



MAKING THE ANTI-CORRUPTION COMMISSION EFFECTIVE

Policy Brief¹

Introduction

The Honourable Prime Minister's uncompromising stance for democracy, democratic institutionalization, rule of law, integrity in governance is well-known, and has raised many expectations.

Among many electoral commitments of the Government relevant to the strengthening of the institutional capacity to promote good governance and to fight corruption is the pledge to make the ACC independent and effective. The Commitment has been repeated many times since the election at the highest level of the Government, which is why, we understand, the Cabinet Committee was formed to recommend ways to make the ACC independent, effective and pro-people.

We commend the Government for a number of specific initiatives already taken, like the enactment of the Right to Information law that could go a long way in strengthening the capacity to fight and prevent corruption. The recent initiative for a Whistleblower Protection law, if enacted, will also be of high importance, as it would ensure legal protection of individuals who would report and disclose information on corruption within the public sector and beyond.

However, we are deeply concerned that the proposals finalized by the Cabinet Committee, as reported in the media, are not consistent with the commitments of the Government, nor with the objectives of the Cabinet Committee. We, therefore, submit the following specific policy recommendations for consideration of the Honourable Prime Minister, her distinguished colleagues in the Cabinet and others concerned.

a) **Operational & financial independence of the Anti-corruption Commission**

1. Corruption in all sectors - political, administrative, corporate, NGOs, and individual - should be treated on equal footing and must be within the jurisdiction of the ACC. Exclusion of any particular sector, especially the public service will be discriminatory and counter-productive to the objective of making corruption a punishable offence. We therefore urge upon the Government to ensure that corruption in the public service remains within the jurisdiction of the ACC with no need for prior permission. Offences committed in good faith, if any, should be determined in the Court of Law, not through any blanket waiver;
2. The ACC must be granted the status of true independence, for which Article 30 of the Anti-corruption Act 2004 must be reviewed. The Commission must have the power to determine its own organizational structure; it must be able to hire its own staff at all levels; and

¹ This Policy Brief is based on research conducted by Transparency International Bangladesh and consultations with various stakeholders. For queries or further details please contact: <edtib@ti-bangladesh.org>

determine its budget which shall come from the Government. The Act should be amended to provide for ACC budget to be provided as Charged Expenditure;

3. Section 25 of the ACC Act 2004 must be reviewed to provide full authority to the Commission to be able to use its budget independently without interference from the government. The ACC's financial accountability should be ensured through statutory audit;
4. The Secretary of the Commission must be appointed by the Commission, not by the Government, and the status of the Secretary must not be upgraded, nor can the Secretary be given the status of Chief Accounts Officer. Instead, apart from the statutory audit, a strong internal audit unit should be created in the ACC with qualified professionals directly reportable to the Chairman;
5. Article 36 of the ACC Act 2004 should be amended to prevent possible omnibus intervention by the Government in the affairs of the Commission;
6. The jurisdiction of the ACC must be expanded to include crimes under Money Laundering Act 2002, and other crimes in the banking and financial sector, foreign companies, and those involving foreign exchange;
7. The proposed Sub-committee for analyzing international experiences for legal review must include relevant experts from outside the Government;

c) Accountability, Efficiency, Credibility

8. The proposal to make the Commission accountable to the President would not meet the objective of accountability. The ACC should rather be made accountable to a Judicial Committee of the Supreme Court. Alternately, the ACC could be reportable to a Parliamentary Committee composed of one member each of all parties represented in the Parliament, provided that such members are known for highest levels of credibility, integrity and honesty;
9. A Citizens Advisory Committee composed of non-partisan prominent citizens of high integrity, honesty and credibility can be provided for in the law to advise and evaluate the work of the ACC. Citizens' Subcommittees can be created to advise ACC on specific areas of work in the field of prevention like education, awareness and civic engagement;
10. All employees of the ACC must proactively disclose and regularly update their assets and liabilities statements through website and other means of communication;
11. Most of the staff of the ACC being from the days of the Bureau of Anti-corruption, provision must be made to review the credibility of the staff of the ACC at all levels through independent scrutiny. Specific trainings for capacity building and professional excellence of the ACC staff must be provided for, to be conducted on the basis of needs assessment;
12. Salary and benefits of the ACC staff must be commensurate with the cost of living as well as with the risks involved. Positive incentives must be matched with strong negative incentives to enforce zero tolerance against corruption;
13. The ACC must adopt its own Code of Ethics for its staff and a Governance Manual to ensure efficient management, internal self-regulation and checks and balances;

d) Strategies & Priorities

14. ACC should develop its own anti-corruption strategy setting out prioritization of jobs at hand as provided by the law, particularly to develop a strategic balance between functions of investigation, prosecution and prevention;
15. ACC needs to develop a policy to be able to deploy its resources and capacity for effectively handling the huge number of pending cases against new ones;

e) Strengthen the national integrity system

16. ACC is one of the many institutions of the national integrity system (NIS) that collectively builds capacities for effective control of corruption. ACC cannot deliver effective corruption control all by itself. The higher is the level of integrity, efficiency and professionalism of

institutions like the judiciary, police and other law-enforcement institutions, public service, private sector, public procurement system and the media, the better will be the effectiveness of the ACC.

f) Political will

17. The political will must be sustained and enforced, without any fear or favour; and
18. Political support and backing must be across the partisan political divide.
