enough manpower to verify their draft audit report³⁴¹
Information Commission	<ul style="list-style-type: none"> Chief Information Commissioner supported by two information commissioner Administrative support of a secretary 	<ul style="list-style-type: none"> No own office building Works only from central level 	<ul style="list-style-type: none"> Very few own administrative staff³⁴² Lack of trained and specialized skilled staff³⁴³ Provision of deputation for top-level staff from MoPA and MoI³⁴⁴
National Human Rights Commission	<ul style="list-style-type: none"> Steered by a chairman, a full-time member and five member 	<ul style="list-style-type: none"> Office at Dhaka, Rangamati, and Khulna 	<ul style="list-style-type: none"> Lack of skilled and experienced human resources³⁴⁵ Provision of deputation for top-level staff from MoPA³⁴⁶
Political parties	<ul style="list-style-type: none"> Own constitution, aligned with rules of election commission 41 registered and more than 70 non-registered parties 	<ul style="list-style-type: none"> Functional central office with central committee Organization at various administrative level of the country 	
Media	<ul style="list-style-type: none"> Ministry of Information A very good number of Print and Electronic media outlets, also the presence of Social Media and online news portals State-owned Radio and TV 	<ul style="list-style-type: none"> Reasonable sound academic training for journalism in public and private universities Press clubs at different tiers Head offices and bureau offices at different tiers 	<ul style="list-style-type: none"> Lack of human resource development, particularly at local level³⁴⁷ Lack of professionalism among the journalist³⁴⁸
Civil society	<ul style="list-style-type: none"> NGO Affairs Bureau Civil society includes NGO, CSO, and CBO 	<ul style="list-style-type: none"> Tier-wise Offices NGO, CSO, and CBO 	<ul style="list-style-type: none"> Employees recruited simply for service delivery goal³⁴⁹ Some CSOs lack expertise and efficiency High staff turnover
Business	<ul style="list-style-type: none"> Each business has its own style and structure of management Entire business sector Business Associations 		<ul style="list-style-type: none"> Private businesses have made almost 89% employment in the job market³⁵⁰

³³⁹ *Ibid.*

³⁴⁰ KII with OCAG expert (24 May 2017).

³⁴¹ *Ibid.*

³⁴² KII with information commission official (13 June 2017).

³⁴³ Governance and Integrity: The National Integrity Systems in Bangladesh, The University Press Limited (UPL), 2017.

³⁴⁴ *Ibid.*

³⁴⁵ *Ibid.*

³⁴⁶ *Ibid.*

³⁴⁷ KII with a media expert (4 June 2017).

³⁴⁸ *Ibid.*

³⁴⁹ Governance and Integrity: The National Integrity Systems in Bangladesh, The University Press Limited (UPL), 2017.

³⁵⁰ Governance and Integrity: The National Integrity Systems in Bangladesh, The University Press Limited (UPL), 2017.