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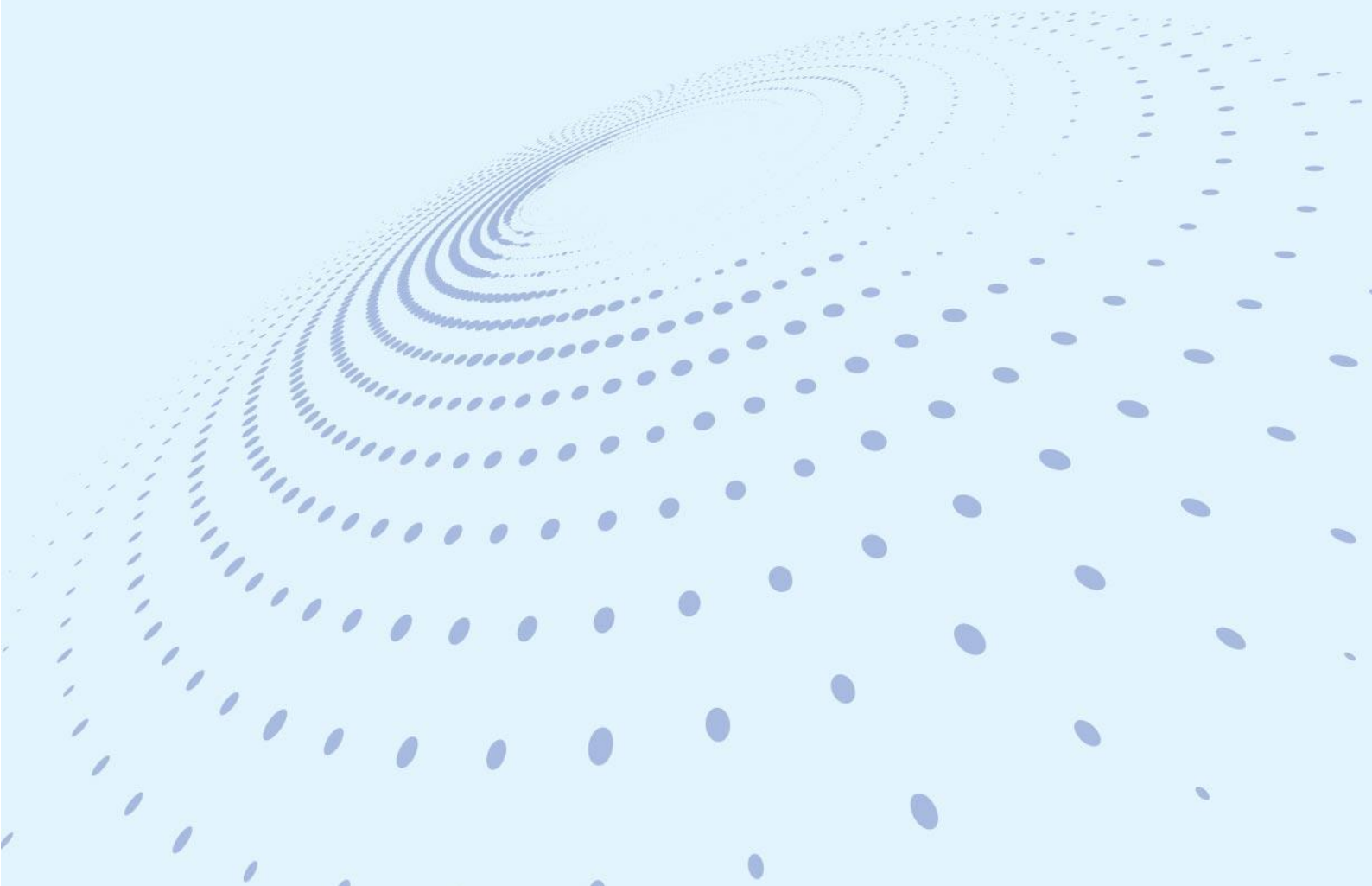
Social movement against corruption

'NEW BANGLADESH'

TIB's Recommendations

on

Promoting Democracy, Good Governance & Anti-Corruption



‘New Bangladesh’: Anti-Corruption, Democracy and Good Governance

Policy Brief

Context

The anti-discrimination movement of students demanding quota reform in government jobs led to the fall of the authoritarian government. This was achieved at the cost of unprecedented loss of lives and sacrifice. An Interim Government was formed on 8 August 2024. The principal expectation of the protesting students and common people from this government is to create a state structure and environment suitable for building a transparent, accountable, corruption-free and discrimination-free ‘New Bangladesh’.

The earlier regime maintained its autocratic rule through abuse of power essentially to ensure multi-dimensional corruption, misappropriation of state resources and money laundering with impunity and beyond accountability. The main focus of state reform and national political settlement in the ‘New Bangladesh’ should be on uprooting corruption and abuse of power with impunity. To achieve this goal, in addition to radical reform of all institutions responsible for preventing and controlling corruption, it is essential to create a conducive environment for the active participation of all stakeholders, including the media, and the common people, especially the youth, to strengthen the demand for good governance and anti-corruption. However, it would be impossible to effectively control corruption without first liberating the entire state governance structure from ‘party politics’ and professional bankruptcy. Radical changes are needed in public representation, government and administrative systems and practices so that the state is governed based on the people’s verdict, delegated powers and accountability to the people.

Transparency International Bangladesh (TIB) proposes the following recommendations for the necessary reforms in the state structure to prevent corruption and establish democracy, good governance and integrity in the country. Captured in nine strategic themes the proposed recommendations relate to reforms at the overall strategic and policy-making level.

Immediate Priorities

- Ensuring law and order, public safety and administrative stability;
- Bringing those who are directly and indirectly responsible for flagrant human rights violations, including unprecedented loss of life, under national and international accountability measures with formal participation of the United Nations. Due process of law must be followed to ensure that the judicial process remains beyond question;
- Ensuring normalcy economic activities;
- Creating a task force consisting of the Anti-Corruption Commission (ACC), Bangladesh Financial Investigation Unit (BFIU), National Board of Revenue (NBR), Criminal Investigation Department (CID) and Attorney General’s office to set a practical example of effective accountability for high-level corruption and money laundering;
- Publishing the interim government’s strategic guidelines for building the essential framework of state reforms to achieve the vision of a ‘New Bangladesh’.

Strategic Themes

- Democratic Practice
- Rule of Law and Human Rights
- Prevention of Corruption, Irregularities and Money Laundering
- Constitutional, Statutory, Government and Autonomous Institutions
- Civil Society and Media
- Right to Information and Protection of Personal Data
- Local Government
- Banking Sector
- Power, Energy and Environment

In line with these strategic proposals, TIB is keen to assist in the formulation of sector-specific and institution-based action plans.

Recommendations

Democratic Practice

1. To ensure the appropriate reflection of public opinion in the National Parliament, the parliamentary system of proportional representation should be introduced to ensure the representation of various demographic groups such as the youth, women, indigenous people, and other marginalised groups in nominating as members of parliament. Political parties must ensure at least one-third of youth representatives when nominating candidates for elections.
2. In applicable cases, provisions should be made to remove elected public representatives including parliamentarians through a motion of no confidence and re-election (recall election) in the concerned parliamentary seat or local government institution.
3. To ensure free, fair, impartial and participatory national parliamentary elections, a non-party interim government system should be introduced.
4. Amendments to the People's Representation Order (RPO) that undermine the powers of the Election Commission (EC) should be repealed (such as the amendment regarding the authority to annul the full results of a particular parliamentary seat, and the annulment of the polling of the concerned centre only on election day due to irregularities, etc.).
5. To conduct the affairs of the Parliament and the Executive impartially and without conflict of interest –
 - The same person cannot be the Head of Government (Prime Minister), party leader and leader of the parliament at the same time.
 - A person cannot serve as the Prime Minister for more than two terms.
 - As the guardian of the Parliament, the Speaker shall manage all activities of the Parliament free from party influence and avoid conflicts of interest.
 - The Deputy Speaker must be elected from the opposition political party; in the absence of the Speaker and the Deputy Speaker, the opposition party members

included in the speakers' panel should be allowed to perform the duties of the Speaker.

6. Article 70 of the Constitution should be amended to create an opportunity for members of parliament to criticise and vote against their party in all matters including law-making, except for no-confidence motions and budget approval.
7. To ensure accountability of the Executive –
 - The Chair of at least 50 per cent of the parliamentary standing committees, including those of key public interest such as Public Accounts, Law, Justice and Parliament Affairs, Finance, Commerce, Home affairs, Electricity, Energy and Minerals, and Defence Ministry, must be elected from amongst the parliamentarians from the opposition party.
 - Conflict of interest must be avoided in all activities of the parliamentary standing committees.
8. Ethical Code of Conduct laws/rules should be adopted for members of parliament and local public representatives at all levels.
9. A framework should be formulated to reform the political parties and establish an internal democratic process of transparency and accountability. The framework should include, among others –
 - Abolishing absolute authority of party leaders and dynasty politics;
 - Determining party leadership through fair elections at all levels;
 - Transparency in the party's account of income and expenses;
 - Excluding a person accused of moral turpitude from any position within the party and from nomination as a candidate in the election;
 - Including the youth, women, indigenous and marginalised people in committees at all levels, and nominating them in elections at different levels;
 - Imposing legal obligations on maintaining a balance of all professions within the party and public representation; and
 - Electing candidates from the grassroots level following a democratic process.

Rule of Law and Human Rights

The Judiciary

10. The separation of the Judiciary from the Executive must be completed immediately in line with the judgement of the Masdar Hossain case. To facilitate this---
 - A fully empowered Secretariat of the Judiciary must be established to ensure the independence and dignity of the Judiciary and to ensure that administrative activities are conducted independently.
 - The overall control and supervision including the appointment, promotion and transfer of the Higher and Subordinate Courts must be vested solely on this Secretariat under the authority of the Supreme Court.

11. Specific policies/laws regarding the appointment of judges to the High Court Division must be framed in consultation with the Supreme Court.
12. The sole authority to remove judges must be vested in the Supreme Judicial Council by repealing the Sixteenth Amendment of the Constitution.
13. In light of international best practices, up-to-date rules of discipline and conduct should be formulated for all concerned including judges and the Attorney General under the supervision of the Supreme Court.

Law Enforcement Agencies and Public Administration

14. Allegations of extrajudicial killings, disappearances and other human rights violations, irregularity, corruption and abuse of power against members of the law enforcement agencies at various times including during the student movement (July-August 2024), must be investigated and exemplary punishment ensured.
15. All law enforcement agencies (police, RAB, intelligence agencies) and administration must be revamped to root out partisan political influence.
 - As a first step for professional excellence and modernisation of law enforcement agencies, an up-to-date modern police law based on the opinions of the relevant stakeholders must be enacted and implemented.
 - ‘Police Service Commission’ should be formed to make the recruitment process at all levels of the police transparent, competitive, and free from partisan political influence and corruption.
 - An independent authority should be constituted outside the police jurisdiction to handle complaints raised against the members of law enforcement agencies.
16. The Public Service Act, 2018 and the Public Servants (Conduct) Rules, 1979 should be updated to make public administration effective efficient, and dynamic.

Human Rights and Justice

17. Accountability and exemplary punishment of multidimensional and unprecedented human rights violations must be ensured through nationally and internationally acceptable impartial and independent investigations.
18. The National Human Rights Commission (NHRC) must be empowered to investigate all human rights violations including extrajudicial killings and enforced disappearances by security forces and law enforcement agencies.
19. All laws that violate human rights including the ‘Special Powers Act’ must be repealed.

Prevention of Corruption, Irregularities and Money Laundering

20. To ensure the independence and competence of the ACC –
 - The administrative and financial powers should be removed from the ACC Secretary and entrusted to the Commission.
 - Appointments by deputation of government officials at higher levels such as Director and above should be stopped.

- Relevant sections of laws should be amended to ensure ACC's authority to investigate and take action on corrupt acquisition of wealth and money laundering (e.g., Civil Service Act, 2018; Prevention of Money Laundering Act, 2012; Income Tax Act, 2023).
21. Institutions responsible for combating and preventing corruption, such as ACC, BFIU, NBR, Office of the Auditor General, Office of the Attorney General, CID and related institutions must be freed from partisan influence and helped to develop professional skills.
 22. A permanent Task Force involving ACC, BFIU, NBR, CID and the Attorney General's office should be constituted for an effective accountability system to fight against corruption and money laundering.
 23. A 'Conflict of Interest' law must be enacted to stop nepotism, personal gain, and corruption-irregularities in government activities.
 24. The provision of obtaining permission from the government to arrest government officials in criminal cases should be repealed in the Public Service Act, 2018 (Section 41 of 1).
 25. Employees at all levels, including public representatives, public servants, and heads/ chairmen and members of constitutional and statutory institutions, must disclose their income and assets every year.
 26. The opportunity to whiten black money in the national budget must be abolished.
 27. Reforms should be undertaken by identifying the legal and institutional weaknesses that hinder the achievement of 'value for money' and create opportunities for irregularities and corruption in all types of government procurement, project planning and implementation.
 28. To prevent money laundering –
 - 'Mutual Legal Assistance' should be implemented with the respective institutions of the countries in which the money has been laundered.
 - All money laundering through import-export, hundi, financial sector fraud and anonymous/ non-existing institutions must be stopped. Money laundering based on collusive invoicing fraud under the guise of import and export must be stopped through strengthening the ACC, BFIU, NBR, Bangladesh Bank, Bangladesh Police, CID, Attorney General's office and other related institutions and making them transparent and accountable.
 - Initiatives should be taken to ensure the inclusion of the facility of obtaining automatic information on financial transactions through the 'Common Reporting Standard (CRS)' to ensure transparency of all financial transactions in the country and abroad.
 - A 'Beneficial Ownership Transparency' law should be enacted to ensure transparency of ownership in private sector institutions and to prevent defaulted loans and money laundering.
 29. A safe environment must be ensured for the active participation of the media and civil society to strengthen public participation in the fight against corruption.

Constitutional, Statutory, Government and Autonomous Institutions

30. All constitutional and statutory institutions (EC, ACC, Information Commission, Public Service Commission, NHRC, Office of the Auditor General, etc.) must be assured of an environment to work independently. Politicisation must be stopped in the appointment of heads and members of these institutions. To ensure this –
 - In all recruitments, the law should include specific eligibility and disqualification criteria. Amendments must be made where necessary.;
 - Individuals who have set an example of honesty and integrity in their professional lives should be recruited through a transparent process.
31. Members of all constitutional and statutory bodies should be provided with full-time appointments with equal status and benefits.
32. In light of international best practices, the transparency and accountability of the Public Service Commission (PSC) must be ensured along with the reform of the examination system.
33. Recruitment and promotion in all government, semi-government, and autonomous institutions must be ensured based on merit, experience and skills, beyond political considerations. Existing inter-cadre disparities should be removed.
34. Public servants must not participate in any political activities directly or indirectly.
35. All existing professional, specialised and service-based organisations/associations that are political party-oriented must be abolished. Organisations/associations should be made free from political party influence to protect the rights and interests of the concerned professional groups.

Civil Society and Media Freedom

36. Interference and surveillance over media and civil society activities by intelligence agencies on the pretext of national security must be stopped.
37. All clauses that undermine the freedom of expression including the freedom of the media and the overall environment to publish objective information should be repealed from the relevant laws.
38. Section 14 of the 'Foreign Grants (Voluntary Activities) Regulation Act, 2016' and Section 2 (31f) of the 'Income Tax Act 2023', which curtail the freedom of expression and control activities of non-governmental development organisations (NGOs), particularly those working on human rights and good governance, should be repealed.
39. To create a suitable environment for various NGOs to work independently and impartially, the formation, registration and management process of such organisations should be facilitated, and deliberate administrative harassment and corruption must be stopped.
40. For ensuring freedom of the media –
 - The draft 'Press Council Act, 2019' and the draft 'Media Workers (Conditions of Employment) Act, 2018' should be enacted subject to the necessary reforms based on the opinions of the concerned stakeholders.

- An independent ‘Media Commission’ should be established to protect the freedom and safety of all types of media (print, television, digital, social media) workers and users in fulfilling their professional responsibilities and protecting the freedom of expression.
41. The Bangladesh Telecommunication Regulatory Commission (BTRC) must be revamped by recruiting manpower free from political influence and having professional knowledge and skills.
 42. The state-run media must be restructured to stop being used as propaganda tools by the government and the ruling political party. These institutions should be given an environment to develop professional capacity and a culture of practising independent journalism.

Right to Information and Personal Data Protection

43. To ensure the right to information –
 - The ‘Official Secrets Act 1923’ must be repealed.
 - The arbitrary use of the sub-clauses of the ‘Right to Information Act’, which state that ‘the provision or disclosure of certain information is not mandatory’, must be stopped.
 - The ‘Right to Information Act 2009’ should be amended to ensure the capacity and accountability of the appellate authorities including the responsible officers and senior officers.
44. To ensure the privacy and security of personal data –
 - The National Telecommunication Monitoring Centre (NTMC), a multi-pronged instrument of fundamental human rights violation, must be abolished.
 - A clear definition of ‘personal data’ must be provided in the draft ‘Personal Data Protection Act, 2024’. In this draft law, the clauses that include the violation of the fundamental right to personal data protection, misuse of personal data, freedom of speech and dissent must be amended in light of international experience.
 - In the draft ‘Personal Data Protection Act’, the proposed implementing agency should be constituted as an independent body outside the control of the government.
 - Provisions in the ‘Cyber Security Act, 2023’ which are anti-human rights, conflict with the right of accessibility to information-based platforms, and are open to ambiguity and misinterpretation must be amended/repealed.

Local Government

45. Necessary amendments should be made in the constitution and related laws to make the local government system independent, strong and effective.
46. A ‘Local Government Commission’ should be formed to ensure transparency and accountability and proper supervision of the activities of the elected public representatives in local government institutions according to their legal jurisdiction.
47. The provision of party-based elections in local government institutions at all levels must be abolished. The involvement of parliamentarians in the implementation of grassroots development activities must be stopped by amending the relevant laws.

48. Capacity building of local government institutions in resource and fund mobilisation and ensuring transparency and accountability in fund management and disbursement should be increased. Legal reform should be undertaken by ensuring regulations enabling the collection of funds for independent project implementation.

Banking Sector

49. An independent and impartial investigation must be undertaken to assess the actual condition of the banking sector and the investigation report should be made public.
50. Exemplary punishment must be ensured for the persons, officials and directors of Bangladesh Bank and commercial banks involved in all types of fraud including loan fraud/default, and irregularities in the banking sector.
51. For banking sector reforms –
- An independent ‘Bank Commission’ should be formed comprising competent experts who are impartial, reputable, free from conflicts of interest, and capable of working independently. The commission will formulate a strategy paper for reforming the banking sector including the Bangladesh Bank.
 - Members of the Board of Directors of all commercial banks and Bangladesh Bank with political and business interests must be immediately removed. Legal reforms must be undertaken to stop such kind of practice.
 - The Financial Institutions Department under the Ministry of Finance should be abolished to end the dual governance system in the banking sector, especially in terms of control and supervision of state-owned banks.
 - All laws related to the bank sector that go against the interest of depositors and perpetuate the family or clan system in the banking sector should be amended/repealed. All policies and regulations affecting the interest of depositors (debt classification, foreclosure, rescheduling, restructuring etc.) must be revised following internationally accepted standards.

Power, Energy and Environment

52. A short, medium and long-term time-bound plan should be adopted to phase out the use of fossil fuels and promote renewable energy. Supportive policies should be formulated to increase local and international investment in the renewable energy sector.
53. The ‘Speedy Supply of Power and Energy (Special Provision) (Amendment) Act, 2010’ must be repealed. The provision of capacity charges in the power sector should also be abolished.
54. All ongoing development projects harmful to the environment and biodiversity in eco-sensitive and protected forest areas and environmentally sensitive areas must be cancelled.
55. The ‘Integrated Energy and Power Master Plan’ (IEPMP) should be revised based on the views of the concerned experts and civil society without conflict of interest.