



TRANSPARENCY
INTERNATIONAL
BANGLADESH

Social movement against corruption

CIVIL
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SOCIAL

Article 13. Participation of society

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups, outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:

- (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
- (b) Ensuring that the public has effective access to information;
- (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;
- (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to such restrictions as shall only be such as are provided for

CIVIL SOCIETY REPORT

on the implementation of
Chapter II (Prevention) & Chapter V (Asset Recovery) of the

UNITED NATIONS CONVENTION AGAINST CORRUPTION IN BANGLADESH

by Transparency International Bangladesh

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Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of 30 May 2023.

The report was prepared by Fatema Afroz (former researcher of Transparency International Bangladesh) under the guidance of Dr. Iftekharuzzaman, Executive Director of TIB. The report was reviewed by Shahzada M. Akram, former Senior Research Fellow of TIB and Alexis Chalon, Denyse Degiorgio, Danella Newman and Irina Tontcheva from the UNCAC Coalition.

Transparency International Bangladesh (TIB)

MIDAS Centre (Level 4 & 5),

House-5, Road-16 (New) 27 (Old), Dhanmondi, Dhaka -1209

Website: <https://www.ti-bangladesh.org/beta3/index.php/en/>

Email: info@ti-bangladesh.org , advocacy@ti-bangladesh.org

Facebook page: <https://www.facebook.com/TIBangladesh/>

Transparency International Bangladesh (TIB), the accredited national chapter of TI, works with a vision of Bangladesh where government, politics, business, civil society and lives of the common citizens would be free from corruption. Its mission is to catalyze a participatory and sustained social movement against corruption and contribute to strengthening institutions, laws, and practices towards an efficient and transparent system of governance, for which it conducts extensive programmes of research, advocacy and civic engagement.

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Abbreviations

ACC	Anti-Corruption Commission
AML	Anti-Money Laundering
APG	Asia Pacific Group
BAC	Bureau of Anti-Corruption
BPSC	Bangladesh Public Service Commission
BJSC	Bangladesh Judicial Service Commission
BEC	Bangladesh Election Commission
BFIU	Bangladesh Financial Intelligence Unit
CTR	Cash Transaction Reports
CPTU	Central Procurement Technical Unit
CTF	Counter-Terrorism Financing
CID	Criminal Investigation Department
CIID	Customs Intelligence and Investigation Directorate
CSO	Civil Society Organization
DoE	Department of Environment
DNC	Department of Narcotics Control
DSA	Digital Security Act
IMF	International Monetary Fund
MLPA	Money Laundering Prevention Act
NBR	National Board of Revenue
NCC	National Coordination Committee
NIS	National Integrity Strategy
OCAG	Comptroller and Auditor General
OCGA	Controller General of Accounts
PEFA	Public Expenditure and Financial Accountability Assessment
RILO	Regional Intelligence Liaison Offices
RPO	Representation of the People Order
RTI	Right to Information
SEC	Security and Exchange Commission
SC	Supreme Court
SJC	Supreme Judicial Council
STR	Suspicious Transaction reports
TIB	Transparency International Bangladesh
TBML	Trade-Based Money Laundering
UN	United Nations
UNCAC	United Nations Convention against Corruption
UNODC	United Nations Office on Drugs and Crime
WB	World Bank

I. Introduction

Bangladesh acceded to the United Nations Convention against Corruption (UNCAC) on 27 February 2007.¹ This report reviews Bangladesh's implementation of selected articles of Chapter II (Preventive measures) and Chapter V (Asset recovery) of the UNCAC. The report is intended as a contribution to the UNCAC implementation review process for which Bangladesh was selected by the UNCAC Implementation Review Group in the fifth year of the second cycle.

1.1 Scope

The UNCAC articles and topics that receive particular attention in this report are those covering preventive anti-corruption policies and practices (Article 5), preventive anti-corruption bodies (Article 6), public sector employment (Article 7.1), codes of conduct, conflicts of interest and asset declarations (Articles 7, 8 and 12), reporting mechanisms and whistleblower protection (Articles 8.4 and 13.2), political financing (Article 7.3), public procurement (Article 9.1), the management of public finances (Article 9), judiciary and prosecution services (Article 11), private sector transparency (Article 12), access to information and the participation of society (Articles 10 and 13.1), and measures to prevent money laundering (Article 14) under Chapter II. Under Chapter V, the UNCAC articles and topics that receive particular attention in this report are those covering anti-money laundering (Articles 52 and 58), measures for direct recovery of property (Articles 53 and 56), confiscation tools (Article 54), international cooperation for the purpose of confiscation (Articles 51, 54, 55, 56 and 59) and the return and disposal of confiscated property (Article 57).

1.2 Structure

The report is divided into six (I-VI) major sections. Section I covers the introduction which includes the scope and structure of the report and the methodology of the research. Section II presents the Executive Summary covering a description of the official review process, availability of information, and key highlights of implementation in law and in practice. Section III presents an assessment of the review process. Section IV covers the assessment and implementation of the provisions of Chapters II and V of UNCAC. Section V presents some recent updates and finally section VI presents recommendations for priority actions to improve the implementation of the UNCAC.

1.3 Methodology

The report was prepared by Transparency International Bangladesh (TIB) following guidelines and a report template designed by the UNCAC Coalition and Transparency International for use by civil society organizations (CSOs). Article-specific checklists were prepared and efforts were made to collect information accordingly. Both primary and secondary methods of data collection were used. The researcher conducted key informant interviews. Relevant laws, rules and regulations, published government and non-government documents, research reports, media reports, and published data on websites were also reviewed as appropriate.

¹ UNODC, Signature and Ratification Status, <https://www.unodc.org/unodc/en/corruption/ratification-status.html>, accessed on 15 June 2022.

II. Executive Summary

This report aims to review Bangladesh's progress in implementing UNCAC provisions on Preventive Measures (Chapter II) and Asset Recovery (Chapter V). It is intended to contribute to the UNCAC implementation review process which is currently underway.

2.1 Description of the Official Review Process

At the time of writing this report, the UNCAC review team of Bangladesh government was working on the Self-Assessment Checklist. The UNCAC review team of the government, coordinated by the Legislative and Parliamentary Affairs Division of the Ministry of Law, Justice and Parliamentary Affairs with contributions of at least two dozen relevant government ministries and state institutions worked on the Self-Assessment Checklist. A few civil society organizations were invited to a meeting held on 13 June 2023 to comment on a draft checklist presented at the meeting. Only Transparency International Bangladesh (TIB) participated and made some instant comments. Pursuant to a decision of the meeting TIB provided more detailed written comments on the full draft on 28 June, 2023.² Initial contacts have been made for country visits.

2.2 Availability of Information

Collecting information was the most difficult part of doing this research. Due to restrictions in accessing public offices and the documents of public offices, data collection was challenging. It was further aggravated due to *Covid* situation. Most of the information was collected from online sources. A few key informants were interviewed. Setting up interviews to collect data was lengthy and difficult. Some of the scheduled dates were deferred several times. In some cases, personal connections were used to schedule interviews. Even those who agreed and attended the interviews later hesitated to provide information and to disclose their identities and also requested anonymity. TIB made official information requests for UNCAC review-related information and documents. In response, especially after the June 13, 2023 meeting mentioned above, partial information and documents were provided to the researcher. Data analysis in this report is done according to the information available during the timeframe of the research.

2.3 Implementation in Law and in Practice

Bangladesh enacted the Anti-Corruption Commission Act in 2004. After acceding the UNCAC in 2007, the country adopted the Anti-Corruption Rules in 2007 to strengthen the legal framework. It also took a few other initiatives and strategies to strengthen the fight against corruption, including the adoption of the National Integrity Strategy (NIS) in 2012, the Right to Information Act in 2009, the Public Interest Information Disclosure (Provide Protection) Act in 2011, the Public Procurement Rules in 2008, as well as the amended and upgraded Anti-Money Laundering Act of

² While preparing this CSO report, TIB made several attempts for data and the draft and also urged for engaging the CSOs in the review process; that was not done till May 2023. Later in June after many attempts taken earlier, the authority called a few (four) CSOs, and shared the draft report of country review to comment on it (in which only TIB participated). By that time the report was completed and hence this report was only partially informed by the Self-Assessment Report.

2012, among others. However, implementation and enforcement of these initiatives and strategies remain weak.

As provided by the anti-corruption law, Bangladesh established an Anti-Corruption Commission (ACC). It is working as a specialized institution within the national integrity system with an aim to control and prevent corruption. Its legal framework and institutional arrangements are considered conducive to the fight against corruption at the national and local levels. Still, there are legal impediments such as the provision requiring prior permission of the government before arresting public officials for allegations of corruption, a restriction imposed through amendment of the 2012 Anti-money Laundering Act on the jurisdiction of the ACC as well as a provision in the 2023 Income tax Act by which ACC's authority to obtain income and asset data needed for investigation has been curtailed. ACC has also been subjected to growing bureaucratic influence.³

In order to build an efficient civil service sector and to create talented, competent and committed civil servants, Bangladesh took initiatives to build a legal and institutional framework including the adoption of Bangladesh's Civil Service Recruitment Rules in 1981. There are also sets of rules based on the Government Servants (Conduct) Rules of 1979. Recent initiatives such as- the enactment of the Civil Service Act in 2018 and the implementation of the National Integrity Strategy are also intended to improve the quality of governance. However, there are allegations of irregularities in the recruitment process. Furthermore, the provision of ensuring prior permission of the government to arrest civil servants is believed to have a negative impact on the capacity of the ACC to combat corruption. Other requirements like the disclosure of assets of the public officials are not duly practiced.

The Representation of the People Order (RPO)⁴ and the Conduct of Election Rules were promulgated in 1972. Through a subsequent revision, a dedicated chapter on "election expenses" was incorporated, which concerns election-related income and the expenditure of candidates and political parties. In 1991 and 2001, the chapter was further revised to ensure more transparency and accountability. Through another revision in 2008, reporting on non-election party funding was made mandatory. The RPO limits election expenditure, but by law spending by the chief of the party is not limited, and is not required to feature in the party's expenditure report. The provisions of RPO are alleged to be widely violated.

Bangladesh enacted the Public Interest Information Disclosure (Provide Protection) Act in 2011 to safeguard whistleblowers. However, even after a decade since it was passed, this law is not yet well known to people, nor have there been any notable initiatives to implement the law.

In 2006 a robust Public Procurement Act was enacted that was followed by the adoption of comprehensive Public Procurement Rules in 2008. The government subsequently introduced an electronic government procurement (E-GP) system. Nevertheless, the alleged 'nexus among a

³ The Daily Star, 2023. Available at: <https://www.thedailystar.net/opinion/views/news/can-bureaucrat-reliant-acc-really-be-independent-3228676>, <https://www.thedailystar.net/opinion/views/news/income-tax-act-2023-yet-another-mortal-blow-acc-3357051>; accessed on 31 August 2023.

⁴ Representation of the People Order, 1972 is the law which regulates the election of 300 members to the National Parliament. For more information please see: <http://bdlaws.minlaw.gov.bd/act-details-424.html>; https://en.banglapedia.org/index.php?title=Representation_of_the_People_Order,_1972; accessed on 18 June 2022.

section of officials within the procuring entity and the contractors’ is hindering transparency and accountability in the procurement process.⁵

Article 22 of the Constitution guarantees the independence of the judiciary from the executive branch of the state. Furthermore, article 94 (4) of the Constitution also ensures the independence of the Chief Justice and other judges of the Supreme Court in the exercise of their judicial functions. Yet it was not until 2007 that the formal separation of the judiciary took place. In spite of this formal separation, political and executive influence allegedly continues to limit the level of judicial independence.

Bangladesh enacted the Money Laundering Prevention Act in 2002, which was subsequently amended in 2012. After a further amendment in 2015 and adoption of the Money Laundering Prevention Rules in 2019,⁶ a potentially effective legal framework was created. The Bangladesh Financial Intelligence Unit (BFIU), with its membership in the Egmont Group, has access to a wide range of opportunities for international cooperation. Despite commendable institutional and legal preparedness, the level of implementation of these acts and rules is not regarded as encouraging, as illicit financial flows have been increasing in recent years.

There are concerns regarding the growing illicit flight of money out of Bangladesh. The Bangladesh Financial Intelligence Unit is mandated to play the key role in preventing and controlling money laundering in collaboration with other state agencies like the Criminal Investigation Department of Police, the ACC and the Office of the Attorney General. However, very few concrete and coordinated steps are known to have been taken to prevent illicit outflows and to bring back the laundered money.

Table 1: Implementation in law and enforcement summary⁷

UNCAC articles	Status of implementation in law	Status of implementation and enforcement in practice
Art. 5 – Preventive anti-corruption policies and practices	largely implemented	low
Art. 6 – Preventive anti-corruption body or bodies	largely implemented	moderate

⁵ The Daily Star (25 September 2020), Govt. Procurement Process Riddled with Corruption. <https://www.thedailystar.net/editorial/news/govt-procurement-process-riddled-corruption-1967021> accessed on 18 June 2022.

⁶ The 2015 amendment of the Act and subsequent Rules promulgated in 2019 forfeited 26 out of 27 scheduled items of money laundering related crimes from the jurisdiction of ACC which is widely considered to undermine the authority of the ACC to investigate such crimes. <https://www.ti-bangladesh.org/articles/press-release/6731>, <https://www.thedailystar.net/opinion/views/news/income-tax-act-2023-yet-another-mortal-blow-acc-3357051> accessed on 27 August 2023.

⁷ Done based on the primary and secondary information and consultation.

Art. 7.1, 7.2, 8.1, 8.2, 8.3 and 12 – Public sector employment, codes of conduct, conflicts of interest and asset declarations	largely implemented	low
Art. 7.3 – Political financing	partially implemented	low
Art. 8.4 and 13.2 – Reporting mechanism and whistleblower protection	largely implemented	low
Art. 9.1 and 9.2 – Public procurement and management of public finances	largely implemented	moderate
Art. 10 and 13.1 – Access to information and the participation of society	Largely implemented	moderate
Art. 11 – Judiciary and prosecution services	largely implemented	moderate
Art. 14, 52, 58 – Measures to prevent money-laundering and anti-money laundering	largely implemented	low
Art. 51, 54, 55, 56 and 59 – International cooperation for the purpose of confiscation	largely implemented	low
Art. 57 – The return and disposal of confiscated property	largely implemented	low

Table 2: Performance of selected key institutions

Name of institution	Performance in relation to responsibilities covered by the report	Brief comment on performance
Anti-Corruption Commission	moderate	Poor in terms of taking action against the alleged corruption of the elite, especially politically and administratively connected individuals.

Central Procurement Authority	good	The Central Procurement Technical Unit (CPTU) handles E-GP quite well, which has facilitated improvement in the procedure of procurement, though manipulation and political influence in public procurement is still considered to be a widespread problem.
Information Commission	moderate	The Information Commission still needs to enhance institutional capacity and effectiveness.
Financial Intelligence Unit	moderate	BFIU is well organized, but needs to be more active to effectively prevent and control money laundering, including developing concrete steps to repatriate stolen assets from abroad in cooperation with other relevant authorities.

2.4 Recommendations for Priority Actions

Bangladesh has progressed well in terms of creating the legal and institutional framework needed to implement pledges made under Chapters II and V of the UNCAC. However, it has a long way to go in terms of implementation. The following measures can be considered as priority actions to facilitate better implementation:

1. Ensure the independence and higher professional capacity of the ACC and free it from political and bureaucratic influence;
2. Remove all predicaments created by various legal and policy amendments to compromise the jurisdiction, scope and operational flexibility of ACC;
3. Amend the 2017 version of the Anti-Money Laundering Act and Rules to enhance the Anti-Corruption Commission’s (ACC) jurisdiction through inclusion of all items of the schedule of offences as provided in the 2012 version;
4. Make appointments of Supreme Court Judges by an independent body (e.g., a Supreme Judicial Council). Complete the process of full separation of the judiciary free from executive and political influence. Ensure strict compliance with codes of conduct by all judicial officers including mandatory and periodically updatable disclosure of income and assets;
5. Create a Public Prosecutor Cadre Service;

6. Remove all existing legal and policy provisions and refrain from introducing any laws or policies that restrict the space for civil society and media to facilitate their active participation in anti-corruption reporting and other initiatives;
7. Ensure the disclosure of the wealth of public officials: annually updated wealth statement should be made mandatory and enforced. Establish an effective oversight and monitoring mechanism to ensure compliance and take effective actions in case of accumulation of income and wealth disproportionate with legitimate income source;
8. Ensure depoliticization of all institutions promoting democracy and accountability;
9. Strengthen legal and institutional capacity to ensure integrity in public procurement at all levels by elimination of political and bureaucratic influence and syndication. Ensure universal application of the e-GP system for all categories volumes of procurement;
10. Set up the Offices of Ombudsman at national and sectoral levels;
11. Produce and publish in-year report, mid-year review, and year-end financial budget reports in a timely manner; enhance the comprehensiveness of the year-end reports and ensure public access to them;
12. Build capacity of all institutions to ensure proactive and on-demand disclosure of information and drive civic activism to enhance public interest and participation in the movement for access to information;
13. Ensure that the recruitment process of civil servants is free and fair and that public institutions including the bureaucracy and law-enforcement agencies are depoliticized;
14. Arrange awareness-raising campaigns for implementation of the whistleblower protection act;
15. Create the space for higher level of independence and effectiveness of the OCAG, and take concrete actions to ensure accountability based on the findings of the OCAG reports.
16. Enhance transparency and accountability in financial management; and abolish the provision of 'whitening' black money;
17. Upscale the level of professional skills and effectiveness of institutions and agencies mandated to prevent and control illicit financial transfers. Increase greater cooperation and coordination between them with particular emphasis on repatriation of stolen assets taking advantage of opportunities for international cooperation including mutual legal assistance.

III. Assessment of the Review Process for Bangladesh

3.1. Report on the Review Process⁸

The UNCAC review team of Bangladesh government is working on the Self-Assessment Checklist. The UNCAC review team of the government, coordinated by the Legislative and Parliamentary Affairs Division of the Ministry of Law, Justice and Parliamentary Affairs with contributions of at least two dozen relevant government ministries and state institutions worked on the Self-Assessment Checklist. The civil society was not consulted till May 2023. Later a few civil society organizations were invited to a meeting held on 13 June 2023 to comment on a draft checklist presented at the meeting. Only Transparency International Bangladesh (TIB) participated and made some instant comments. Pursuant to a decision of the meeting TIB provided more detailed written comments on the full draft on 28 June, 2023.

Table 3: Transparency of the government and CSO participation in the UNCAC review process

Did the government disclose information about the country focal point?	yes	Not publicly disclosed, but disclosed when approached for this information.
Was the review schedule published somewhere/publicly known?	yes	Not publicly disclosed, but disclosed when approached for this information.
Was civil society consulted in the preparation of the self-assessment checklist?	yes	Four CSOs were invited and only TIB participated. ⁹
Was the self-assessment checklist published online or provided to civil society?	yes	The draft was shared with TIB. ¹⁰
Did the government agree to a country visit?	yes	By May 2023, they made their first contact with the visitor country.
Was a country visit undertaken?	no	Not in that stage, as of June 2023.

⁸ This section has been updated in June 2023.

⁹ It was done in June 2023. Not done throughout the time when the CSO approached while preparing this report

¹⁰ Done in June 2023. Not done throughout the time when the CSO approached while preparing this report. When four CSOs were invited for consultation and as only TIB participated they were provided with the draft country review report later in June 2023.

Was civil society invited to provide input to the official reviewers?	yes	Four CSOs (including TIB) were invited. ¹¹
Was the private sector invited to provide input to the official reviewers?	no	Not done as of August 2023.
Has the government committed to publishing the full country report?	no	Not clear as of August 2023.

3.2. Access to Information

In 2009 the Right to Information (RTI) Act was enacted to ensure people’s access to public interest related information, widely recognized as a milestone in upscaling the standard of transparency and accountability as well as preventing corruption. The 2009 RTI Act allows the citizens of Bangladesh to demand and receive information from all public bodies as well as voluntary non-governmental organizations. The law also provides fairly robust proactive disclosure of information by the entities under its jurisdiction through respective websites and other means. The Information Commission was also established under the RTI Act, as an independent appeal authority to ensure that the authorities respect the timeline of providing information and also take action against unjustifiable denial of information requests.¹² Although the private sector is not included in the jurisdiction of the RTI law, these were appreciated as a step forward and every year the Right to Information (RTI) day is celebrated with enthusiasm.

However, application of the law still remains difficult¹³ and the effectiveness of the act has been questioned. Generally, it is because while the other laws “allow governments to regulate public life, the RTI Act lets the citizens regulate the work of governments themselves.”¹⁴ The RTI act was enacted to empower citizens with information. On the other hand, some prevailing laws like the Official Secrets Act from the colonial period and the controversial 2018 Digital Security Act are undermining effectiveness of the right to information.¹⁵ There is still a negative impression of RTI applicants among some government officials. There are many instances of harassment of the RTI

¹¹ A total of four CSOs were invited to provide input
¹² The Daily Star (2021) <https://www.thedailystar.net/views/opinion/news/success-the-rti-act-relies-effective-information-commission-2230026>, accessed on 15 December 2022.
¹³ The Daily Star (2021) <https://www.thedailystar.net/opinion/news/revisiting-the-role-rti-sustainable-development-2078061>, accessed on 15 December 2022.
¹⁴ The Daily Star (2021), <https://www.thedailystar.net/opinion/news/revisiting-the-role-rti-sustainable-development-2078061>; accessed on 17 December 2022.
¹⁵ The Daily Star (2022), Link: <https://www.thedailystar.net/news/bangladesh/governance/news/dsa-threat-implementing-publics-right-information-3129566>, accessed on 17 December 2022.

applicants.¹⁶ The researcher of this review collected information through formal interviews with the officials of public offices using a detailed checklist for information.

¹⁶ The Daily Star, 2022. Source: <https://www.thedailystar.net/views/opinion/news/untold-ales-rti-successes-3005266>, accessed on 17 December 2022.

IV. Assessment of Implementation of Chapter II and V Provisions

This section analyzes the implementation of the provisions of UNCAC Chapter II on preventive measures in Bangladesh and Chapter V on asset recovery through the application of laws, regulations and practices, and highlights both good practices and areas for improvements.

4.1. Chapter II

4.1.1. Art. 5 – Preventive Anti-corruption Policies and Practices

The Prevention of Corruption Act of 1947 was the first law focusing on corruption and bribery.¹⁷ In 1974, the Bangladesh Anti-Corruption Act was enacted and as a result an anti-corruption body, the Bureau of Anti-Corruption (BAC), was formed to combat bribery and other types of corruption.¹⁸ Later there was considerable demand from civil society for effective anti-corruption efforts including a series of advocacy initiatives undertaken by Transparency International Bangladesh (TIB).¹⁹ Subsequently, the government enacted the Anti-Corruption Commission Act in 2004²⁰ through which the BAC was dissolved and the Anti-Corruption Commission (ACC) was established. A new milestone was reached in 2007 when in the face of public demand including TIB's advocacy the government acceded to the UNCAC.²¹

A number of laws, rules and regulations have been enacted since then. The Anti-Corruption Rules of 2007²² strengthened the ACC followed by a comprehensive anti-corruption framework and a few other initiatives. The Public Procurement Act was enacted in 2006²³ and the Public Procurement Rules were adopted in 2008. In 2009, the Right to Information Act²⁴ was enacted to

¹⁷ Suhan Khan, Syeda Faiza Hossainz and Ahmed Farzad, 2021, Anti-Corruption and Anti-Bribery Laws of Bangladesh, <https://www.accordchambers.com/anti-corruption-and-anti-bribery-laws-of-bangladesh/>, accessed on 15 April 2022.

¹⁸ *Ibid.*

¹⁹ Transparency International Bangladesh, National Level Advocacy, <https://www.ti-bangladesh.org/beta3/index.php/en/about-us/what-we-do/outreach-communication/national-level-advocacy>, accessed on 12 November 2021.

²⁰ Anti-Corruption Commission Act 2004, http://acc.org.bd/sites/default/files/files/acc.portal.gov.bd/law/5066622a_f667_4ac4_97e8_e7970c65b49a/Accle_wenglish.pdf, accessed on 14 January 2021.

²¹ Transparency International Bangladesh, National Level Advocacy, <https://www.ti-bangladesh.org/beta3/index.php/en/about-us/what-we-do/outreach-communication/national-level-advocacy>, accessed on 14 November 2021.

²² Anti-Corruption Rules 2007, http://acc.org.bd/sites/default/files/files/acc.portal.gov.bd/law/9e493b4c_96ac_4f6d_901f_16a04c935460/Amen_ded%202019%20FIR%20in%20ACC.pdf, accessed on 5 November 2021.

²³ Government of Bangladesh 2012, Public Procurement Act 2006; <https://cptu.gov.bd/procurement-policy-and-procedure-documents/procurement-act.html>, accessed on 26 December 2022.

²⁴ Government of Bangladesh 2009, Right to Information Act, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwifoeWLSzX8AhUmxTgGHVCTBekQFnoECBEQAQ&url=https%3A%2F%2Fwww.humanrightsinitiative.org%2Fprograms%2Fai%2Frti%2Finternational%2Flaws_papers%2Fbangladesh%2Fbangladesh_rti_act_2009_summary.pdf&usq=AOvVaw2UkzFFE83xzMiYCd6jz0hO, accessed on 10 March 2022.

ensure people's right to information. It also strengthened the existing anti-corruption framework to enable citizens to appeal if their application for information is denied. The Information Commission was established in 2009. Furthermore, the passing of the Public Finance and Budget Management Act²⁵ of 2009, the Disclosure of Public Interest Information (Protection) Act of 2011²⁶, the Prevention of Money Laundering Act of 2012²⁷, and the Competition Act of 2012²⁸ are a few other legal initiatives that had been employed to combat corruption.

The adoption of the National Integrity Strategy²⁹ (NIS) in 2012 - a comprehensive set of goals, strategies and action plans - is another important initiative to serve as guidance for the fight against corruption. It includes state as well as non-state institutions in a comprehensive framework of pledges and road maps towards promoting integrity with a whole of society approach. To ensure the operationalization of the NIS, in 2015, an implementation progress monitoring system was created. Since the fiscal year 2016-17, monitoring tools are being used at the national and regional levels.

The Bangladeshi government formally attaches high priority to combatting corruption as reflected in successive five year-plans, and Perspective Plans. The Perspective Plan of 2021-41 include promises of administrative reform and application of e-governance, strengthening Anti-Corruption Commission and enhancing transparency and accountability.³⁰

The government introduced a Governance Innovations Unit attached to the office of the Prime Minister and set up information centers³¹ at the lowest tiers of the local government. Integrity

²⁵ Government of Bangladesh, 2009, Public Finance and Budget Management Act , <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwi278HfsZX8AhWO4zgGHcNGAb0QFnoECAsQAw&url=https%3A%2F%2Fwww.treasury.gov.za%2Flegislation%2Fpfma%2Fact.pdf&usg=AOvVaw2niZPA5HcGMZMLK6EvnUkk>, accessed on 10 March 2022.

²⁶ Government of Bangladesh, 2009, Disclosure of Public Interest Information (Protection) Act of 2011, [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjp4brG4lr-AhUSWGwGHVf-DDIQFnoECA4QAQ&url=http%3A%2F%2Fbdlaws.minlaw.gov.bd%2Fupload%2Fact%2F2021-11-17-11-39-54-40.The-Dsclosure-of-Public-Interest-information-\(Protection\)-Act--2011.pdf&usg=AOvVaw2G8-zHA5S3i_bzslBbQxt-](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjp4brG4lr-AhUSWGwGHVf-DDIQFnoECA4QAQ&url=http%3A%2F%2Fbdlaws.minlaw.gov.bd%2Fupload%2Fact%2F2021-11-17-11-39-54-40.The-Dsclosure-of-Public-Interest-information-(Protection)-Act--2011.pdf&usg=AOvVaw2G8-zHA5S3i_bzslBbQxt-) accessed on 18 June 2022.

²⁷ Prevention of Money Laundering Act of 2012. Available here: https://www.bb.org.bd/bfiu/bfiu_acts.php

²⁸ Competition Act, 2012. <http://bdlaws.minlaw.gov.bd/act-details-1098.html>; accessed on 29 December 2022.

²⁹ Government of Bangladesh, 2012. *National Integrity Strategy*. Available here: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiby4WfgMD2AhUWgdgFHRgsBAIQFnoECAGQAw&url=https%3A%2F%2Fcabinet.portal.gov.bd%2Fsites%2Fdefault%2Ffiles%2Ffiles%2Fcabinet.portal.gov.bd%2Fpage%2F2923c670_4862_4936_b6b1_9f666353b00d%2FNIS_English%2520%25281%2529.doc&usg=AOvVaw1s2XTEY_uilKXTvZN6dUs8, accessed on 10 March 2022.

³⁰ The Daily Star, 2022. Tackling corruption for inclusive development, <https://www.thedailystar.net/recovering-covid-reinventing-our-future/blueprint-brighter-tomorrow/news/tackling-corruption-inclusive-development-2960656#lg=1&slide=0>, accessed on 14 March 2022.

³¹ The Daily Star, 2019. Union Digital Centre: Prioritising government's one-stop rural shop, <https://www.thedailystar.net/opinion/economics/news/union-digital-centre-prioritising-governments-one-stop-rural-shop-1739107>; The Business Standard, 2020. Union Digital centres create 13,372 2ntrepreneurs, <https://www.tbsnews.net/economy/union-digital-centres-create-13372-entrepreneurs-10-years-156769>, accessed on 16 June 2022.

Awards³² have been introduced to recognize the contribution of officials at the national and local levels.

Major political parties, including the current ruling party, included anti-corruption as a key policy area in their electoral manifesto. The prime minister made a zero-tolerance pledge against corruption as declared in her first address to the nation after being sworn in for the third consecutive term in 2019,³³ which is reminded quite often through public pronouncements.

It is evident that Bangladesh undertook a good number of initiatives to develop an adequate legal and institutional framework consistent with international standards to fight corruption. However, their implementation and effectiveness still remain a big question. Corruption is still regarded as a major challenge to the country's development. Ranked 12th from below among 180 countries according to corruption Perception Index (CPI), Bangladesh is considered as one of the countries worst affected by corruption. Transparency International Bangladesh has revealed through its nine successive national household surveys that both the extent of corruption and the amount of bribery, remain high. The latest report from 2021 revealed that 70.8% of households experienced corruption while receiving services from institutions in both the public and private sectors compared to 66.5% as per the 2017 survey.³⁴ The estimated total amount of bribes or illegitimate payments collected from victims was approximately 1.26 billion USD³⁵ which was equivalent to 5.9% of the national budget and was 1.2% higher than the previous survey.³⁶ These reports have found that corruption has been "moving aggressively to become a way of life"³⁷ and have created concerns about the implementation and effectiveness of the anti-corruption framework. It is widely believed that anti-corruption measures are taken more against 'small fries' and less for 'big fishes'³⁸ who often enjoy impunity.

Good practices

- Establishment of a strong and comprehensive legal and policy potential through political pledges, laws, strategies, and implementation plans;

³² Bangla tribune, 2022, Govt's award for dedicated service and integrity, <https://en.banglatribune.com/national/news/78885/Govt%E2%80%99s-award-for-dedicated-service-and-integrity>, accessed on 14 December 2022.

³³ The Daily Star, 2019. Available at: <https://www.thedailystar.net/opinion/news/governments-zero-tolerance-policy-against-corruption-1702171>, accessed on 14 March 2022.

³⁴ Transparency International Bangladesh, 2022, Available at: <https://www.ti-bangladesh.org/images/2022/nhs/2021/extended-executive-summary-english.pdf>, accessed on 27 June 2023.

³⁵ Transparency International Bangladesh, 2022. The estimated amount of bribes or illegitimate payment (Taka 108,30,10,00,000) is converted into USD using exchange rate of 31 December 2021.

³⁶ Transparency International Bangladesh, 2018. Available at: https://www.ti-bangladesh.org/images/2018/report/nhs/NHS_2017_Ext_Sum_EN.pdf accessed on 27 June 2023.

³⁷ *Ibid.*

³⁸ Dhaka Tribune, 2022. ACC busy catching small fries, not big fish, High Court says, <https://www.dhakatribune.com/court/2022/11/27/acc-busy-catching-small-fries-not-big-fish-high-court-says>, accessed on 27 December 2022.

- Bringing corruption into the limelight as a major concern in national development and perspective plans.

Deficiencies

- Poor implementation of laws, rules and regulations;
- The legal framework is insufficient to address and criminalize private sector corruption and foreign bribery;
- Implementation of the Anti-Corruption Commission agenda has been compromised by some legal amendments that have undermined the authority of the ACC and other relevant agencies.³⁹

4.1.2. Art. 6 and 13.2 – Preventive Anti-Corruption Body or Bodies

The Anti-Corruption Commission (ACC) came into being in 2004 with the enactment of the Anti-Corruption Act. It was established by abolishing an earlier institution called the Bureau of Anti-Corruption that did not have the jurisdiction to inquire into and investigate allegations of corruption independently, and therefore could not work effectively. The ACC functions as a specialized institution and independent statutory body by law within the national integrity system, with an aim to control and prevent corruption. It was established as a statutory body to work with a vision “to ensure creating a strong anti-corruption culture that permeates throughout the whole society”, and with a mission “to combat, control, prevent corruption relentlessly and promote good practices.”⁴⁰ Its strategic objectives are to “curb corruption through punitive actions, to prevent corruption in revising the existing work procedures and through education, burgeoning good practices and disseminating awareness.”⁴¹

Currently the ACC employs a total number of 1211 of staff members with three commissioners, even though additional 935 positions remain vacant.⁴² Complying with Section 5 of the ACC Act of 2004, the institution is comprised of three commissioners with one chairman.⁴³ According to the ACC Act, a Selection Committee consisting of five members will make recommendations for the appointment of the commissioners.⁴⁴ Although by law all the commissioners are to be

³⁹ For instance, Amendment of the Civil Service Act 2018, Anti-Money Laundering Act 2012 and Income Tax Act 2023.

⁴⁰ ACC website, 2022. <http://acc.org.bd/site/page/957ced4f-ea9e-446e-b1ca-8e7a59c4f374/->, accessed on 16 February 2022.

⁴¹ ACC website, <http://acc.org.bd/site/page/957ced4f-ea9e-446e-b1ca-8e7a59c4f374/->, cited in TIB (2020). TIB website: https://www.ti-bangladesh.org/beta3/images/2020/report/ACC/ACC_Full_Report.pdf, accessed on 16 March 2022.

⁴² ACC Website, <http://www.acc.org.bd/site/page/29a0e49e-16cc-4f80-adb2-9af05ab86ae6/->, accessed on 30 May 2023.

⁴³ The Anti-Corruption Commission Act, 2004. <http://bdlaws.minlaw.gov.bd/act-914.html>, accessed 15 May 2022, Section 7.

⁴⁴ The Anti-Corruption Commission Act, 2004, Section 7 includes “In order to make recommendation for the appointment of commissioners, a Selection Committee of five members shall be constituted as follows,: (a) A

appointed by the President, according to the Constitution the President is expected to act in accordance with the advice from the Prime Minister.⁴⁵

In 2008, the ACC adopted the Anti-Corruption Commission (Personnel) Employment Rules⁴⁶ in order to determine the terms and conditions of appointment. According to the rules, the ACC can employ new staff through direct recruitment, promotion, and transfers.⁴⁷ The operational activities are carried out by the six Director Generals. A number of high-level officials are deputed from various government departments which is believed to have compromised the scope of independent functioning of the Commission.⁴⁸

The ACC's functions include:⁴⁹

- (a) To inquire into and conduct investigations of the offences specified in the law
- (b) To file and conduct cases under this Act on the basis of inquiry and investigation conducted under clause;
- (c) To hold an inquiry into any allegation of corruption on its own motion, or on an application made by an aggrieved person or any person on his behalf;
- (d) To discharge any duty assigned to the Commission regarding anti-corruption by any law;
- (e) To review the measures recognized by any law for preventing corruption and submit recommendations to the President for the effective implementation thereof;

Judge of the Appellate Division, nominated by the Chief Justice; (b) A Judge of the High Court Division, nominated by the Chief Justice; (c) The Comptroller and Auditor General of Bangladesh; Prepared by International Business and Technical Consultants 4 (d) The Chairman of the Public Service Commission; and (e) The latest retired Cabinet Secretary. Provided that, if the above-mentioned retired Cabinet Secretary is not available or declines the appointment, then the retired Cabinet Secretary who immediately preceded him shall be appointed.”
<http://bdlaws.minlaw.gov.bd/act-914.html>, accessed 9 July 2022.

⁴⁵ The Constitution of Bangladesh, <http://bdlaws.minlaw.gov.bd/act-367/chapter-details-679.html>, accessed 9 July 2022.

⁴⁶ Anti-Corruption Commission, 2008, Durniti domon commission (kormochari) chakuri bidhimala 2008, http://acc.portal.gov.bd/sites/default/files/files/acc.portal.gov.bd/page/5379113c_9979_4dca_a752_bea551ae9836/%28%E0%A6%95%E0%A6%B0%E0%A7%8D%E0%A6%AE%E0%A6%95%E0%A6%B0%E0%A7%8D%E0%A6%A4%E0%A6%BE-%E0%A6%95%E0%A6%B0%E0%A7%8D%E0%A6%AE%E0%A6%9A%E0%A6%BE%E0%A6%B0%E0%A7%80%29%20%E0%A6%9A%E0%A6%BE%E0%A6%95%E0%A6%B0%E0%A6%BF%20%E0%A6%AC%E0%A6%BF%E0%A6%A7%E0%A6%BF%E0%A6%AE%E0%A6%BE%E0%A6%B2%E0%A6%BE-%E0%A7%A8%E0%A7%A6%E0%A7%A6%E0%A7%AE_en_266%20%281%29.pdf, accessed on 9 June 2022.

⁴⁷ These officials are deputed from various government offices including the administration; For details: Prothom Alo, 2022. Anti-Corruption Commission dominated by admin officers, <https://en.prothomalo.com/bangladesh/government/anti-corruption-commission-dominated-by-admin-officers>, accessed on 18 March 2022.

⁴⁸ Prothom Alo, 2022, Anti-Corruption Commission dominated by admin officers, <https://en.prothomalo.com/bangladesh/government/anti-corruption-commission-dominated-by-admin-officers>, accessed on 18 March 2022.

⁴⁹ The Anti-Corruption Commission Act, 2004, Section 17. <http://bdlaws.minlaw.gov.bd/act-914.html>, accessed on 9 June 2022.

- (f) To produce a research scheme for prevention of corruption and submit recommendations to the President for taking action on the basis of such research findings;
- (g) To create a working culture of honesty and integrity in order to prevent corruption and to take measures to raise public awareness against corruption;
- (h) To organize seminars, symposiums, workshops etc. on subjects falling within the jurisdiction of the Commission;
- (i) To identify various sources of corruption existing in Bangladesh in the context of socio-economic conditions and submit recommendations to the President for taking necessary steps;
- (j) To inquire into, conduct investigations for corruption, file the cases against corruption and to determine the procedure of approval by the Commission in respect of such inquiry, investigation and filing of cases; and
- (k) To perform such other functions as may be necessary for the prevention of corruption.

The Anti-Corruption Commission employs a multi-dimensional strategy to control corruption. As part of the strategy, one of the foremost tasks of the Commission is to collect objective information. On the basis of this information, the Commission adopts the decision for actions of enquiry. The key sources of information are citizens and the mass media. The Commission collects information through its Intelligence Unit and holds enquiries into the complaints received from such information. According to the Anti-Corruption Commission Act, it is in the legal mandate of the Commission to conduct enquiries and investigations into any allegation related to corruption, either on its own initiative, or submitted by any victim of corruption, or by anyone on his/ her behalf concerning offences that correspond to the Schedule of the ACC Act.⁵⁰

The total number of complaints received in 2022 was 19,383 which was 14,789 in 2021.⁵¹ The ACC initiated enquiry for 901 cases in 2022 which was 533 in 2021.⁵²

The ACC initiated corruption prevention initiatives at the national, as well as local levels. It has formed a total of 3,736 Corruption Prevention Committees (CPCs) at the local level. It has also created 27,629 integrity units⁵³ and 5,756 ‘honesty stores’ at educational institutions.⁵⁴ The ACC observes the annual ‘Corruption Prevention Week’ at the national and local levels. On

⁵⁰ The Anti-Corruption Commission, Annual Report 2019.

⁵¹ The Anti-Corruption Commission, Annual Report 2022. P. 33.

https://acc.org.bd/site/view/annual_reports/%E0%A6%AC%E0%A6%BE%E0%A6%B0%E0%A7%8D%E0%A6%B7%E0%A6%BF%E0%A6%95-%E0%A6%AA%E0%A7%8D%E0%A6%B0%E0%A6%A4%E0%A6%BF%E0%A6%AC%E0%A7%87%E0%A6%A6%E0%A6%A8, accessed on 30 May 2023.

⁵² *Ibid.*

⁵³ Integrity Units is a forum for the youth against corruption. Anti-Corruption Commission, Annual Report 2019, http://acc.org.bd/sites/default/files/files/acc.portal.gov.bd/annual_reports/a1325b2f_a119_4a9a_8123_07cd47a31054/2021-12-15-10-02-fc94737b2d7caadda77b772e309544c3.pdf, accessed on 25 April 2022.

⁵⁴ Anti-corruption Commission, Annual Report, 2022.

International Anti-corruption Day (IACD), it organizes human chain⁵⁵ programmes, meetings, rallies and information fairs, among other activities. The ACC launches various awareness messages through electronic and print media. They also engage different stakeholders such as NGOs, development partner organizations and agencies. In 2019, the ACC participated in different programs in the international arena.⁵⁶

The ACC has also formed an Enforcement Unit that started working in January 2019 to take immediate action against the complaints received through the ACC's hotline. In the following two years, the unit conducted 732 enforcement operations across the country and also sent a total of 1454 letters for taking necessary actions.⁵⁷

Nevertheless, the effectiveness and independence of the ACC is debated. The ACC has been criticised in the Parliament and beyond for failing to take concrete and effective action against high profile political and otherwise powerful individuals alleged of corruption. The degree of professional excellence, integrity and credibility of the ACC staff have also been criticized.⁵⁸ An outgoing Chairman of the ACC in 2013 mentioned the following: "when I took over the Chairman four years ago, I had called it a toothless tiger. It cannot be said that the situation has improved significantly in these four years."⁵⁹ The same perception of ACC is widely believed to prevail till date.

Although the ACC did not conduct any overall assessment of its activities, Transparency International Bangladesh published two evaluations, in 2016 and 2018. The latest assessment, where a total of 50 indicators were used, revealed the ACC's strengths and weaknesses. The study found the ACC at a moderate level.⁶⁰ According to the findings of the study, for activities related to prevention and outreach, the ACC has had some achievements; on the other hand, it was assessed to be substandard in terms of detection, investigation and prosecution of corruption cases.⁶¹ This indicates a need for special and immediate attention to enhance the investigation and prosecution capacities of the institution. The study also identified several issues, including

⁵⁵ An anti-corruption human chain is a form of demonstration in which people link arms or hands as a show of solidarity against corruption.

⁵⁶ For details see Annex 2. Anti-Corruption Commission, Annual Report, 2019-20, 2018-19, 2017-18.

⁵⁷ Anti-Corruption Commission, Annual Report 2021,

⁵⁸ Transparency International Bangladesh, 2014. *National Integrity System Assessment Bangladesh*, accessed 19 March 2022 https://images.transparencycdn.org/images/2014_BangladeshNIS_EN.pdf, accessed 18 May 2022.

⁵⁹ Bdnews24.com, <https://bdnews24.com/bangladesh/2013/06/19/acc-is-a-toothless-tiger>, accessed 12 March 2022.

⁶⁰ Moderate level is indicated according to the score of the assessment survey. For details: Transparency International Bangladesh, 2018, Anti-Corruption Agency Strengthening Initiative: assessment of Bangladesh Anti-Corruption Commission 2018, p. 14. https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewjAINSFq6b_AhU8wigGHckyBclQFnoECAGQAQ&url=https%3A%2F%2Ftransparencyschool.org%2Fwp-content%2Fuploads%2FACA-Study-TIB-120217.pdf&usg=AOvVaw3jRAsjweBWkR9jipgxmLUe0, accessed on 29 May 2023.

⁶¹ Transparency International Bangladesh, 2020, <https://www.ti-bangladesh.org/beta3/index.php/en/highlights/6025-assessment-of-bangladesh-anti-corruption-commission-2018>, accessed 18 April 2022.

the ACC's full independence and impartiality, which has been questioned due to its "(in)effectiveness and selective exercise of power."⁶² Questions were raised regarding the appointment of the Chairman and the commissioners. TI Bangladesh's assessment found that political consideration and loyalty often get priority, and the list of the candidates are not usually disclosed to the public.⁶³

Furthermore, the ACC is allegedly seen to take action against people at the lower tiers. The 'high-profile' corrupt individuals are hardly punished.⁶⁴

There are also limitations in terms of disclosing information from the ACC. During this study on the UNCAC review, reluctance was found in terms of providing information including even its "published" Annual Report (2019-20).⁶⁵

Good practices

- There is a robust legal and institutional framework with an independent body for fighting against corruption;
- After abolishing the quota system in recruitment in 2018, a meritocratic approach to the recruitment of ACC staff has been adopted and the selection procedure is considered to be transparent and usually managed by a qualified third party;
- The ACC has its own service rules that include a specific provision of codes of conduct;
- The ACC's financial and budgetary status is considered sufficient, although dependent on the Ministry of Finance.

Deficiencies

- The provision of requiring prior permission of the government in filing cases against public officials stated in the Government Employment Act of 2018 has compromised ACC's operational autonomy;⁶⁶

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ The Daily Star, 2019, TI Corruption Index 2018: Bangladesh slips six notches, <https://www.thedailystar.net/country/bangladesh-ranked-149-in-corruption-index-2018-1694437>, accessed on 15 March 2022.

⁶⁵ Interview with an ACC Official held on 5 December 2021 (*Anonymity requested*) at the ACC; By then the Annual report 2019-2020 was published and the researcher was allowed to read in the Office of ACC, but it was not delivered to the researcher for further use. Later the report was found to be uploaded on the official website of the ACC in January 2022, http://acc.org.bd/sites/default/files/files/acc.portal.gov.bd/annual_reports/a1325b2f_a119_4a9a_8123_07cd47a31054/2021-12-15-10-02-fc94737b2d7caadda77b772e309544c3.pdf accessed 30 January 2021.

⁶⁶ The Daily Star, 2018, The Civil Service Bill: Are some more equal than others?, <https://www.thedailystar.net/opinion/politics/news/are-some-more-equal-others-1650511>, accessed on 04 January 2022.

- Although the ACC has legal powers to take action against corruption, political and administrative challenges on the ground, though often discreet and indirect, make it difficult for it to work effectively;⁶⁷
- The lack of skilled human resources to investigate increasingly sophisticated corruption is also another limitation of the ACC;
- There is a lack of capacity to investigate financial corruption cases including illicit financial transfers by the ACC;
- As most of the complaints are anonymous and very few complainers disclose their identities, most of the complaints cannot be ascertained.

4.1.3. Art. 7.1, 7.2, 8.1, 8.2, 8.3 and 12 – Public Sector Employment, Codes of Conduct, Conflicts of Interest and Asset Declarations

In order to build an efficient civil service sector and to train talented, competent and committed civil servants, Bangladesh undertook a number of initiatives. In 1982, the Bangladesh Civil Service Recruitment Rules,⁶⁸ 1981 were adopted. The Ministry of Public Administration (MoPA) is the apex body, which regulates major recruitments of the public sector. According to the Constitution of Bangladesh, the task of recruitment is entrusted to the Bangladesh Public Service Commission (BPSC/PSC), which is one of the key pillars of the National Integrity System. The PSC is assigned to conduct a competitive and comprehensive selection of the most competent person for the public service role. Other legal provisions include Presidential Order No. 34 on May 9, 1972, PSC Ordinance No. LVII of 1977, PSC Officers and Employees Recruitment Rules of 1990 and Civil Service Act of 2018.⁶⁹

The Constitution of Bangladesh has included Article 29(3) of reserving public service positions for the descendants of freedom fighters (30%), peripheral administrative areas or districts, in other words, *Zilla* (10%), women (10%), and ethnic minorities (5%). That is, 55% of public service positions are to be reserved for these groups and 45% are to be attained through merit. The outcome of the quota policy has never been made public. After massive protests from candidates for public service positions to make it fully merit-based, the government recently abolished the quota system for class I and class II jobs.⁷⁰ However, it will remain in force for class-III and class-

⁶⁷ Transparency International Bangladesh, 2020, Anti-Corruption agency Strengthening Initiative: Assessment of Bangladesh Anti-corruption Commission 2018, https://www.ti-bangladesh.org/beta3/images/2020/report/ACC/ACC_Full_Report.pdf, accessed on 04 January 2022.

⁶⁸ Govt. of the People's Republic of Bangladesh, 1981, Bangladesh Civil Service Recruitment Rules 1981, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewiF15-z4KD8AhXkS2wGHR3mBvUQFnoECAkQAQ&url=https%3A%2F%2Fwww.dpp.gov.bd%2Fupload_file%2Fgazettes%2F001-Law-1981.pdf&usq=AOvVaw2n8rTV1E6_smD00Sh_yF8v, accessed on 14 December 2022

⁶⁹ Govt. of the People's Republic of Bangladesh, 1918, Bangladesh Public Service (Amendment) Act 2018, <http://old.mopa.gov.bd/uploads/2018/archive/acts/cp1-2018-152.pdf>; Bangladesh Public Service Commission Ordinance 1977, <http://bdlaws.minlaw.gov.bd/act-559.html>; Govt. of the People's Republic of Bangladesh 1977, <http://bdlaws.minlaw.gov.bd/act-559.html>, accessed on 14 December 2022.

⁷⁰ Prothom Alo 2018, Circular abolishing Quota in class I, II govt. jobs issued, <https://en.prothomalo.com/bangladesh/Circular-abolishing-quota-in-class-I-II-govt-jobs>, accessed on 4 April 2022.

IV jobs.⁷¹ The credibility of the Public Service Commission had been subject to debate for long. There were allegations that the system is archaic and outdated and lacking any transparent assessment criteria.⁷² Furthermore, there were allegations of leakage of the questions from public exam papers.⁷³ There were instances of postponing the recruitment of top government officials due to corruption allegations.⁷⁴ The growing politicization of the administration allegedly posed risks to the professional excellence of public service.⁷⁵ Reports of irregularities in the posting and promotion of civil servants have also been made.⁷⁶

There are sets of rules for codes of conduct of public servants such as the Government Servants (Conduct) Rules of 1979.⁷⁷ The civil servants are to make declarations before owning real estate assets like land and apartments. They are also required to disclose liquid assets when required by the government.⁷⁸ The candidates for the parliament are required to declare their assets at the time when they register their candidacy. However, once they are elected, there is no legal requirement to do so. Even for civil servants who are required by law to submit wealth statements, this is hardly done in practice, and there is no regulatory mechanism to monitor and ensure compliance and accountability.⁷⁹

The government introduced the Public Administration Award⁸⁰ in 2015. Salary and allowances were doubled by implementing the Pay Commission 2015 recommendations.⁸¹ Some additional

⁷¹ The Daily star 2018, [Quota system in Bangladesh scrapped officially | The Daily Star](https://www.dailystar.com.bd/national/quota-system-in-bangladesh-scrapped-officially); Financial express (2018), <https://thefinancialexpress.com.bd/national/quota-system-in-govt-jobs-comes-to-an-end-1593607498>, accessed on 04 January 2022.

⁷² Transparency International Bangladesh 2007. Bangladesh Public Service Commission: A Diagnostic Study. Available at: https://www.ti-bangladesh.org/beta3/images/max_file/rp_Full_PSC_eng_07.pdf, accessed on 06 April 2022.

⁷³ Daily Prothom Alo 2021, <https://en.prothomalo.com/bangladesh/crime-and-law/10-years-jail-for-leaking-psc-exam-papers-draft-law>, accessed 14 June 2022.

⁷⁴ The Daily Star 2021, [‘Conduct fair probe, punish those involved’ | The Daily Star](https://www.dailystar.com.bd/news/10-years-jail-for-leaking-psc-exam-papers-draft-law), accessed on 30 March 2022.

⁷⁵ Transparency International Bangladesh, 2019. Integrity in Public Administration: Policies and Practices. <https://www.ti-bangladesh.org/images/2019/report/public-administration/Public-Admin-EX-English.pdf> accessed 15 June 2022

⁷⁶ Transparency International Bangladesh 2019, Integrity in Public Administration: Policy and Practice, <https://www.thedailystar.net/editorial/corruption-police-1537174>, accessed on 30 March 2022.

⁷⁷ The Government Servants Conduct Rules, 1979. [https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwin7_L_5pL-AhWSTmwGHQFICBsQFnoECBsQAQ&url=https%3A%2F%2Ffeedmoe.portal.gov.bd%2Fsites%2Fdefault%2Ffiles%2Ffiles%2Ffeedmoe.portal.gov.bd%2Fflaw%2F7de628c8_38b7_4c43_8508_e73bf3f7cb0b%2FThe%2520Government%2520Servent%2520\(Conduct\)%2520Rules-1979%2520\(1\).pdf&usg=AOvVaw1eYLS_N-k7nd3DSIj0FNwo](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwin7_L_5pL-AhWSTmwGHQFICBsQFnoECBsQAQ&url=https%3A%2F%2Ffeedmoe.portal.gov.bd%2Fsites%2Fdefault%2Ffiles%2Ffiles%2Ffeedmoe.portal.gov.bd%2Fflaw%2F7de628c8_38b7_4c43_8508_e73bf3f7cb0b%2FThe%2520Government%2520Servent%2520(Conduct)%2520Rules-1979%2520(1).pdf&usg=AOvVaw1eYLS_N-k7nd3DSIj0FNwo) accessed on 28 May 2023

⁷⁸ Government Service Conduct Rules 1979, Rule 14.

⁷⁹ Transparency International Bangladesh (2014). *National Integrity System Assessment Bangladesh*.

⁸⁰ Bangla News (2016), Public administration award introduced, <https://www.banglanews24.com/english/national/news/bd/54068.details> accessed on 28 May 2023

⁸¹ Bdnews24.com (2015), <https://bdnews24.com/bangladesh/8th-national-pay-scale-approved-basic-pay-range-tk-8250---78000>; The Daily Star, 2015, <https://www.thedailystar.net/frontpage/new-pay-scale-gets-final-nod-139666>, accessed July 12, 2022.

allowances such as car loans,⁸² housing facilities⁸³ etc. have been introduced. The government also introduced a performance audit system and the Annual Performance Agreement as part of NIS compliance,⁸⁴ which is signed between the Cabinet division and ministries and departments.⁸⁵

Bangladesh has the legal and institutional framework in place for accountable governance, but there are limitations in terms of implementation. Allegedly weak political institution hinders sound bureaucratic control.⁸⁶ It is also alleged that due to faulty enquiry or improper action, the departments are not able to establish an accountability system⁸⁷. In addition, inefficiency and a lack of transparency were reported as major challenges within the public administration.⁸⁸

Good practices

- Abolishing the quota system for class I and class II jobs to establish a merit-based recruitment system;
- Introducing a performance audit and grievance redress system;
- Introduced the Public Administration Awards in 2015.

Deficiencies

- Allegations of leakage of the questions in public exam papers;
- Alleged irregularities and partisan political influence in the posting and promotion of civil servants;
- Inefficiency and a lack of transparency and accountability.⁸⁹

4.1.4. Art. 7.3 – Political Financing

The influence of money is a major factor in the political arena of Bangladesh. Transparency and accountability in financial transactions are considered crucial in combating corruption. According to Article 7.3 of the UNCAC, States Parties are to take appropriate legislative and administrative measures, consistent with the Convention and the fundamental principles of domestic law. Bangladesh has a fairly detailed set of legal provisions on political finance and reporting obligations with particular reference to election. The Election Commission (EC) is the regulatory and oversight institution. As provided by the Representation of the People Order (RPO),⁹⁰ the

⁸² The Business Standard, 2020, <https://www.tbsnews.net/bangladesh/government-increases-interest-free-car-loan-facilities-officials-122188> [accessed April 10, 2022; Dhaka Tribune, 2017. Available here: <https://archive.dhakatribune.com/bangladesh/2017/09/26/deputy-secretaries-car-loans>, accessed April 10, 2022.

⁸³ The Financial Express, 2022, <https://thefinancialexpress.com.bd/economy/bangladesh/housing-facilities-for-govt-employees-increase-to-40pc-1622730369>, accessed on July 12, 2022.

⁸⁴ The Daily Star, 2017, <https://www.thedailystar.net/city/civil-servants-should-enhance-performance-1349482>, accessed on July 12, 2022.

⁸⁵ Bangladesh Journal of Administration and Management, Volume 32, (2), accessed July 12, 2022.

⁸⁶ More details available here: [*scipg,+Academic+Editor,+IJETSS-2018-2\(2\)-74-93.pdf](https://www.researchgate.net/publication/345644607_Major_Challenges_of_Public_Administration_in_Bangladesh_Few_Observations_and_Suggestions), accessed 07 May 2022.

⁸⁷ *Ibid.*

⁸⁸ International Journal of Emerging Trends in Social Sciences, ISSN: 2521-3539, Vol. 2, No. 2, pp. 74-93 (2018), https://www.researchgate.net/publication/345644607_Major_Challenges_of_Public_Administration_in_Bangladesh_Few_Observations_and_Suggestions, accessed 07 May 2022.

⁸⁹ *Ibid.*

⁹⁰ Representation of the People Order 1972, <http://bdlaws.minlaw.gov.bd/act-details-424.html>; https://en.banglapedia.org/index.php?title=Representation_of_the_People_Order,_1972; accessed: 18 June 2022

following legal measures are available to ensure transparency of political parties and political as well as electoral finance:

- Mandatory registration of political parties intending to participate in elections;
- Registered political parties must keep their accounts book as per prescribed legal format which must be audited by a certified auditor. The parties have to submit their annual income and expenditure statements to the EC within a specified time limit;
- Parties can receive private and corporate donations provided that any amount higher than a specified amount is received by bank cheques, and has limited the amount of donation;
- The upper limit of electoral expenses by parties and individual candidates are limited by law (subject to periodical review). Both candidates and parties are bound to submit electoral expenditure reports to the EC within a stipulated time. EC is mandated to publish such reports for public information; and
- The law also provides for sanctions for violation of these regulations.

The legal framework does not include any provisions for public funding in election campaigns. This creates opportunities for private interest groups to have influence not only on election outcomes but also throughout the political space. More importantly, whatever is provided by the law is hardly enforced. The activities of parties are usually not conducted in a transparent manner, as they are often found to collect funding from improper and unethical sources.⁹¹

Candidates' nomination statements and election expenditure returns are not properly, nor systematically disclosed. The EC publishes the scanned copies of election campaign expenditure reports only. There is no instance found of an EC investigation into the credibility of financial statement or election expenditure of a candidate. There is no dedicated staff for investigating political finance issues.⁹²

It has been revealed by different studies that the candidates submit the required returns to fulfill the statutory obligation while the figures are alleged not to be consistent with the real sums. Political parties do not maintain adequate book keeping and reporting. Most of the candidates spent a much higher amount than the exact amount that had been prescribed.⁹³ In successive studies conducted by TIB, it was found that the amount spent is three times higher than the amount allowed by electoral rules. Wide discrepancies were found between election expenditure reports submitted to EC and the amount estimated by the study based on field data.⁹⁴ The level

⁹¹ Dr. Al Masud Hasanuzzaman 2011, Political Party Funding in Bangladesh, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewihl7e4ke_2AhXrR2wGHcODArkQFnoECAgQAQ&url=http%3A%2F%2Firs.org.pk%2Fspnd11.pdf&usg=AOvVawOZHM7Ev_Ro3EyuSfx3E7n_, accessed on 10 January 2022.

⁹² Alim, M. Abdul and Mozumder, A. Kashem, 2019. Regulatory Framework of Political Party Finance in Bangladesh: Some Issues and Observations. BUP Journal, Vol 7, Issue 2. accessed on 10 March 2022.

⁹³ Transparency International Bangladesh, 2009. *Transparency in Political Finance in Bangladesh*. Available at: https://www.ti-bangladesh.org/beta3/images/max_file/rp_Crisis_Report_251009_full_en.pdf, accessed on 10 March 2022.

⁹⁴ Transparency International Bangladesh, 2019. [Online] Available at: https://www.ti-bangladesh.org/images/2019/report/EPT/EPT_EX_EN_2019.pdf, accessed on 26 August 2023.

of disclosure was also found to be unreliable as there were no initiatives for scrutiny and sanctioning.⁹⁵

Good practices

- There is a legal framework to ensure transparency in political and electoral financing;
- The institutional framework is in place; the Election Commission is mandated to monitor election expenditures and take actions in case of non-compliance.

Deficiencies

- The legal framework doesn't include any provisions for public funding in election campaigns, which is one of the reasons for the lack of a level playing field and transparency in election finance and for influence of money in politics;
- A lack of implementation of laws; non-compliance like violation of the limits of election expenses, mis-reporting of political and election finance are not held to account.

4.1.5. Art. 8.4 and 13.2 – Reporting Mechanisms and Whistleblower Protection

Bangladesh developed a legal basis for protecting whistleblowers in 2011 by enacting the Public Interest Information Disclosure (Provide Protection) Act,⁹⁶ which is widely known as the Whistleblower Protection Act.

It had been assumed that the existence of such a law will shed some light on the culture of secrecy and non-transparency in Bangladesh. However, after a decade very little has been achieved. Even citizens, government employees, activists and journalists know very little about the existence of this law and its potential application to ensure transparency and accountability.⁹⁷ The protection of whistleblowers remains an unmet expectation.

It was expected that this act will bring the legal regime out of the colonial legacy of secrecy. However, the Digital Security Act 2018 and the Official Secrets Act 1923 have emerged as formidable predicaments that foster the culture of secrecy and facilitate impunity to wrongdoers.⁹⁸

Good practices

- Legal framework is in place to protect whistleblowers.

Deficiencies

⁹⁵ Election Working Group. 2014. Bringing Transparency to Political Finance in Bangladesh.

⁹⁶ Public Interest Information Disclosure (Provide Protection) Act 2011, [http://bdlaws.minlaw.gov.bd/upload/act/2021-11-17-11-39-54-40.The-Dsclosure-of-Public-Interest-information-\(Protection\)-Act--2011.pdf](http://bdlaws.minlaw.gov.bd/upload/act/2021-11-17-11-39-54-40.The-Dsclosure-of-Public-Interest-information-(Protection)-Act--2011.pdf), accessed 5 March 2022.

⁹⁷ Daily Star, May 25, 2021. Available at: <https://www.thedailystar.net/law-our-rights/news/the-legal-protection-whistleblowers-2098373>, accessed 5 March 2022.

⁹⁸ The Daily Star, 2021, <https://www.thedailystar.net/law-our-rights/news/the-legal-protection-whistleblowers-2098373> retrieved on 25 August 2021. Cited in Gedion Onyango, 2021, accessed 5 March 2022.

- A lack of implementation of the law, and prevalence of laws detrimental to whistleblowing.

4.1.6. Art. 9.1 – Public Procurement

Public procurement is regarded as a fountain-head of corruption in the public sector.⁹⁹ In Bangladesh about 80% of the Annual Development Programme and 45% of the national budget are expended for public procurement every year.¹⁰⁰ Till 2002, the procedures and practices of public procurement in Bangladesh were governed by a compilation of general rules originating from British Rules. With few changes in the rules in 1994 and 1999, the governance of the procurement procedure remained opaque. After identifying the deficiencies¹⁰¹ at the beginning of the 2000s, the government initiated major interventions. In October 2003, new regulations promulgated for improving transparency in public procurement, which had many limitations including exemptions for military purchases. In 2006, the Public Procurement Act¹⁰² was enacted followed by the adoption of the Public Procurement Rules in 2008.¹⁰³

The Central Procurement Technical Unit (CPTU) was created as a nodal unit for public procurement in 2002. The electronic procurement system (e-GP)¹⁰⁴ was introduced in 2012. The adoption of RTI in 2009 can also be considered as a strong catalyst for bringing transparency as well as positive changes in public procurement. The legal and institutional framework for public procurement provided detailed procedures and criteria as well as a procurement entity with specific roles and responsibilities.

The most important reform initiative in the public procurement of Bangladesh was the introduction of e-GP. With the introduction of e-GP, the number of the registered tenderers increased “by 200-fold...and the value of tender invitations by 1200-fold.”¹⁰⁵ The e-GP system has

⁹⁹ Institute of Governance Studies, 2012,

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiCx--wuJ78AhWwcGwGHc8UA4QQFnoECAoQAQ&url=http%3A%2F%2Fdspace.bracu.ac.bd%2Fbitstream%2Fhandle%2F10361%2F2892%2FImproving%2520transparency%2520in%2520public%2520procurement%2520in%2520Bangladesh.pdf%3Fsequence%3D1&usg=AOvVaw1Foh87_v-lzuaenXqZUeqr, accessed on 08 March 2022

¹⁰⁰ Alam M. Shafiul, 2021. <https://www.tbsnews.net/thoughts/results-reforms-bangladeshs-public-procurement-200656>, accessed on 07 March 2022.

¹⁰¹ World Bank, 2002, Country Procurement Assessment Report,

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwiOutK_gO72AhXCILcAHV2tC3wQFnoECA8QAQ&url=https%3A%2F%2Fopenknowledge.worldbank.org%2Fhandle%2F10986%2F14323&usg=AOvVaw36SaqJlyMwyTPoaUHbxzBk, accessed 07 March 2022.

¹⁰² Public Procurement Act, 2006.

<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwjF9qqG1aH8AhVU4jgGHTwUDlcQFnoECA4QAQ&url=https%3A%2F%2Fcvasu.ac.bd%2Fget-file%3Fname%3D0908ea19-241e-412c-8508-58aa2d60c467.pdf&usg=AOvVaw2V9OQrd-b3Rrby--j1DuJY> accessed on 17 February 2022

¹⁰³ Public Procurement Rules in 2008,

https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwj2iM-01KH8AhWp8DgGHdaCDJEQFnoECBAQAQ&url=http%3A%2F%2F103.48.16.164%2Fupload_images%2Fcontent_images%2FProcurement%2520Documents%2F03_Public-Procurement-Rules-2008-English.pdf&usg=AOvVaw0gC2uWHJV1KWnjTtixgGHS, accessed on 7 March 2022.

¹⁰⁴ <https://www.eprocure.gov.bd/>, accessed on 7 March 2022.

¹⁰⁵ Zafurul Islam and Mercy Tembon, <https://www.thedailystar.net/business/news/substantial-progress-seen-challenges-remain-1800232>, accessed 07 March 2022.

remarkably reduced the time and cost of procurement and also transformed the procurement system to be more transparent and accountable. After establishing the e-GP system, the “average procurement lead time (invitation to contract signing) for all tenders decreased by 28%.”¹⁰⁶ There were also capacity-building initiatives to create a pool of well-trained procurement professionals.¹⁰⁷

Despite having good laws and processes in place, public procurement remained vulnerable to corruption. Especially before the introduction of e-GP, there were incidences of obstruction to submitting tender documents, snatching of tender boxes, bid-rigging by the participants etc. There were instances of manipulation of public tenders in favor of particular or pre-selected bidder(s) and illegal subcontracts that resulted in the low quality of public work.¹⁰⁸ The malpractices were aggravated by a few amendments in the Act which brought flexibility in the provisions requiring experience. A study conducted by TIB revealed that the application of e-GP did not necessarily stop corruption in public procurement.¹⁰⁹ Instead, it only altered the nature of corruption itself.¹¹⁰ The study also found that political influence was affecting tender submission. There were allegations of sharing of secret information, syndication among the contractors, political leaders and public officials, kickbacks for securing work order through Limited Tender Method, among other practices.¹¹¹

Good practices

- A good legal and institutional framework is in place;
- Introduction of e-GP in public procurement and reduced time and cost of procurement;
- Increased vendor participation in public procurement.

Deficiencies

- The nexus between the procuring entity and the contractors facilitates continued corruption in public procurement;
- A comprehensive and updated database of contractors is not available.

4.1.7. Article 9.2 and 9.3 – Management of Public Finances

¹⁰⁶ World Bank, 2020. Bangladesh: Assessment of Bangladesh Procurement System, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewjz2_nA8_X1AhXezTgGHf5iC4oQFnoECAUQAQ&url=https%3A%2F%2Fdocuments1.worldbank.org%2Fcurated%2Fen%2F950811591599744079%2Fpdf%2FAssessment-of-Bangladesh-Public-Procurement-System.pdf&usq=AOvVaw1FrTxldl_M_u56AOQNfGzV, accessed 07 March 2022.

¹⁰⁷ Central Procurement Technical Unit, Procurement schedule, <https://cptu.gov.bd/capacity-building-and-professionalization/training-schedule.html>, accessed 07 March 2022.

¹⁰⁸ Key Informant Interview with researcher, Transparency International Bangladesh, 6 February 2022. Dhaka.

¹⁰⁹ Transparency International Bangladesh, 2020. Governance in Public Procurement: Effectiveness of E-GP in Bangladesh. Available at: https://www.ti-bangladesh.org/beta3/images/2020/report/EGP/E-GP_En_EN.pdf, accessed on 09 February 2022.

¹¹⁰ Key Informant Interview with researcher, Transparency International Bangladesh, 6 February 2022. Dhaka.

¹¹¹ Transparency International Bangladesh, 2020. https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewjz2_nA8_X1AhXezTgGHf5iC4oQFnoECAUQAQ&url=https%3A%2F%2Fdocuments1.worldbank.org%2Fcurated%2Fen%2F950811591599744079%2Fpdf%2FAssessment-of-Bangladesh-Public-Procurement-System.pdf&usq=AOvVaw1FrTxldl_M_u56AOQNfGzV. Accessed on 28 May 2023.

The Ministry of Finance (MoF) is the key player, which looks after the overall management of public finances¹¹² including annual budget preparation, fiscal management, public debt management, taxation and economic policy formulation. It also oversees the operations of financial institutions, and the planning and implementation of financial plans. The Ministry of Planning, comprised of the Planning Division and Implementation, Monitoring, and Evaluation Division (IMED), oversees financial policies and socio-economic and statistical management. The IMED works for monitoring and evaluating public sector development projects and handling procurement through the Central Procurement Technical Unit (CPTU).¹¹³ The Office of the Controller General of Accounts (OCGA) works as an independent body to scrutinize government spending. The government has also established the Financial Reporting Council (FRC) as an independent government regulatory body to perform accounting, reporting, and auditing functions.¹¹⁴ To improve financial management, the government adopted the PFM Reform Strategy (PFMRS) 2016-2021.¹¹⁵

Budget

The Ministry of Finance prepares the annual budgets and presents them in the national parliament to initiate a discussion. Every year a session is dedicated to the national budget and after a month-long discussion, the national budget is passed in the parliament. The government has arrangements for record-keeping and sharing budget related data. The National Board of Revenue (NBR) takes initiatives for pre-budget sharing and discussion among the different stakeholders. It is shared among different associations and independent think tanks. However, there is allegedly a lack of adequate documentation of the suggestions¹¹⁶ that come out of the consultations. Nevertheless, introduction of the medium-term budgetary framework has resulted in better fiscal planning.¹¹⁷ Furthermore, the budgetary framework has established a linkage among gender, climate change, and poverty reduction.¹¹⁸

¹¹² MoF performs its function under guidance of a number of laws, rules and regulations; See for details: <https://mof.portal.gov.bd/site/page/ffb65b26-bb28-4eee-8a34-226458c9d7cd/Acts-Related-to-Finance>; <https://mof.portal.gov.bd/site/page/5668da35-0c3c-4115-a893-98c5f16db616/Budget-Management-Act>; <https://mof.gov.bd/site/page/d8114ff4-04a9-4773-943e-d91bddd372b5/Treasury-Rules>; https://mof.gov.bd/sites/default/files/files/mof.portal.gov.bd/publications/c7d1ed02_1f5c_4a42_947f_36adace8c33a/Shariah%20SUKUK%20Guideline.pdf; <https://mof.portal.gov.bd/site/page/7f72f7d3-8572-41e7-bb73-f7fae168a43b> etc., accessed on 20 February 2022.

¹¹³ See for details: <https://cptu.gov.bd/>, accessed on 09 January 2022.

¹¹⁴ Key informant interview, Centre for Policy Dialogue (anonymity requested). Interview held on 12 April 2022 at Dhaka.; Financial Reporting Council, Available at: <https://frcbd.org/sample-page/>, last accessed 18 May 2022.

¹¹⁵ PFM Reform Strategy (PFMRS) 2016-2021, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwiz9obg36H8AhUn8zgGHYUrB3sQFnoECA0QAQ&url=https%3A%2F%2Fmof.portal.gov.bd%2Fsites%2Fdefault%2Ffiles%2Ffiles%2Fmof.portal.gov.bd%2Fpage%2F2cb25ee7_d82c_4a1f_81ae_bacc4a03374e%2FPFM%2520Reform%2520Strategy%25202016-21%2520Final.pdf&usg=AOvVaw1eEZY7HfgX8HIXCGInTS6I accessed on 23 March 2022.

¹¹⁶ Key informant interview, Centre for Policy Dialogue (anonymity requested). Interview held on 12 April 2022 at Dhaka.

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

Notwithstanding the achievements in the management of the budget, the budgetary assessments outline some crucial and relevant observations. According to the Open Budget Survey of 2021, in terms of transparency, Bangladesh is the 2nd lowest country (with a score of 36/100) after Pakistan, comparing with other countries in South Asia.¹¹⁹ On the other hand, in terms of public participation, Bangladesh ranked in 13th place alongside with Afghanistan, which is the 2nd lowest country, in comparison with other South Asian countries.¹²⁰ The assessment reported that Pre-Budget Statement, executive budget proposal, enacted budget and the citizen budget are produced and made publicly available on time.¹²¹ However, there is no comprehensive updated report and no audit report of the national budget is produced. In-year reports are published late, mid-year reports are not produced, and end-of-year reports evaluating the progress, are produced for the internal use only and are not shared publicly.¹²²

‘Whitening’ of black money continues: Over successive years, during budget preparations, there were concerns among civil society organizations about provisions whitening black money (the legalization of income disproportional to legitimate source).¹²³ TIB considered it unconstitutional, discriminatory and a gift to the corrupt people and their patrons.¹²⁴ As depicted by one of our key informants, a renowned Bangladeshi economist, “it (whitening black money) is unethical and economically unjustified that gives a wrong signal that next year one can validate the money with less or no tax; politically it (whitening black money) is not prudent. This is anti-governance approach.”¹²⁵ The national budget of 2022-23 offered Bangladeshis a scope for legalizing their unreported assets outside the country by paying taxes ranging from 7%-15% with an aim to increase the flow of foreign currency to the economy.¹²⁶ This has been widely criticized by civil society and think-tanks, calling it synonymous with rewarding a crime.¹²⁷ TIB considered this as unethical, discriminatory and conflicting with the existing laws.¹²⁸ They called for the cancellation

¹¹⁹ International Budget Partnership, 2019. Available at : <https://www.internationalbudget.org/open-budget-survey/country-results/2019/bangladesh>, last accessed 20 June 2022.

¹²⁰ International Budget Partnership, 2021. <https://www.internationalbudget.org/open-budget-survey/country-results/2021/bangladesh> accessed on 15 March 2022.

¹²¹ *Ibid.*

¹²² International Budget Partnership, 2022. Open Budget Survey 2021 (8th Edition). Available at: [Open-budget-survey-2021-1.pdf \(internationalbudget.org\)](https://www.internationalbudget.org/open-budget-survey-2021-1.pdf), last accessed 28 June 2022.

¹²³ The Business Standard, 2021. TIB outraged by Finance Bill option for whitening black money, <https://www.tbsnews.net/bangladesh/tib-outraged-finance-bill-option-whitening-black-money-268660>, accessed 7 March 2022.

¹²⁴ The Business Standard, 2021. <https://www.tbsnews.net/bangladesh/tib-outraged-finance-bill-option-whitening-black-money-268660>, accessed on 07 March 2022.

¹²⁵ Key Informant Interview, Centre for Policy Dialogue (anonymity requested), Interview on 12 April 2022. Dhaka.

¹²⁶ The Business Standard, 2022. Available at: <https://www.tbsnews.net/economy/budget/govt-amnesty-bring-back-laundered-money-436478>, last accessed 07 June 2022.

¹²⁷ United News of Bangladesh, 2022. BIDS economist opposes budget proposal to whiten black money, <https://unb.com.bd/category/Bangladesh/bids-economist-opposes-budget-proposal-to-whiten-black-money/95197>, accessed on 07 June 2022.

¹²⁸ Transparency International Bangladesh, 2022. <https://www.ti-bangladesh.org/beta3/index.php/en/media-release/6479-2022-06-12-03-28-07>, accessed on 7 June 2022.

of the proposal immediately, to ensure accountability of money launderers and to take initiatives for bringing back laundered money, following national and international legal procedures.¹²⁹

The OCAG

The Office of the Comptroller and Auditor General (OCAG), an independent oversight supreme audit institution, is mandated by the Constitution of Bangladesh to audit government expenditure and to provide opinions as to whether those were duly accounted for and complied with the financial rules and regulations.¹³⁰ The Constitution guarantees its independence in determining the scope and the extent of audit.¹³¹

The institutional limitations of the OCAG include the lack of capacity and obstacles to transparency in public expenditure. Notwithstanding the fact that the faster the audit report is produced the higher the impact of audit,¹³² there is a back-log of three to four years in publishing OCAG reports.¹³³ There are also implementation challenges mentioned by the OCAG, that “there is no dearth of laws and regulations. There is a lack of checks and balances.”¹³⁴ To improve the performance of the OCAG and to strengthen the institutional arrangements, a World Bank project was implemented.¹³⁵ The assessment report published in 2020 revealed that the “OCAG could enhance the quality, scope, and follow-up of its work.”¹³⁶ The OCAG still needs to strengthen its technical capacity and human resources.¹³⁷

The Ombudsman

Despite the constitutional mandate for establishing the Ombudsman (Article 77), it has not been implemented. An office of the Tax Ombudsman was created in 2005,¹³⁸ with the power to deal with corruption in the revenue sector. However, in 2009 it was revoked on the grounds that the

¹²⁹ The New Age, 2022. <https://www.newagebd.net/article/172947/legalising-laundered-money-will-inspire-corruption-tib>, accessed on 07 June 2022.

¹³⁰ The Constitution of the Peoples’ Republic of Bangladesh, Article 128(1). Available at: <https://cag.org.bd/about/brief-introduction>, last accessed: 27 June 2022.

¹³¹ Constitution of the Peoples’ Republic of Bangladesh, Article 128(4), <http://bdlaws.minlaw.gov.bd/act-367/part-details-206.html>, last accessed: 27 June 2022.

¹³² The Daily Star, 2020. <https://www.thedailystar.net/business/news/cag-and-acc-can-team-crack-down-swindlers-1879069>, last accessed 28 June 2022.

¹³³ Key informant interview, Centre for Policy Dialogue (anonymity requested). Interview held on 12 April 2022 at Dhaka.

¹³⁴ The Daily Star, 2020. <https://www.thedailystar.net/business/news/cag-and-acc-can-team-crack-down-swindlers-1879069>, last accessed 28 June 2022.

¹³⁵ Independent Evaluation Group, 2020. Project Performance Assessment Report. Available at: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewiUsJPd2MH4AhUPS2wGHWwBA-4QFnoECAUQAQ&url=https%3A%2F%2Fieq.worldbankgroup.org%2Fsites%2Fdefault%2Ffiles%2FData%2Freports%2Fppar_bangladeshexpenditures.pdf&usq=AOvVaw2fZAQgwNILL5OnUyqgrMb1, last accessed 07 April 2022.

¹³⁶ *Ibid.*

¹³⁷ Key informant interview, Centre for Policy Dialogue (anonymity requested). Interview held on 12 April 2022 at Dhaka.

¹³⁸ Tax Ombudsman Act of 2005, <http://bdlaws.minlaw.gov.bd/act-932.html?lang=en>, accessed 28 June 2022.

tax ombudsman did not have much work to do and the law was conflicting with the Tax and the Value Added Tax Laws.¹³⁹ This is observed as missing an opportunity to fight against corruption. Corruption risks were identified in the public finance management system, persisting across the stages of planning and implementation. There were allegations of extortion by auditors during field visits and negotiations, and discussions about findings, as well as bribery and collusion in tax administration.¹⁴⁰

Public Financial Management (PFM) Reform Strategy

With the adoption of the PFMRS, the financial management system has been modernized. It helped to establish an integrated budget and accounting system and to enhance the oversight and coordination among the agencies involved.¹⁴¹ By virtue of the IBAS++ (Integrated Budget and Accounting System), any ministry's expenditure can be seen immediately by other relevant bodies, such as the Ministry of Finance. The OCAg can also access the information with a time-gap.¹⁴² This helps to enhance internal control over public finances, and to establish regulatory oversight. However, the information is not open to all government bodies. Non-government entities including civil society, think tanks, etc. cannot access the information.

The Ministry of Finance has successfully launched PEFA++ (Public Expenditure and Financial Accountability Assessment), which aims to provide a comprehensive diagnosis of the performance of the PFM institutions, systems and processes.¹⁴³ New schemes for internal audits have also been approved.¹⁴⁴

Good practices

- Elaborate institutional and legal framework for financial management;
- Introduction of an integrated financial management information system. IBAS++ has established interoperability of the system;
- Pre-budget sharing and consultation on the national budget;
- Introduction of a medium-term budget framework that resulted in sound fiscal planning;

¹³⁹ Regan Ahmed, 2018. Interpreting and Constructing Constitutional Mandate to implement Ombudsman in Bangladesh, <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewiN95i6-c4AhWC63MBHdJBBB0QFnoECAUQAQ&url=https%3A%2F%2Fgreen.edu.bd%2Fwp-content%2Fuploads%2F2019%2F11%2FInterpreting-and-Constructing-Constitutional-Mandate-to-implement-Ombudsman-in-Bangladesh-min.pdf&usg=AOvVaw2bCtW9MyGH-T50k6At-I1v>, accessed on 28 June 2022.

¹⁴⁰ Jose Maria Marin Aguirre, 2015. Bangladesh: Corruption Risks in the Public Financial Management System. Open Government Partnership, <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewjRi5-Rjen2AhUijOYKHd4GC7AQFnoECAUQAQ&url=https%3A%2F%2Fwww.researchgate.net%2Fpublication%2F303460449%2FBangladesh%2FCorruption%2FRisks%2Fin%2Fthe%2FPublic%2FFinancial%2FManagement%2FSystem&usg=AOvVaw2o4NeiA0XOX9XH-zU8Jn-nq>, last accessed 07 March 2022.

¹⁴¹ Key Informant Interview, Centre for Policy Dialogue (anonymity requested), Interview on 12 April 2022. Dhaka.

¹⁴² *Ibid.*

¹⁴³ Ministry of Finance, Government of the Peoples Republic of Bangladesh, 2021. Public Financial Management (PFM): Action plan semi-annual Progress Report July 2021- December 2021.

¹⁴⁴ *Ibid.*

Deficiencies

- Lack of timeliness in producing in-year reports of budget; the end of year budget report is not publicly shared;
- Lack of transparency in budget preparations and lack of proper documentation of feedback from public consultations;
- ‘Whitening’ black money continues;
- Failure to meet the constitutional pledge of setting up the Office of Ombudsman.

4.1.8. Art. 10 and 13.1 – Access to Information and Civil Society Participation

The Right to Information Act,¹⁴⁵ widely known as the RTI Act, was enacted in 2009 to ensure the legal right to information of all the citizens of the country. In the preamble of the Act, the free flow of information is emphasized to reduce corruption and establish good governance. The Right to Information Rules¹⁴⁶ were also adopted in 2009. Subsequently, several other legal texts were enacted to strengthen the legal basis for access to information. The Right to Information (Preservation and Management) Regulations of 2010¹⁴⁷ and the Proactive Disclosure Information Guidelines of 2014 were adopted. All of these paved the legal way for people to have access to information. Following the RTI Act, the Information Commission was established. Enactment of the RTI Act and other related instruments created an expectation of transforming to openness, and overcoming the culture of secrecy which was created by the colonial legacy of the Official Secrets Act of 1923.¹⁴⁸

The RTI Act has helped the evolution of a new generation of Citizen Charter aimed at creating greater awareness among the common people about their rights and entitlements, obligations of duty bearers and complaint mechanisms. Following the RTI Act, public offices appointed Designated Officers (DOs) for providing required information. They are also using modern technologies to disclose information proactively. The websites of the government offices seem to be well organized with ample information. In a study done by TIB, government offices were ranked better for disclosing adequate information through the websites compared to those of non-government entities.¹⁴⁹

The RTI Act contains an exemption list of 8 kinds of information in the name of security of the state, and a list of 20 circumstances in which disclosure is not mandatory. This is considered to be a predicament against the true purpose of the law. The effectiveness of the RTI Act has also

¹⁴⁵ Right to Information Act, 2009. <http://bdlaws.minlaw.gov.bd/upload/act/2021-11-17-11-22-38-37.-The-Right-to-Information-Act-2009.pdf>, accessed on 03 June 2022.

¹⁴⁶ Right to Information Rules 2009, http://www.infocom.gov.bd/sites/default/files/files/infocom.portal.gov.bd/law/4a7ad5ff_8ffe_4a2e_9ebb_77e5a4dda5023/Rulse.pdf, accessed on 03 June 2022.

¹⁴⁷ Right to Information (Disclosure and Dissemination of Information) Regulations of 2010, http://www.infocom.gov.bd/sites/default/files/files/infocom.portal.gov.bd/law/6f839735_7f75_4360_8eb8_dd8494e50d8c/Information%20Management.pdf, accessed on 03 June 2022.

¹⁴⁸ The Official Secrets Act, 1923. <http://bdlaws.minlaw.gov.bd/act-132.html> accessed 03 June 2022.

¹⁴⁹ Transparency International Bangladesh, 2021. Proactive Disclosure of Information by Government Institutions and NGOs on the Basis of Right to Information Act: An Assessment, https://www.ti-bangladesh.org/beta3/images/2021/report/RTI_Ranking_ES_ENGLISH_050821.pdf, accessed 03 June 2022.

been questioned in the context of the enactment and abuse of the Digital Security Act (DSA). Digital communications, cyber-crimes etc. are broadly defined under DSA and go against the freedom of information, freedom of speech, and civil liberty. The DSA is apparently contradictory to Article 39 of the Constitution, which guarantees the right of the citizens to freedom of speech and expression and of freedom of the press – many sections of the 2018 DSA have led to intimidation of investigative journalists and curbing of freedom of speech.¹⁵⁰

Moreover, the proposed Bangladesh Telecommunication Regulatory Commission Regulation for Digital, Social Media and OTT Platforms,¹⁵¹ aimed ‘to remove data encryption which is applied to protect user's privacy’ and to ‘know who is telling what’,¹⁵² is also being considered as potentially jeopardizing people’s freedom of expression, right to privacy, and online safety.¹⁵³ It may deprive journalists, differently opinionated people and human rights workers of their constitutional right to privacy.¹⁵⁴ Various national and international NGOs are urging for the withdrawal of the oppressive draft for the sake of an open, accessible, and secure internet for all.¹⁵⁵

With regard to the participation of the civil society, there are concerns over their freedom to express opinions, the ability to operate freely and participate in democratic processes.¹⁵⁶ Civil society’s work is particularly admired for promoting women empowerment, and financial inclusion through micro-credits and governance reforms.

However, the civic space in Bangladesh was categorized as ‘repressed’ by the CIVICUS Monitor.¹⁵⁷ In addition to the Digital Security Act (DSA), the Foreign Donations (Voluntary Activities) Regulation Act, and the Information and Communication Technology (ICT) Act and alleged ambiguity of these laws are potentially restricting the freedom of expression, association, and

¹⁵⁰ World Bank, 2020. Bangladesh: Political Economy of Right to Information

¹⁵¹ It aims ‘to remove data encryption which is applied to protect user's privacy’ and to ‘know who is telling what’. For details: <https://www.thedailystar.net/news/bangladesh/rights/news/draft-regulation-digital-social-media-otts-threat-freedom-speech-experts-3005831> accessed on 27 May 2023.

¹⁵² The Daily Star, 2022. <https://www.thedailystar.net/news/bangladesh/rights/news/draft-regulation-digital-social-media-otts-threat-freedom-speech-experts-3005831>, accessed 14 May 2022.

¹⁵³ Access Now, 2022. <https://www.accessnow.org/bangladesh-digital-social-media-ott-platforms-regulation/>, accessed on 14 May 2022.

¹⁵⁴ Transparency International Bangladesh, 2022. <https://www.ti-bangladesh.org/beta3/index.php/en/media-release/6437-2022-04-04-03-26-30>, accessed on 14 May 2022; Constitution of the Peoples’ Republic of Bangladesh; Article 43.

¹⁵⁵ Access Now, 2022. Available at: <https://www.accessnow.org/bangladesh-digital-social-media-ott-platforms-regulation/>, accessed on 14 May 2022.

¹⁵⁶ Nazmul Haque, 2023. Shrinking Civic Space in Bangladesh: Restoring Dialogue and Collaboration. <https://cgs-bd.com/article/15269/Shrinking-Civic-Space-in-Bangladesh--Restoring-Dialogue-and-Collaboration> accessed on 30 May 2023.

¹⁵⁷ CIVICUS Monitor is an online platform that monitors the status of civic space worldwide.

assembly.¹⁵⁸ In such a restricted environment the civil society become compelled to go for self-censorship which undermines the civil society's ability to do its work.¹⁵⁹

In a study done by the Asia Foundation, it has been revealed that engagement with the government and the quality of engagement has improved in the past five years. However, it has also been revealed that improvement occurred for the uncontentious issues and it also noted that “it is increasingly difficult for them to publicly critique government policies or programs.”¹⁶⁰ There were reported cases of arresting journalists.¹⁶¹

In a comparative analysis with two other neighboring countries, the study also found that 94% of the respondents found that government scrutiny of the online activities has increased which is much higher comparing to Nepal (45%) and Sri Lanka (73%).¹⁶² It is also reported that civic spaces are under pressure and the CSOs and activists seem to take self-censorship as a necessary strategy which inevitably affect their work.¹⁶³

Allegedly bureaucratic obstacles are also hindering CSO’s ability to have access to foreign funding as there is a ‘lengthy and cumbersome procedure’ to get approval from the authority.¹⁶⁴ In the last couple of years, the amount of paperwork and the required time for processing has increased. The study found that the government scrutiny was sometimes felt to be tense by the CSOs.¹⁶⁵

Good practices

- An elaborate, strong legal framework exists to promote public access to information and proactive disclosure;
- The establishment of the Information Commission has created the opportunity to ensure accountability for non-compliance of due disclosure as per law;

¹⁵⁸ Centre for Governance Studies, 2023. Shrinking Civic Space in Bangladesh: Restoring Dialogue and Collaboration. <https://cgs-bd.com/article/15269/Shrinking-Civic-Space-in-Bangladesh--Restoring-Dialogue-and-Collaboration> accessed on 30 May 2023.

¹⁵⁹ Nazmul Haque, 2023. Shrinking Civic Space in Bangladesh: Restoring Dialogue and Collaboration. <https://cgs-bd.com/article/15269/Shrinking-Civic-Space-in-Bangladesh--Restoring-Dialogue-and-Collaboration> accessed on 30 May 2023.

¹⁶⁰ The Asia Foundation, 2023. <https://asiafoundation.org/publication/govasia-glass-half-full-civic-space-and-contestation-in-bangladesh-sri-lanka-and-nepal/> accessed on 30 May 2023.

¹⁶¹ Human Rights Watch, 2021, Bangladesh: Arrest of Journalist Investigating Corruption. <https://www.hrw.org/news/2021/05/20/bangladesh-arrest-journalist-investigating-corruption> accessed on 31 May, 2023; Al Jazeera, 2023, Bangladesh journalist arrested after report on high food prices. <https://www.aljazeera.com/news/2023/3/29/bangladesh-journalist-arrested-after-report-on-high-food-prices> accessed on 30 May 2023.

¹⁶² The Asia Foundation, 2023. <https://asiafoundation.org/publication/govasia-glass-half-full-civic-space-and-contestation-in-bangladesh-sri-lanka-and-nepal/> accessed on 30 May 2023.

¹⁶³ Ibid.

¹⁶⁴ Nazmul Haque, 2023. Shrinking Civic Space in Bangladesh: Restoring Dialogue and Collaboration. <https://cgs-bd.com/article/15269/Shrinking-Civic-Space-in-Bangladesh--Restoring-Dialogue-and-Collaboration> accessed on 30 May 2023.

¹⁶⁵ The Asia Foundation, 2023. <https://asiafoundation.org/publication/govasia-glass-half-full-civic-space-and-contestation-in-bangladesh-sri-lanka-and-nepal/> accessed on 30 May 2023.

- A vibrant civil society sector is engaged in promoting access to information in addition to their other areas of focus.

Deficiencies

- Inadequate implementation of the law;
- Most of the requests for information have been refused, and there is a lack of protection for information seekers when subjected to harassment;
- Media and civil society are often subjected to arbitrary and targeted restrictions.

4.1.9. Art. 11 – Judiciary and Prosecution Services

The judiciary of Bangladesh is comprised of the Supreme Court (SC), the subordinate courts and the tribunals.

Independence and separation of judiciary

Article 22 of the Constitution of Bangladesh provides separation of the judiciary from the executive branch of the state. The Constitution also provides the independence of the Chief Justice and other judges of the Supreme Court¹⁶⁶ and the Judges and judicial magistrates of the subordinate courts.¹⁶⁷ Notwithstanding these constitutional guarantees, there had not been any significant progress in their practical implementation until the Supreme Court’s directives in the Masdar Hossain case in 2000.¹⁶⁸ Formal separation of the judiciary from the executive took place officially on 1 November 2007. Nevertheless, there are questions and concerns about its actual implementation.¹⁶⁹ Several studies have flagged how corruption is eroding judicial integrity.¹⁷⁰ The independence of the judiciary is yet to be attained because of an incomplete separation of the judiciary from the executive.¹⁷¹ Article 109 of the Constitution provide for the supervision and control of all the courts and tribunals to the High Court Division. However, the authority of appointment of judges of the subordinate courts remains in the hands of the government.¹⁷² Therefore, dual institutional control prevails over the subordinate courts.¹⁷³

Appointment of the judicial officers of the subordinate courts

¹⁶⁶ The Constitution of the Peoples’ Republic of Bangladesh; Article 94(4). Available at: <http://bdlaws.minlaw.gov.bd/act-367/section-24651.html>, accessed on 7 June 2022.

¹⁶⁷ The Constitution of the Peoples’ Republic of Bangladesh; Article 116A, <http://bdlaws.minlaw.gov.bd/act-367/chapter-details-689.html>, accessed on 7 June 2022.

¹⁶⁸ 52 DLR (AD)(2000), 82, <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwjK76q95X4AhVHaGwGHdApANKQFnoECAyQAQ&url=https%3A%2F%2Fshamimsufi.files.wordpress.com%2F2013%2F05%2Fsecretary-ministry-of-finance-vs-md-masdar-hossain-and-others-52-dlr-ad-82.pdf&usq=AOvVaw1GRtkC7oWTWYB3IUspVmJJ>, accessed on 21 January 2022.

¹⁶⁹ Milan Hossain, 2012. International Journal for Court Administration, <https://www.iacajournal.org/articles/10.36745/ijca.310/>, accessed 26 June 2022.

¹⁷⁰ Transparency International Bangladesh, 2002, 2005, 2007, 2010, 2012, 2015, 2017. National Household Survey.

¹⁷¹ Key Informant Interview, Eminent jurist and lawyer, (*Anonymity requested*), 30 May 2022, Dhaka.

¹⁷² The Constitution of the People’s Republic of Bangladesh; Article 115. <http://bdlaws.minlaw.gov.bd/act-details-367.html> accessed on 16 May 2022.

¹⁷³ Key Informant Interview, Eminent jurist and lawyer, (*Anonymity requested*), 30 May 2022, Dhaka.

The Bangladesh Judicial Service Commission (BJSC), working under the Law and Justice Division of the Ministry of Law, Justice and Parliamentary Affairs, manages the operational aspects of the recruitment of judicial officers through a competitive process. However, the process remains de facto within the authority of the Ministry.

Appointment and removal of the Chief Justice and Judges of the Supreme Court

The Constitution entitles the President to appoint the Chief Justice of the Supreme Court and the other judges of the Supreme Court in consultation with the Chief Justice.¹⁷⁴ The criteria for recruiting a judge requires that he/she is a citizen of Bangladesh, who has served at least ten years as an advocate at the Supreme Court or has held a judicial office in the territory of Bangladesh.¹⁷⁵ Article 95 (2C) of the Constitution adds that detailed qualifications may be prescribed by law. In the absence of specific legal provisions in this regard, the risks of inappropriate appointment based on subjective considerations¹⁷⁶ remain high.

According to the Constitution, judges of the Supreme Court can hold office until the age of 67.¹⁷⁷ A Judge may be removed by an order of the President supported by a two-thirds majority of the members of Parliament on grounds of “proven misbehavior or incapacity.”¹⁷⁸ These terms, however, lack a proper definition or measurable indicators.

Code of conduct

Pursuant to Article 96(4) of the Constitution, a Code of Conduct for judges was adopted by the Supreme Judicial Council created and empowered by the fifth amendment that was later declared ‘unconstitutional and void.’¹⁷⁹ There are two sets of Court Rules for both the Appellate Division and the High Court Division of the Supreme Court.¹⁸⁰ There are Judicial Ethics¹⁸¹ to encourage the judges to perform their duties without any ‘fear or favour’, ‘impartially and diligently’ and with integrity. The Bangladesh Judicial Service (Discipline) Rules of 2017 on the disciplinary rules for lower court judges has been published as an official gazette.¹⁸² However, it raised concerns over the independence of the judiciary among the leading jurists,¹⁸³ claiming that

¹⁷⁴ The Constitution of the Peoples’ Republic of Bangladesh, Article 95(1). Available at: <http://bdlaws.minlaw.gov.bd/act-367/section-24652.html>, accessed on 16 May 2022.

¹⁷⁵ *Ibid.*

¹⁷⁶ Transparency International Bangladesh, 2014. National Integrity System Assessment Bangladesh, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwj6xbK0_uP3AhXBSmwGHXsOCCOQFnoECAMQAQ&url=https%3A%2F%2Fimages.transparencycdn.org%2Fimages%2F2014_BangladeshNIS_EN.pdf&usq=AOvVaw0wHpbqllm6FIRNkyG_f2iP, accessed on 12 March 2022.

¹⁷⁷ The Constitution of the Peoples’ Republic of Bangladesh, Article 96 (1). Available at: <http://bdlaws.minlaw.gov.bd/act-367/section-24653.html>, accessed on March 12 2022.

¹⁷⁸ *Ibid.*

¹⁷⁹ *Ibid*; Key Informant Interview, Eminent jurist and lawyer, (*Anonymity requested*), *Interview took place on 30 May 2022*, at Dhaka.

¹⁸⁰ See for details: <http://www.supremecourt.gov.bd/web/?page=rules.php&menu=11>, accessed on 7 June 2022.

¹⁸¹ <http://www.judiciary.org.bd/en/conducts-for-judges>, accessed on 7 June 2022.

¹⁸² Dhaka Tribune, 2018. <https://archive.dhakatribune.com/bangladesh/court/2018/01/03/judges-disciplinary-rules-sc-accepts-gazette-notification>, accessed on 25 April 2022.

¹⁸³ The Daily Star, 2018. <https://www.thedailystar.net/frontpage/lower-courts-freedom-undermined-3-rules-1513600> accessed on 25 April 2022.

this has undermined the independence and treated “the Judges of the lower judiciary having been made subordinate to the executive branch.”¹⁸⁴ Allegedly, the Rules are ‘contradictory’ to the doctrine of separation of power.¹⁸⁵ The President, the ‘titular’¹⁸⁶ head of the state, is referred to as the final authority for the suspension, removal or temporary suspension of judges of the subordinate courts.¹⁸⁷ This reflects the ‘shadow of dual rule’.

Prosecution services

The Ministry of Law, Justice and Parliamentary Affairs monitors and manages prosecution functions. In Bangladesh, there is no integrated prosecution service.¹⁸⁸ There is a concern about inexperienced and inefficient lawyers securing jobs thanks to political bias.¹⁸⁹ Furthermore, because of lack of a code of conduct for the prosecutors, there are limitations in ensuring accountability for the actions of the prosecutors.¹⁹⁰ Similar views have been expressed by prosecutors and judges regarding ‘political appointments’ of the prosecutors.¹⁹¹ However, the incentives for prosecutors are inadequate in terms of both salaries and benefits. Moreover, there is no mechanism for the regular assessment of the performance and accountability of prosecutors.

Others

The judiciary is facing a backlog of around 3.4 million pending cases, which has been causing immense suffering to the justice seekers.¹⁹² In addition to procedural complexities, the shortage of judges accentuates this situation. According to information from the 2020 Law Lab, on an average there are 3,045 pending cases for an Appellate Division judge, and 4,923 pending cases for a High Court Division Judge.¹⁹³ For lower court judges, the average number of pending cases is 2,038.¹⁹⁴

¹⁸⁴ *Ibid.*

¹⁸⁵ Md Milan Hossain, 2020. ‘Separation of Judiciary in Bangladesh-Constitutional Mandates and Masdar Hossain Case’s Directions: A Post Separation Evaluation’. 11(2) International Journal for Court Administration 4. DOI: <https://doi.org/10.36745/ijca.310>, accessed on 25 April 2022.

¹⁸⁶ *Ibid.*

¹⁸⁷ *Ibid.*

¹⁸⁸ Dhaka Tribune, 2017. Why we need an independent public prosecution service, <https://archive.dhakatribune.com/bangladesh/2017/07/06/need-independent-public-prosecution-service>, accessed on 16 March 2022.

¹⁸⁹ *Ibid.*

¹⁹⁰ Key Informant Interview, Eminent jurist and lawyer, (*Anonymity requested*), 30 May 2022, at Dhaka; Dhaka Tribune, 2017, Why we need an independent public prosecution service. [online] Available at: <https://archive.dhakatribune.com/bangladesh/2017/07/06/need-independent-public-prosecution-service>, accessed on 16 March 2022.

¹⁹¹ *Ibid.*

¹⁹² The Daily Star, 2019. <https://www.thedailystar.net/country/news/judiciary-suffering-backlog-34-lakh-cases-1735606> April 27, accessed on 17 March 2022.

¹⁹³ The Daily Star, 2021. Courts hamstrung by judge shortage, <https://www.thedailystar.net/news/bangladesh/news/courts-hamstrung-judge-shortage-2177156>, accessed on 17 March 2022.

¹⁹⁴ *Ibid.*

On a more positive note, court proceedings are open and decisions are made in an open environment that is accessible to the public and the media. There were initiatives to develop infrastructure and to reduce case backlogs. The introduction of legal aid services as per the Bangladesh Legal Aid Act of 2000,¹⁹⁵ is another remarkable development that aims to provide ‘legal aid to poor litigants who are incapable of seeking justice due to financial insolvency, destitution’ etc.¹⁹⁶ Lower court judges are required to submit wealth statements regularly, though these are not accessible to the public, nor is it known to what extent it is practiced and what happens with the submissions. Appellate and High Court judges were also called upon in 2010 to do the same, though it has not been made mandatory.¹⁹⁷

Good practices

- Official separation of the judiciary from the executive;
- Establishment of the Bangladesh Judicial Service Commission;
- Introduction of Legal Aid services as per The Bangladesh Legal Aid Act of 2000;
- Public access to observe judicial procedures.

Deficiencies

- Allegedly the separation of the judiciary from the executive is still on paper and true separation has not yet been achieved in practice. The independence of the judiciary is being undermined by this lack of separation;
- Corruption in the lower judiciary is also a major concern;¹⁹⁸
- The enforcement of transparency provisions is not often complied with;
- Shortage of judges in both divisions of the Supreme Court and the lower judiciary;
- Lack of an integrated prosecution service.

¹⁹⁵ Bangladesh Legal Aid Act, 2000. <http://bdlaws.minlaw.gov.bd/act-details-834.html>, accessed on 17 March 2022.

¹⁹⁶ Bangladesh Law Digest, 2015.

<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewjr4Mrlm6L8AhWwTmwGHdnqBPQQFnoECDcQAQ&url=https%3A%2F%2Fbdlawdigest.org%2Flegal-aid-in-bangladesh.html&usg=AOvVaw3cba0jsK6B9qXsBbD-wwKz>, accessed on 26 April, 2022.

¹⁹⁷ The Daily Star, 2019. <https://www.thedailystar.net/backpage/submitting-wealth-info-sc-judges-need-do-it-accountability-1757608> accessed on 26 August, 2023.

¹⁹⁸ Transparency International Bangladesh, 2017. Subordinate Court System of Bangladesh: Governance Challenges and Ways Forward. P. 3, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewjv7raAnLL3AhUIRmwGHSmdA_oQFnoECAoQAQ&url=https%3A%2F%2Fwww.ti-bangladesh.org%2Fbeta3%2Findex.php%2Fen%2Fhighlights%2F5428-subordinate-court-system-of-bangladesh-governance-challenges-and-way-forward-executive-summary-english&usg=AOvVaw3flQjWG1B8DFItX5BQzki5, accessed on 26 April, 2022.

4.2. Chapter V

This chapter analyzes the implementation of the provisions of UNCAC Chapter V on asset recovery in Bangladesh through the application of laws, regulations and practices, and highlights both good practices and areas for improvement.

4.2.1. Art. 14, 52, and 58 – Measures to Prevent Money-Laundering and Anti-Money Laundering

Bangladesh enacted the Money Laundering Prevention Act in 2002,¹⁹⁹ which was subsequently amended in 2012.²⁰⁰ After an amendment to the act in 2015 and the adoption of the Money Laundering Prevention Rules in 2019, an effective framework was created. The Bangladesh Financial Intelligence Unit (BFIU) became a member of the Egmont Group in 2013, which facilitated a wide range of opportunities for international cooperation. Despite this institutional and legal preparedness, the level of implementation is not regarded as encouraging. Illicit financial flows have been rising over the recent years.

The country, through the aforementioned law, criminalized money laundering. Section 2 (v) of the Money Laundering Prevention Act (MLPA)²⁰¹ of 2012, defines money laundering, while section 4(1) and 4(2) penalizes this criminal offence with imprisonment of a term of at least four years but not exceeding 12 years and an additional fine equivalent to twice the value of the property involved in the offence or one million BDT, whichever is greater.²⁰²

The BFIU is to collect financial intelligence reports including Suspicious Transaction Reports (STR), Cash Transaction Reports (CTR) etc. from different authorities such as governmental, semi-governmental organizations, autonomous bodies, individuals, groups or media. Then the BFIU sends these reports to law enforcement and audit agencies for investigation and prosecution of money-laundering offenses.

The BFIU is functioning simultaneously as the national analysis center and supervisory authority. BFIU is empowered to supervise the activities of the reporting organizations and carry out on-site inspections.²⁰³ To oversee compliance with the MLPA, the BFIU conducts AML and CFT system checks every six months. It inspects the areas of procedure for Know Your Customer (KYC) and Customer Due Diligence (CDD), monitoring transactions, submission and analysis of CTR, identification and submission of STR, compliance of the recommendation of previous audit and inspection reports etc.²⁰⁴

¹⁹⁹ Money Laundering Prevention Act, 2002. <http://bdlaws.minlaw.gov.bd/act-886.html?hl=1>, accessed on 26 April, 2022.

²⁰⁰ Money Laundering Prevention Act (MPLA), 2012, <http://bdlaws.minlaw.gov.bd/upload/act/2021-11-17-11-43-47-42.-Money-Laundering-Prevention-Act-2012.pdf>, accessed on 26 April, 2022.

²⁰¹ *Ibid.*

²⁰² *Ibid.*

²⁰³ Bangladesh Financial Intelligence Unit; Annual Report 2018-19, https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewjuv_SVo6P8AhXcwzgGHc_4A2sQFnoECB4QAQ&url=https%3A%2F%2Fwww.bfiu.org.bd%2Fpdf%2Fpub%2Fannual%2F2018-2019.pdf&usg=AOvVaw37pljvywe3Um3B87LVbLmj, accessed on 30 March 2022.

²⁰⁴ Bangladesh Financial Intelligence Unit; Annual Reports of 2015-2016, 2016-2017, 2017-2018, 2019-2020.

In order to carry out effective supervision, the BFIU has institutional arrangements and compliance protocols. It issued different circulars and guidelines for the reporting organizations. It developed a reporting mechanism that results in a good number of STRs from a wide range of organizations and government agencies. In recent years, this has consistently increased.

According to the MLA of 2012, the ACC was the sole body to investigate all corruption cases. Later with the MLA amendment 2015, a few other bodies have been engaged and empowered to investigate money-laundering cases, among them: the National Board of Revenue (NBR), the Anti-Corruption Commission (ACC), Criminal Investigation Department (CID), and other entities like the Customs Intelligence and Investigation Directorate (CIID), Department of Narcotics Control (DNC), Department of Environment (DoE) and Security and Exchange Commission (SEC). Furthermore, the central bank and different commercial banks initiated several policies and procedures to ensure customer due diligence.

Bangladesh is also a member of the Asia-Pacific Group on Money Laundering (APG) and involved in some other international and regional initiatives including those under the United Nations (UN), World Bank (WB), and International Monetary Fund (IMF).

In order to create an effective legal framework for combating money laundering and terrorist financing, Bangladesh enacted the Mutual Legal Assistance in Criminal Matters Act²⁰⁵ in 2012. In 2013, the Mutual Legal Assistance in Criminal Matters Rules²⁰⁶ were promulgated to facilitate the widest possible opportunities for international cooperation for mutual legal assistance.

The Bangladeshi government formed the National Coordination Committee (NCC) as an apex platform on Anti-Money Laundering (AML) and Counter-Terrorism Financing (CTF) headed by the finance minister. A Working Committee (WC) and a Central Taskforce have been created to provide guidance and coordinate the effective implementation of AML & CFT.²⁰⁷

Bangladesh also developed a number of strategies such as the National Strategy for Preventing Money Laundering and Combating Financing of Terrorism of 2015-17,²⁰⁸ updated in 2019-21.²⁰⁹

Despite this elaborate institutional and legal preparedness, there are concerns over the level of implementation. Illicit financial flows have been rising in recent years. USD \$61 billion was

²⁰⁵ Mutual Legal Assistance in Criminal Matters Act 2012, <http://bdlaws.minlaw.gov.bd/upload/act/2021-11-17-11-42-18-41.-Mutual-Legal-Assitant-in-Criminal-Matters-Act-2012.pdf>, accessed on 30 December 2022.

²⁰⁶ Mutual Legal Assistance in Criminal Matters Rules, https://www.bb.org.bd/aboutus/dept/bfiu/laws/mutuallegalassistance_rules2012.pdf, accessed on 22 June 2022.

²⁰⁷ Bangladesh Financial Intelligence Unit. Annual report 2019.

²⁰⁸ National Strategy for Preventing Money Laundering and Combating Financing of Terrorism of 2015-17. <https://www.bb.org.bd/bfiu/amlstrategy/index.php>, accessed on 30 December 2022.

²⁰⁹ National Strategy for Preventing Money Laundering and Combating Financing of Terrorism of 2019-21, <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKewif6s20rKP8AhURyDgGHSOhCzYQFnoECAkQAQ&url=https%3A%2F%2Fwww.moneylaundering.com%2Fwp-content%2Fuploads%2F2019%2F11%2FBangladesh.Report.AMLCTFStrategy.111719.pdf&usg=AOvVaw0ikwP7BBsrOIJsi3VsKomY>, accessed on 22 December 2022.

laundered through trade-based mis-invoicing alone from Bangladesh, between 2005 and 2014.²¹⁰ The average of such annual illicit transfers out of the country between 2016 to 2020 was estimated to be \$7.53 billion USD.²¹¹ Bangladesh has also been ranked as one of the 30 countries with around 20% of its international trade value being siphoned out of the country every year.²¹²

In another assessment, Bangladesh is considered as being among the top 40 countries in the world in terms of risk for money-laundering and terrorist financing.²¹³ The Basel Anti-Money Laundering Index of 2021 ranked Bangladesh 3rd among 110 countries.²¹⁴ Though the risk score dropped to 5.84 from the previous year's (2020) score of 5.88, it is of no significance. Very little tangible progress has been achieved in preventing and controlling illicit transfers as well as identification and repatriation of laundered money. The key issue is lack of implementation and enforcement, while some significant relevant global good practices like adoption of the Common Reporting Standard and enactment of beneficial ownership transparency remain out of consideration.²¹⁵

Bangladesh took initiatives to identify, assess and understand money laundering and terrorist financing risks. Two assessment reports were published in 2012 and 2017, with the latter identifying major risk areas, namely corruption, fraud, forgery, smuggling and human trafficking.²¹⁶ It also identified four risk sectors: banking, non-banking financial institutions, real estate, and jewelry.²¹⁷

Good practices

- Several authorities have been designated by law to combat money laundering.

Deficiencies

- There is scanty success because of lack of implementation and enforcement;

²¹⁰ Global Financial Integrity. Cited in The Daily Star, 2020. <https://www.thedailystar.net/opinion/the-overton-window/news/bangladeshs-struggles-money-laundering-1923629> accessed on 25 April 2022.

²¹¹ *Ibid.*

²¹² The Business Standard, 2021. <https://www.tbsnews.net/thoughts/anti-money-laundering-mechanisms-versus-reality-bangladesh-291793>, accessed on 22 February 2022.

²¹³ Annual report 2020 of the Basel Institute of Governance, 2020, <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwitjNvUy578AhXSkuYKHSNQC4oQFnoECBYQAQ&url=https%3A%2F%2Fjam.baselgovernance.org%2Fapi%2Fassets%2Ffe88e7f3d-136e-41c6-923d-6fc4fc840078&usg=AOvVaw278ZXXG8XU9jDSxK08B6S>, accessed on 22 February 2022.

²¹⁴ The Business Standard, 2021. Bangladesh improves in countering money laundering, but still at high risk: The country ranked 33rd among 110 countries on the Basel Anti-Money Laundering (AML) Index 2021. <https://www.tbsnews.net/bangladesh/crime/bangladesh-improves-countering-money-laundering-still-high-risk-302530>, accessed 22 February 2022.

²¹⁵ <https://www.thedailystar.net/opinion/views/news/taking-loans-v-tackling-laundering-which-serves-us-our-long-term-interests-best-3086966>, <https://www.thedailystar.net/opinion/views/news/salvage-the-banking-sector-unmask-the-kingpins-3190776>

²¹⁶ Government of Bangladesh, National Risk Assessment Report 2015-Identifying Money Laundering and Terrorist Financing Risks in Bangladesh, 2017. <https://www.bb.org.bd/bfiu/openpdf.php>, accessed on 22 February 2022.

²¹⁷ *Ibid.*

- Amendment to the MLA enables several agencies to investigate, but there are risks of a lack of coordinated and collective action. There are also concerns that in the process of the amendment of the MLA, the authority of the ACC, the key specialized body, has been undermined;
- It is alleged that the politicization of regulatory institutions hinders the proper application of the relevant laws and impartial measures;²¹⁸
- A lack of independence of the Central Bank to which the BFIU is affiliated, is another major challenge to fight money laundering. It is alleged that the lack of independence from the Ministry of Finance creates limitations on supervisory powers and the implementation of the core principles;²¹⁹
- Capacity constraints in investigating and prosecuting increasingly sophisticated money-laundering offenses have also been identified as another limitation in the fight against money laundering. Law enforcement agencies are allegedly not proactive in seeking international cooperation to properly investigate and trace the proceeds of crime and corruption;²²⁰
- Advantages of international cooperation in identifying and repatriating stolen assets remain untapped due to lack of capacity as well as a lower than expected level of response from the destination countries.

4.2.2. Art. 51, 53, 54, 55, 56, 57 and 59 – International Cooperation for the Purpose of Confiscation

The Money Laundering Prevention Act²²¹ clearly provides that the ‘laundered money is subject to confiscation by the state’ and Bangladesh Financial Intelligence Unit is authorized to lead and coordinate the process. The government is also preparing a strategy of freezing and confiscating assets soon after the detection.

There are concerns regarding the growing illicit flight of money. Initiatives to bring back the laundered money have allegedly made little progress.

Among the cases, one is the case²²² of repatriation of stolen money, illicitly deposited in Singapore by a son of a former Prime Minister. In this case, the ACC of Bangladesh received adequate assistance and cooperation from the Singapore authorities under a mutual legal assistance request as per the UNCAC provisions. That was also a good example of coordinated efforts among

²¹⁸ Transparency International Bangladesh, 2017. Sustainable Development Goal 16: Preparedness, Progress and Challenges of Bangladesh A Study of Selected Targets.

²¹⁹ Transparency International Bangladesh, 2017. Sustainable Development Goal 16: Preparedness, Progress and Challenges of Bangladesh A Study of Selected Targets; 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/APGMER-Bangladesh-2016.pdf>, accessed on 22 February 2022.

²²⁰ Transparency International Bangladesh, 2017. Sustainable Development Goal 16: Preparedness, Progress and Challenges of Bangladesh A Study of Selected Targets, accessed on 22 February 2022.

²²¹ Money Laundering Prevention Act 2012, <http://bdlaws.minlaw.gov.bd/upload/act/2021-11-17-11-43-47-42.-Money-Laundering-Prevention-Act-2012.pdf>, accessed on 22 February 2022.

²²² The Daily Star, 2012. <https://www.thedailystar.net/news-detail-258537>, accessed on 23 February 2022.

the Attorney General's Office, the Central Bank (Bangladesh Bank), and the Anti-Corruption Commission.²²³

There is no other notable example of success. Bangladesh has a long way to go in terms of effectively recovering stolen assets. The opportunities created through UNCAC allegedly has not been availed sufficiently.²²⁴

Good practices

- Legal and institutional arrangements have been made; initiatives to facilitate avenues of cooperation, for the purpose of confiscation, have been taken;
- There are some success cases, though very limited.

Deficiencies

- It is alleged that the opportunities created for international cooperation to recover stolen assets are not being availed of sufficiently.

²²³ The Business Standard, 2022. Govt readies strategy to recover laundered money, <https://www.tbsnews.net/bangladesh/govt-readies-strategy-recover-laundered-money-489102>, accessed on 20 October 2022.

²²⁴ The Daily Star, 2020. Why does money laundering enjoy impunity in Bangladesh? Available at: <https://www.thedailystar.net/opinion/news/why-does-money-laundering-enjoy-impunity-bangladesh-1921965>, accessed on 16 March 2022.

V. Recent Developments

In the Transparency International's the Corruption Perception Index 2022 released in January 2023, Bangladesh was ranked 147th out of 180 countries with 25 index points on a scale of 100 which was 26 in 2021.²²⁵ Bangladesh's core is the 12th lowest in the world and second lowest in South Asia followed by only Afghanistan. It has also been reported that "countries with low scores are still unable to make significant progress in terms of restrictions and attacks on civic space, basic freedoms, security and stability, democracy and human rights."²²⁶ Bangladesh is widely reported to be moving increasingly in the same direction.²²⁷

Concerns about the shrinking of space conducive for civil society, media and people at large to play an anti-corruption role consistent with Article 13 of the UNCAC have continued unabated. Against the backdrop of increasing national and international criticism of the use and abuse of the Digital Security Act (DSA) 2018,²²⁸ the Government decided to replace it with a new Cyber Security Act 2023 which passed in parliament on 13 August, 2023. However, the Cyber Security Act 2023 has been widely assessed to contain almost verbatim reproductions of the same repressive provisions as the DSA 2018, and hence created wide scope of use and abuse to control dissent, free speech, and free media.²²⁹

²²⁵ The Daily Star, 2023. <https://www.thedailystar.net/news/bangladesh/news/bangladesh-ranks-second-most-corrupt-south-asia-again-tib-3235211> accessed on 29 May 2023.

²²⁶ The Business Standard, 2023. <https://www.tbsnews.net/bangladesh/corruption/bangladesh-remains-one-most-corrupt-countries-south-asia-corruption-perception> accessed on 29 May 2023.

²²⁷ See for example: <https://monitor.civicus.org/watchlist/BangladeshWL/> accessed on 26 September 2023, and <https://www.bbc.com/bengali/articles/clk1kgkr48ro>, accessed on 22 September 2023.

²²⁸ For instance, the UN Human Rights Chief Volker Türk mentioned, "I am concerned that the Digital Security Act is being used across Bangladesh to arrest, harass and intimidate journalists and human rights defenders, and to muzzle critical voices online." United Nations Human Right Office of the High Commissioner, 2023.

<https://www.ohchr.org/en/press-releases/2023/03/bangladesh-turk-urges-immediate-suspension-digital-security-act-media> accessed on 30 May 2023. See also, Md. Asaduzzaman, 2023. DSA, democracy and constitutional scheme. <https://www.newagebd.net/article/203134/dsa-democracy-and-constitutional-scheme> accessed on 2 June 2023, <https://en.prothomalo.com/bangladesh/mc14cr9445> accessed on 30 May 2023, and <http://bdlaws.minlaw.gov.bd/act-1261.html?lang=en> accessed on 30 May 2023.

²²⁹ See, <https://www.newagebd.net/article/212736/editors-council-concerned-over-cyber-security-act>, <https://www.tbsnews.net/bangladesh/cyber-security-act-another-tool-snatch-freedom-speech-tib-700714?amp>, <https://www.dhakatribune.com/amp/bangladesh/325860/editors%E2%80%99-council-concern-over-passing-of-cyber>, <https://en.prothomalo.com/amp/story/bangladesh/601gedtpfr>, <https://www.thedailystar.net/law-our-rights/news/un-rights-bodys-recommendations-dsa-not-reflected-csa-irene-khan-3407816?amp>, <https://www.amnesty.org/en/latest/news/2023/08/bangladesh-government-must-remove-draconian-provisions-from-the-draft-cyber-security-act/#:~:text=On%2022%20August%202023%2C%20Amnesty,CSA%20were%20related%20to%20sentencing>. accessed on 24 September 2023. Transparency International Bangladesh published a detailed comparative analysis of the new CSA 2023 with the DSA 2018, which provides specific evidences for the same concerns. See: <https://www.ti-bangladesh.org/upload/files/position-paper/2023/Position-paper-on-Digital-Security-Act-2018-and-Draft-Cyber-Security-Act-2023.pdf> and <https://www.ti-bangladesh.org/articles/position-paper/6752> accessed on 24 September 2023.

Another recent initiative is the enactment of the Income Tax Bill, being considered as a ‘mortal blow to ACC.’²³⁰ According to this act “ACC cannot access tax, income, wealth and other related data of individuals under investigation for alleged corruption without a court order.”²³¹ This is considered as a step backward to fulfill the mandate of Anti-Corruption Commission as it is restricting ACC’s access to key information.²³² This is weakening the legal and institutional capacity of the state to fight against corruption.

²³⁰ The Daily Star, 2023. Income Tax Act 2023: Yet another mortal blow to ACC.

<https://www.thedailystar.net/opinion/views/news/income-tax-act-2023-yet-another-mortal-blow-acc-3357051>
accessed on 27 June 2023.

²³¹ *ibid.*

²³² *ibid.*

VI. Recommendations

Bangladesh has progressed well in terms of creating the legal and institutional framework needed to implement pledges made under Chapters II and V of the UNCAC. However, it has a long way to go in terms of implementation. The following measures can be considered as priority actions to facilitate better implementation:

1. Ensure the independence and higher professional capacity of the ACC and free it from political and bureaucratic influence;
2. Remove all predicaments created by various legal and policy amendments to compromise the jurisdiction, scope and operational flexibility of ACC;
3. Amend the 2017 version of the Anti-Money Laundering Act and Rules to enhance the Anti-Corruption Commission's (ACC) jurisdiction through inclusion of all items of the schedule of offences as provided in the 2012 version;
4. Make appointments of Supreme Court Judges by an independent body (e.g., a Supreme Judicial Council). Complete the process of full separation of the judiciary from executive and political influence. Ensure strict compliance with codes of conduct by all judicial officers including mandatory and periodically updatable disclosure of income and assets;
5. Create a Public Prosecutor Cadre Service;
6. Remove all existing legal and policy provisions and refrain from introducing any laws or policies that restrict the space for civil society and media to facilitate their active participation in anti-corruption reporting and other initiatives;
7. Ensure the disclosure of the wealth of public officials: annually updated wealth statement should be made mandatory and enforced. Establish an effective oversight and monitoring mechanism to ensure compliance and take effective action in case of accumulation of income and wealth disproportionate with legitimate income source;
8. Ensure depoliticization of all institutions promoting democracy and accountability;
9. Strengthen legal and institutional capacity to ensure integrity in public procurement at all levels by elimination of political and bureaucratic influence and syndication. Ensure universal application of the e-GP system for all categories volumes of procurement;
10. Set up the Offices of Ombudsman at national and sectoral levels;
11. Produce and publish in-year report, mid-year review, and year-end financial budget reports in a timely manner; enhance the comprehensiveness of the year-end reports and ensure public access to them;
12. Build capacity of all institutions to ensure proactive and on-demand disclosure of information and drive civic activism to enhance public interest and participation in the movement for access to information;
13. Ensure that the recruitment process of civil servants is free and fair and that public institutions including bureaucracy and law-enforcement agencies are de-politicized;
14. Arrange awareness-raising campaigns for implementation of the whistleblower protection act;
15. Create the space for higher level of independence and effectiveness of the OCAg, and take concrete actions to ensure accountability based on the findings of the OCAg reports.

16. Enhance transparency and accountability in financial management; and abolish the provision of 'whitening' black money;
17. Upscale the level of professional skills and effectiveness of institutions and agencies mandated to prevent and control illicit financial transfers. Increase greater cooperation and coordination between them with particular emphasis on repatriation of stolen assets taking advantage of opportunities for international cooperation including mutual legal assistance.

VII. Annex

7.1 List of Persons Consulted

Job title	Affiliation	Date of interview
Former Director General	Anti-Corruption Commission	20 April 2021
Joint Secretary	Legislative and Parliamentary Affairs Division, Ministry of Law, Justice and Parliamentary Affairs	28 October 2021
Director General	Anti-Corruption Commission	5 December 2021
Assistant Director 1	Anti-Corruption Commission	5 December 2021
Researcher	Transparency International Bangladesh	6 February 2022
Deputy Chief of Mission	Ministry of Foreign Affairs	20 Feb 2022
Eminent Jurist and Lawyer	Bangladesh Supreme Court	30 May 2022
Senior Judicial Magistrate	Zilla Judge Court	23 April 2022
Economist and Academician	A leading think-tank CSO	12 April 2022
Journalist	The Daily Star; Bangladesh Law Reporters' Forum	10 March 2022

NB: The individuals interviewed for this report requested anonymity due to security purposes.

7.2 Statistics

Comparative picture of complaints received by the Commission in the last five years

Year	Number of complaints received	Number of enquiries initiated	Sent to various ministries for action
2018	16,606	1,265	1,404
2019	21,371	1,710	3,627
2020	18,489	822	2,469
2021	14,789	533	2,889
2022	19,338	901	3,152

Sources: ACC's Annual reports.

Statistics of enquiries into allegation 2016-2021

Year	Enquiries received	Total enquiries	Enquiries completed	*FIR lodged	Disposed
2016	1,222	4,115	1,766	359	1,407
2017	1,232	3,759	1,445	273	1,446
2018	1,162	3,427	827	216	636

2019	1,974	4,861	1,106	363	791
2020	948	5,017	1,294	348	753
2021	891	4,614	1,044	347	688
Total	7,429	30,189	8,539	2,453	6,263

Sources: Draft country report (UNCAC review) of Bangladesh.

Statistics of investigations into allegations 2016-2021

Year	Investigations taken up	Total investigation	Investigations completed	Charge-sheet submitted	Submission of final reports
2016	880	3,428	2,271	535	671
2017	647	2,095	965	382	319
2018	489	1,519	489	236	159
2019	611	1,729	473	267	121
2020	430	1,796	329	228	84
2021	406	1,873	424	260	132
Total	3,464	17,199	6,314	2,591	2,166

Sources: Draft country report (UNCAC review) of Bangladesh

Statistics of corruption cases tried by the Court of Special Judge in 2021

Description	Cases of ACC	Cases of defunct Bureau	Total
No. of cases under trial	2,998	436	3,434
No. of cases in ongoing trial	2,771	243	3,014
No. of cases stayed	227	193	420
No. of cases disposed	193	10	203
No. of cases ending in convictions	116	03	119
No. of cases ending in acquittals	77	07	84

Sources: Draft country report (UNCAC review) of Bangladesh.

Statistics on enquiries by the ACC into complaints between 2017- 2019²³³

Status of enquiries	2019	2018	2017
Enquiries pending at beginning of year	2,887	2,265	2,527
Cases of enquiries received in the year	1,974	1,162	1,232
Total Enquiries	4,861	3,427	3,759
Enquiries concluded in the year	1,106	827	1,445
Conclusively disposed	716	625	1,114

²³³ Anti-Corruption Commission, Annual Report, 2019-20, 2018-19, 2017-18, accessed 15 June 2022.

Disposed otherwise	75	11	132
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Sources: ACC's Annual reports

Statistics on enquiry operations by the ACC into money laundering between 2017- 2019²³⁴

Status of enquiries	2019	2018	2017
Enquiries pending at beginning of year	80	63	103
Cases of enquiries received in the year	73	40	24
Total Enquiries	153	103	127
Enquiries completed in the year	33	18	77
Cases instituted	07	08	13
Conclusively disposed	09	09	20
Disposed otherwise	17	01	44

Sources: ACC's Annual reports

Suspicious Transaction Reports and Suspicious Activity Reports by financial year (FY)²³⁵

Reporting/Intelligence Phase	FY 2016- 7	FY 2017- 8	FY 2018- 9	FY 2019- 20	Total
Number of Suspicious Transaction Reports	1267	2069	2084	1897	7317
Number of Suspicious Activity reports	1090	1809	1489	1778	6166
Total	2357	3878	3573	3675	-

²³⁴ *Ibid.*

²³⁵ Bangladesh Financial Intelligence Unit; Annual Reports of 2015-2016, 2016-2017, 2017-2018, 2019-2020.

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