

Overall Score:

68 - Weak

Legal Framework Score:

84 - Strong

Actual Implementation Score:

52 - Very Weak

Category I. Civil Society, Public Information and Media

I-1. ⁵⁴ Civil Society Organizations

1. Are anti-corruption/good governance CSOs legally protected?

100

1a. In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.

YES | NO

References:

There are a number of laws under which citizens of Bangladesh have the right to form a civil society organization, such as a nongovernmental organization. It can be registered under any one of the following four laws: (1) The Societies Registration Act of 1861; (2) The Trust Act of 1882; (3) The Companies Act of 1913; (4) The Cooperative Societies Ordinance of 1964.

YES: A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

1b. In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.

YES | NO

Comments:

Any organization that registered as an NGO may receive foreign or domestic funds with prior approval from the government of Bangladesh.

References:

The Foreign Contributions (Regulation) Ordinance, 1982. Ordinance No. XXXI of 1982, Bangladesh

YES: A YES score is earned if anti-corruption/good governance CSOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

NO: A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for CSOs focused on anti-corruption or good governance.

1c. In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.

YES | NO

Comments:

The NGOs, including the anti-corruption or good governance CSOs, are supposed to disclose their sources of funding.

References:

The Bangladesh Bank (Regulation Rules: Section 4(4): 1978; The Foreign Contributions (Regulation) Ordinance, 1982; Working Procedure of Foreign-assisted Bangladeshi Nongovernment Organization (NGO): A Circular, July 27, 1993.

YES: A YES score is earned if anti-corruption/good governance CSOs are required to publicly disclose their sources of funding.

NO: A NO score is earned if no such public disclosure requirement exists.

2. Are good governance/anti-corruption CSOs able to operate freely?

83

2a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.

Comments:

There are number of civil society organization focused on promoting good governance or anti-corruption that are now operating their activities in Bangladesh. Like other NGOs, the CSOs also faced problems or harassment in becoming registered.

References:

1. Transparency International Bangladesh, Annual Report 2007, Dhaka, 2008
2. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
3. Human Rights Council, Asian Legal Resource Centre, Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, August 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
4. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
5. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, October 8, 2008

100: CSOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

75:

50: CSOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the CSO. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Other than pro-government groups, CSOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

2b. In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.

Comments:

Civil society organizations also provide comments on different draft laws like the Public Procurement Act (Amendment) 2007, Amendment of RPO 1972, Right to Information Ordinance 2008, etc.

Civil society organizations have been advocating for the Right to Information Act for a long time. On June 18, 2008 the Council of Caretaker Advisors approved in principle the Right to Information Ordinance 2008.

References:

1. Transparency International Bangladesh, Annual Report 2007, Dhaka, 2008
2. Transparency International, Global Corruption Report 2008, Berlin
3. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, October 8, 2008

100: Civil society organizations focused on anti-corruption or good governance are an essential component of the political process. CSOs provide widely valued insights and have political power. Those CSOs play a leading role in shaping public opinion on political matters.

75:

50: Anti-corruption/good governance CSOs are active, but may not be relevant to political decisions or the policymaking process. Those CSOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

25:

0: Anti-corruption/good governance CSOs are effectively prohibited from engaging in the political process. Those CSOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

2c. In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.

YES | NO

Comments:

During the study period, no Civil Society Organizations were shut down by the government. According to the Asian Legal Resource Centre (ALRC), human rights defenders and professionals, including from the media, are regularly being monitored, threatened and intimidated by the personnel of armed forces and various intelligence agencies.

References:

1. Transparency International Bangladesh, Annual Report 2007, Dhaka, 2008
2. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
3. Human Rights Council, Asian Legal Resource Centre, Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, August 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
4. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
5. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, October 8, 2008

YES: A YES score is earned if there were no CSOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period. YES is a positive score.

NO: A NO score is earned if any CSO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the CSO's work may not be explicit, however the burden of proof here is low. If it seems likely that the CSO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3. Are civil society activists safe when working on corruption issues?

33

3a. In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.

YES | NO

Comments:

According to the Asian Legal Resource Centre (ALRC), human rights defenders and professionals, including from the media, are regularly being monitored, threatened and intimidated by the personnel of armed forces and various intelligence agencies. During the study period, no journalist was killed in relation to his or her work covering corruption-related issues, but one journalist was arrested by Rapid Action Battalion (RAB). This journalist reported extensively on the problems of extrajudicial killings, torture and corruption prevalent in the region. Reports indicate that he also faced some form of ill-treatment by RAB, including physical and mental torture.

References:

1. Transparency International Bangladesh, Annual Report 2007, Dhaka, 2008
2. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
3. Human Rights Council, Asian Legal Resource Centre, Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, August 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
4. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
5. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, October 8, 2008

YES: A YES score is earned if there were no CSO activists imprisoned because of their work covering corruption. YES is a positive score.

NO: A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

3b. In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.

YES | **NO**

Comments:

According to the Asian Legal Resource Centre (ALRC), human rights defenders and professionals, including from the media, are regularly being monitored, threatened and intimidated by the personnel of armed forces and various intelligence agencies. During the study period, no journalist was killed in relation to his or her work covering corruption-related issues but one journalist was arrested by Rapid Action Battalion (RAB). The journalist reported extensively on the problems of extrajudicial killings, torture and corruption prevalent in the region. Reports indicate that he also faced some form of ill-treatment by RAB, including physical and mental torture.

References:

1. Transparency International Bangladesh, Annual Report 2007, Dhaka, 2008
2. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
3. Human Rights Council, Asian Legal Resource Centre, Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, August 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
4. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
5. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, October 8, 2008

YES: A YES score is earned if there were no documented cases of CSO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work. YES is a positive score.

NO: A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3c. In practice, in the past year, no civil society activists working on corruption issues have been killed.

YES | NO

Comments:

According to the Asian Legal Resource Centre (ALRC), human rights defenders and professionals, including from the media, are regularly being monitored, threatened and intimidated by the personnel of armed forces and various intelligence agencies. During the study period, no journalist was killed in relation to his or her work covering corruption-related issues but one journalist was arrested by Rapid Action Battalion (RAB). He reported extensively on the problems of extrajudicial killings, torture and corruption prevalent in the region. Reports indicate that he also faced some form of ill-treatment by RAB, including physical and mental torture.

References:

1. Transparency International Bangladesh, Annual Report 2007, Dhaka, 2008
2. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
3. Human Rights Council, Asian Legal Resource Centre, Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, August 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
4. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
5. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, October 8, 2008

YES: A YES score is earned if there were no documented cases of CSO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

4. Can citizens organize into trade unions?

13

4a. In law, citizens have a right to organize into trade unions.

YES | NO

Comments:

Although the Constitution of Bangladesh and the Bangladesh Labour Act 2006 ensure the citizens right to organize into trade union, on January 27, 2007, the Caretaker Government banned all kinds of political and trade union activities under the Emergency Power Rules 2007. Please note that. on January 11, 2007, the President of Bangladesh declared the state of emergency.

References:

1. Article 38 of The Constitution of Bangladesh

2. The Bangladesh Labour Act of 2006 (BLA)
3. The Emergency Power Ordinance 2007
4. The Emergency Power Rules 2007

YES: A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

NO: A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

4b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

Comments:

Trade unions exist in Bangladesh but the activities of trade unions were shut down during the study period. The Constitution of Bangladesh and the Bangladesh Labour Act 2006 ensure the citizen's right to organize into trade union but on January 27, 2007, the Caretaker Government banned all kinds of political and trade union activities throughout the country under the Emergency Power Rules 2007. Please note that on January 11, 2007, the President of Bangladesh declared the state of emergency.

References:

1. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
2. Human Rights Council, Asian Legal Resource Centre, Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, August 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
3. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
4. The Bangladesh Today, September 8, 2008, <http://www.thebangladeshtoday.com/archive/September%2008/8-09-2008.htm>
5. The Emergency Power Ordinance 2007
6. The Emergency Power Rules 2007
7. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, October 8, 2008

100: Trade unions are common and are an important part of the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

75:

50: Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

25:

0: Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

5. Are media and free speech protected?

100

5a. In law, freedom of the media is guaranteed.

YES | NO

References:

Article 39 (2) (b) of the Constitution of Bangladesh
<http://www.pmo.gov.bd/constitution/index.htm>

YES: A YES score is earned if freedom of the press is guaranteed in law, including to all political parties, religions, and ideologies.

NO: A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

5b. In law, freedom of speech is guaranteed.

YES | NO

References:

Article 39 (2) (b) of the Constitution of Bangladesh
<http://www.pmo.gov.bd/constitution/index.htm>

YES: A YES score is earned if freedom of individual speech is guaranteed in law, including to all political parties, religions, and ideologies.

NO: A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

6. Are citizens able to form print media entities?

69

6a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | 50 | 25 | 0

Comments:

Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. It is alleged that lobbying with the influential persons in the government is essential in most cases to get permission on priority basis. The costs of getting license may vary from person to person.

References:

1. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
2. Asian Human Rights Commission, Bangladesh: Paying The Price For Press Freedom, Posted on Sept. 30, 2008, <http://www.hrsolidarity.net/mainfile.php/2008vol18no03/2641/>
3. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
4. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

0: Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

6b. In law, where a print media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | NO

Comments:

The High Court Division under its extraordinary jurisdiction can scrutinize the legality or propriety of any action/decision of public officials or statutory body under article 102 of the Constitution of Bangladesh.

References:

The Printing Presses and Publications (Declaration and Registration) Act of 1973, Bangladesh.

Article 102 of the Constitution of Bangladesh.

YES: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

NO: A NO score is earned if there is no appeal process for print media licenses.

6c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

1. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
2. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Ahm Bazlur Rahman, Bangladesh NGOs Network for Radio and Communication, Another Type of Mass Media Is Not Only Possible, Dhaka 2005, <http://www.digitaldivide.net/articles/view.php?ArticleID=520>
5. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

6d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

1. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
2. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Ahm Bazlur Rahman, Bangladesh NGOs Network for Radio and Communication, Another Type of Mass Media Is Not Only Possible, Dhaka 2005, <http://www.digitaldivide.net/articles/view.php?ArticleID=520>
5. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

7. Are citizens able to form broadcast (radio and TV) media entities?

63

7a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

Comments:

Formation of electronic media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. On Aug. 28, 2008, a new private television network was launched. There are now nine private satellite television companies operating in Bangladesh. It is alleged that lobbying with the influential persons in the government is essential in most cases to get permission on priority basis. The costs of getting a license may vary from person to person.

References:

1. Country Reports on Human Rights Practices 2007, U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, March 11, 2008, <http://www.state.gov/g/drl/rls/hrrpt/2007/100612.htm>
2. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
3. Human Rights Council, Asian Legal Resource Centre, Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, Aug. 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
4. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
5. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

75:

50: Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

25:

0: Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

7b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | NO

Comments:

Under Article 102 of the Constitution of Bangladesh, the High Court Division can scrutinize the legality or propriety of any

action/decision of public officials or statutory body under its extraordinary writ jurisdiction. But, due to delays and corrupt practices in judiciary, people are frustrated in many cases.

References:

1. Article 102 of the Constitution of Bangladesh.
2. The Bangladesh Telecommunication (Amendment) Act, 2006, Feb. 16, 2006, Bangladesh Gazette.
3. National Telecommunication Policy, Bangladesh
4. The Bangladesh Telecommunications Regulatory Commission (Licencing Procedure) Regulations, 2004, http://www.btrc.gov.bd/licencing_regulation.htm.
5. The Wireless Telegraphy Act, 1885, Bangladesh.
6. The Telegraph Act, 1933, Bangladesh.
7. The Company Act, 1994, Bangladesh.

YES: A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

NO: A NO score is earned if there is no appeal process for broadcast media licenses.

7c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | 50 | **25** | 0

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008

100: Licenses are not required or licenses can be obtained within two months.

75:

50: Licensing is required and takes more than two months. Some groups may be delayed up to six months.

25:

0: Licensing takes close to or more than one year for most groups.

7d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | **50** | 25 | 0

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

8. Can citizens freely use the Internet?

100

8a. In practice, the government does not prevent citizens from accessing content published on-line.

100 | 75 | 50 | 25 | 0

Comments:

There is no direct government restriction on access to the Internet. Individuals and groups could engage in the peaceful expression of views via the Internet, including email. The country report 2007 of U.S. Department of State states that human rights organizations reported continued government monitoring of Internet communications.

References:

1. Country Reports on Human Rights Practices 2007, U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, March 11, 2008, <http://www.state.gov/g/drl/rls/hrrpt/2007/100612.htm>
2. Human Rights Council, Asian Legal Resource Centre, Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, Aug. 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
3. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
4. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

75:

50: Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

25:

0: Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

8b. In practice, the government does not censor citizens creating content on-line.

100 | 75 | 50 | 25 | 0

Comments:

There is no direct government restriction on access to the Internet. Individuals and groups could engage in the peaceful expression of views via the Internet, including email. The country report 2007 of U.S. Department of State states that human rights organizations reported continued government monitoring of Internet communications.

References:

1. Country Reports on Human Rights Practices 2007, U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, March 11, 2008, <http://www.state.gov/g/drl/rls/hrrpt/2007/100612.htm>
2. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
3. Human Rights Council, Asian Legal Resource Centre, Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, Aug. 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
4. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
5. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

75:

50: In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

25:

0: The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

9. Are the media able to report on corruption?

67

9a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

YES | NO

Comments:

The media enjoys the freedom of expression by law and in practice in most cases.

Freedom of speech, expression and freedom of press are guaranteed by Article 39 of the Bangladesh Constitution, but these freedoms are subject to any reasonable restriction imposed by law.

The Newspaper Employees (Condition of Service) Act of 1974 laid down rules for ensuring rights and privileges of journalists and employees working for newspapers. But sometimes these freedom are restricted directly or indirectly. The Special Powers Act of 1974, the Official Secrets Act of 1923, the Copyright Act, the Contempt of Court Act, the Children Act, the Criminal Procedure Code, etc., are a major impediment to press freedom.

References:

1. Article 39 of Bangladesh Constitution.
2. The Newspaper Employees (Condition of Service) Act of 1974

YES: A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

NO: A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

9b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | **50** | 25 | 0

Comments:

According to the Asian Legal Resource Centre (ALRC), human rights defenders and professionals, including from the media, are regularly being monitored, threatened and intimidated by the personnel of armed forces and various intelligence agencies. On May 12, 2008, a few editors and journalists of print and electronic media expressed concern about the state of emergency, which sometimes increases pressure and monitoring of the media.

References:

1. Country Reports on Human Rights Practices 2007, U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, March 11, 2008, <http://www.state.gov/g/drl/rls/hrrpt/2007/100612.htm>
2. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
3. Human Rights Council, Asian Legal Resource Centre, Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, Aug. 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
4. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
5. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
7. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008

100: The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

75:

50: The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

25:

0: The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

9c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | **50** | 25 | 0

Comments:

According to the Asian Legal Resource Centre (ALRC), human rights defenders and professionals, including from the media, are regularly being monitored, threatened and intimidated by the personnel of armed forces and various intelligence agencies. On May 12, 2008, a few editors and journalists of print and electronic media expressed concern about the state of emergency, which sometimes increases pressure and monitoring of the media.

References:

1. Country Reports on Human Rights Practices 2007, U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, March 11, 2008, <http://www.state.gov/drl/rls/hrrpt/2007/100612.htm>
2. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
3. Human Rights Council, Asian Legal Resource Centre, BANGLADESH: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, Aug. 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
4. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
5. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
7. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
8. The Daily Star, Concern over bid to dictate media, May 13, 2008, www.thedailystar.net/story.php?nid=36350

100: The government never prevents publication of controversial corruption-related materials.

75:

50: The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate if in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

25:

0: The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

10. Are the media credible sources of information?

75

10a. In law, print media companies are required to publicly disclose their ownership.

YES | NO

References:

1. The Printing Presses and Publications (Declaration and Registration) Act of 1973, Bangladesh.
2. Newspaper Employees (Conditions of Service) Act, 1974, Bangladesh.
3. The Company Act, 1994, Bangladesh.

YES: A YES score is earned if print media companies are required by law to publicly disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being publicly disclosed.

10b. In law, broadcast (radio and TV) media companies are required to publicly disclose their ownership.

YES | NO

References:

1. The Bangladesh Telecommunications Act 2001 (Act No. 18 of 2001), April 16, 2001, Bangladesh Gazette, put into effect on Jan. 31, 2002.
2. The Bangladesh Telecommunication (Amendment) Act, 2006, Feb. 16, 2006, Bangladesh Gazette.
3. National Telecommunication Policy, Bangladesh
4. The Bangladesh Telecommunications Regulatory Commission (Licencing Procedure) Regulations, 2004, http://www.btrc.gov.bd/licencing_regulation.htm.
5. The Wireless Telegraphy Act, 1885, Bangladesh.
6. The Telegraph Act, 1933, Bangladesh.

YES: A YES score is earned if broadcast media companies are required by law to publicly disclose all owners of the company.

NO: A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain type of entities or agents from being publicly disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

References:

1. Country Reports on Human Rights Practices 2007, U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, March 11, 2008, <http://www.state.gov/g/drl/rls/hrrpt/2007/100612.htm>
2. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
3. Human Rights Council, Asian Legal Resource Centre, Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, August 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
4. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
5. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
7. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008

100: Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

75:

50: Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

25:

0: Editors and journalists are widely known to sell” favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | **50** | 25 | 0

Comments:

Generally, during the caretaker government, all political parties and candidates have the same access to government-owned electronic media outlets (Radio Bangladesh & BTV). The national media coverage reflects the interests of the electorate. Private print and electronic media outlets have biases to some extent.

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
3. Country Reports on Human Rights Practices 2007, U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, March 11, 2008, <http://www.state.gov/g/drl/rls/hrrpt/2007/100612.htm>

100: All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

75:

50: Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

25:

0: The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | **50** | 25 | 0

Comments:

Generally, during the caretaker government, all political parties and candidates have the same access to government-owned electronic media outlets (Radio Bangladesh & BTB). The national media coverage reflects the interests of the electorate. Private print and electronic media outlets have biases to some extent.

References:

1. Country Reports on Human Rights Practices 2007, U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, March 11, 2008, <http://www.state.gov/g/drl/rls/hrrpt/2007/100612.htm>
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008

100: The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

75:

50: The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

25:

0: The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

11. Are journalists safe when investigating corruption?

33

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

YES | **NO**

Comments:

According to the Asian Legal Resource Centre (ALRC), human rights defenders and professionals, including the media, are regularly being monitored, threatened and intimidated by the personnel of armed forces and various intelligence agencies. One journalist was arrested by Rapid Action Battalion (RAB). He reported extensively on the problems of extrajudicial killings, torture and corruption prevalent in the region. Reports indicate that he also faced some form of ill-treatment by RAB, including physical and mental torture.

References:

1. Transparency International Bangladesh, Annual Report 2007, Dhaka, 2008
2. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
3. Human Rights Council, Asian Legal Resource Centre, Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, August 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
4. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
5. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

YES: A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

NO: A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

YES | NO

Comments:

According to the Asian Legal Resource Centre (ALRC), human rights defenders and professionals, including the media, are regularly being monitored, threatened and intimidated by the personnel of armed forces and various intelligence agencies. One journalist was arrested by Rapid Action Battalion (RAB). He reported extensively on the problems of extrajudicial killings, torture and corruption prevalent in the region. Reports indicate that he also faced some form of ill-treatment by RAB, including physical and mental torture.

References:

1. Human Rights Council, Asian Legal Resource Centre, BANGLADESH: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, August 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
2. Asian Human Rights Commission, Bangladesh: Paying The Price For Press Freedom, Posted on 2008-09-30, <http://www.hrsolidarity.net/mainfile.php/2008vol18no03/2641/>
3. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
4. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

YES: A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues. A YES score is positive.

NO: A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

YES | NO

Comments:

According to the Asian Legal Resource Centre (ALRC), human rights defenders and professionals, including the media, are regularly being monitored, threatened and intimidated by the personnel of armed forces and various intelligence agencies. During the study period, no journalist was killed in relation to his or her work covering corruption-related issues but one journalist was arrested by Rapid Action Battalion (RAB). He reported extensively on the problems of extrajudicial killings, torture and corruption prevalent in the region. Reports indicate that he also faced some form of ill-treatment by RAB, including physical and mental torture.

References:

1. Transparency International Bangladesh, Annual Report 2007, Dhaka, 2008
2. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
3. Human Rights Council, Asian Legal Resource Centre, BANGLADESH: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, Aug. 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
4. Asian Human Rights Commission, Bangladesh: Paying The Price For Press Freedom, Posted on 2008-09-30, <http://www.hrsolidarity.net/mainfile.php/2008vol18no03/2641/>
5. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
6. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
7. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

YES: A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period. A YES score is positive.

NO: A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

72 I-3. Public Access to Information

12. Do citizens have a legal right of access to information?

33

12a. In law, citizens have a right of access to government information and basic government records.

YES | **NO**

Comments:

The present caretaker government has taken initiatives to enact the "Right to Information" act. The Council of Caretaker Advisors approved the Right to Information Ordinance 2008 in principle on June 18, 2008, and expects that it will be promulgated soon.

In October 2008 (after the study period of this report) the Right to Information Act was passed by the caretaker government. Before then, there was no such right guaranteed in law.

There are some laws like the Official Secrets Act (1923), the Evidence Act (1872), and the Rules of Business (1996) for government officials which curtail people's rights of access to information.

The people of Bangladesh are denied information by officials in the name of the Official Secrets Act, 1923.

Article 19 of the Government Servants Conduct Rules of 1979 says: "A government servant shall not, unless generally or specially empowered by the government in this behalf, disclose directly or indirectly to government servants belonging to other ministries, divisions or departments, or to non-official persons or to the press, the contents of any official document or communicate any information which has come into his possession in the course of his official duties, or has been prepared or collected by him in the course of those duties, whether from official sources or otherwise."

References:

1. The Official Secrets Act (1923);
2. The Evidence Act (1872),
3. The Rules of Business (1996) for government officials

YES: A YES score is earned if there is a formal right to access government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

NO: A NO score is earned if there is no such right.

12b. In law, citizens have a right of appeal if access to a basic government record is denied.

YES | NO

Comments:

The present caretaker government has taken initiatives to enact the "Right to Information" act. The Council of Caretaker Advisors approved the Right to Information Ordinance 2008 in principle on June 18, 2008, and expects that it will be promulgated soon.

In October 2008 (after the study period of this report) the Right to Information Act was passed by the caretaker government. Before then, there was no such right guaranteed in law.

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Besides, the caretaker government has taken initiatives to introduce a citizen's charter at every government office. A few ministries and other departments introduced the citizen charter mentioning the basic information of the organization like services and a complaint mechanism. But there are few limitations and problems to ensure the right to information. Still, the Official Secrecy Act of 1923 exists, and the "Right to Information" act is not promulgated.

References:

1. The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.
2. The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.
3. The Official Secrets Act, 1923.
4. The New Nation, Sept. 2, 2008-09-14, <http://nation.ittefaq.com/issues/2008/09/02/all0596.htm>

YES: A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

NO: A NO score is earned if there is no such formal process.

12c. In law, there is an established institutional mechanism through which citizens can request government records.

Comments:

Recently, the different ministries and its departments introduced the Citizen's Charter in line with an instruction of the chief adviser in order to ensure the right to information and making the administration more accountable and transparent to the people. It includes a brief overview of the services with a timeframe.

It is a good initiative of the interim government though it has lot of limitations. Still the people face problems getting information from public offices. On June 18, 2008, the Council of caretaker advisors approved in principle the Right to Information Ordinance 2008, which is expected to be promulgated soon. The government has a plan to amend the Official Secrets Act, 1923.

Most often, people, including journalists, are denied information by officials claiming the Official Secrets Act of 1923. Few records are available online. In Bangladesh, the access to information depends on personal connections and relationships with high-ranking officials or giving bribes. If the agency denies providing the required information, the people are helpless. There is no specific mechanism for appeal if they deny providing information.

References:

1. New Age, Sept. 3, 2007, <http://www.newagebd.com/2007/sep/03/nat.html>
2. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
3. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
4. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

YES: A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

NO: A NO score is earned if there is no such formal mechanism or institution.

13. Is the right of access to information effective?

30

13a. In practice, citizens receive responses to access to information requests within a reasonable time period.

100 | 75 | **50** | 25 | 0

Comments:

Few records are available online. But most often, people, including journalists, are denied information by officials claiming the Official Secrets Act of 1923.

In Bangladesh, the access to information depends on personal connections and relationships with high-ranking officials. Recently, the different ministries and its departments introduced the Citizen's Charter, following instruction of the chief adviser in order to ensure the right to information and making the administration more accountable and transparent to the people. It includes the brief overview of the services with a timeframe.

It is a good initiative of the interim government though it has lot of limitations. Still the people face problems getting the information from public offices. On June 18, 2008, the Council of Caretaker Advisors approved in principle the Right to Information Ordinance 2008, which is expected to be promulgated soon. The government has a plan to amend the Official Secrets Act of 1923.

References:

1. New Age, Sept. 3, 2007, <http://www.newagebd.com/2007/sep/03/nat.html>
2. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
3. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.
5. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
6. Transparency International, Global Corruption Report 2008, Section 7.3, page 181-6, Cambridge University Press, June 2008, <http://www.ti-bangladesh.org/>
7. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

75:

50: Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

25:

0: Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

13b. In practice, citizens can use the access to information mechanism at a reasonable cost.

100 | 75 | 50 | **25** | 0

Comments:

Few records are available online. But most often, people, including journalists, are denied information by officials claiming the Official Secrets Act of 1923.

In Bangladesh, the access to information depends on personal connections and relationships with high-ranking officials. Recently, the different ministries and its departments introduced the Citizen's Charter, following instruction of the chief adviser in order to ensure the right to information and making the administration more accountable and transparent to the people. It includes the brief overview of the services with a timeframe.

It is a good initiative of the interim government though it has lot of limitations. Still the people face problems getting the information from public offices. On June 18, 2008, the Council of Caretaker Advisors approved in principle the Right to Information Ordinance 2008, which is expected to be promulgated soon. The government has a plan to amend the Official Secrets Act of 1923.

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1. New Age, Sept. 3, 2007, <http://www.newagebd.com/2007/sep/03/nat.html>
2. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
3. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.
5. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
6. Transparency International, Global Corruption Report 2008, Section 7.3, page 181-6, Cambridge University Press, June 2008, <http://www.ti-bangladesh.org/>
7. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

13c. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

100 | 75 | 50 | **25** | 0

Comments:

Most often, people, including journalists, are denied information by officials claiming the Official Secrets Act of 1923. Few records are available on line. In Bangladesh, the access to information depends on personal connections and relationships with high-ranking officials or giving a bribe. If the agency denies providing the required information, the people are helpless. There is no specific mechanism for appeal if they deny providing information.

In Bangladesh, the access to information depends on personal connections and relationships with high-ranking officials. Recently, the different ministries and its departments introduced the Citizen's Charter, following instruction of the chief adviser in order to ensure the right to information and making the administration more accountable and transparent to the people. It includes the brief overview of the services with a timeframe.

It is a good initiative of the interim government though it has lot of limitations. Still the people face problems getting the information from public offices. On June 18, 2008, the Council of Caretaker Advisors approved in principle the Right to Information Ordinance 2008, which is expected to be promulgated soon. The government has a plan to amend the Official Secrets Act of 1923.

References:

1. New Age, Sept. 3, 2007, <http://www.newagebd.com/2007/sep/03/nat.html>
2. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
3. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.
5. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
6. Transparency International, Global Corruption Report 2008, Section 7.3, page 181-6, Cambridge University Press, June 2008, <http://www.ti-bangladesh.org/>
7. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

13d. In practice, citizens can resolve appeals to information requests at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Most often, people, including journalists, are denied information by officials claiming the Official Secrets Act of 1923. Few records are available on line. In Bangladesh, the access to information depends on personal connections and relationships with high-ranking officials or giving a bribe. If the agency denies providing the required information, the people are helpless. There is no specific mechanism for appeal if they deny providing information.

In Bangladesh, the access to information depends on personal connections and relationships with high-ranking officials. Recently, the different ministries and its departments introduced the Citizen's Charter, following instruction of the chief adviser in order to ensure the right to information and making the administration more accountable and transparent to the people. It includes the brief overview of the services with a timeframe.

It is a good initiative of the interim government though it has lot of limitations. Still the people face problems getting the information from public offices. On June 18, 2008, the Council of Caretaker Advisors approved in principle the Right to Information Ordinance 2008, which is expected to be promulgated soon. The government has a plan to amend the Official Secrets Act of 1923.

References:

1. New Age, Sept. 3, 2007, <http://www.newagebd.com/2007/sep/03/nat.html>
2. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
3. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.
5. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
6. Transparency International, Global Corruption Report 2008, Section 7.3, page 181-6, Cambridge University Press, June 2008, <http://www.ti-bangladesh.org/>
7. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

25:

0: The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

13e. In practice, the government gives reasons for denying an information request.

100 | 75 | 50 | 25 | 0

References:

1. New Age, Sept. 3, 2007, <http://www.newagebd.com/2007/sep/03/nat.html>
2. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
3. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.
5. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
6. Transparency International, Global Corruption Report 2008, Section 7.3, page 181-6, Cambridge University Press, June 2008, <http://www.ti-bangladesh.org/>
7. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: The government always discloses to the requestor the specific, formal reasons for denying information requests.

75:

50: The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

25:

0: The government does not regularly give reasons for denying an information request to the requestor.

Category II. Elections

63
II-1. Voting & Citizen Participation

14. Is there a legal framework guaranteeing the right to vote?

100

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | NO

Comments:

Article 11 of the the constitution of Bangladesh says, The Republic shall be a democracy in which fundamental human rights and freedoms and respect for dignity and worth of the human persons shall be guaranteed, and in which effective participation by the people through their elected representatives in administration at all levels, shall be ensured."

Article 122 (1) states, " The elections to Parliament shall be on the basis of adult franchise."

Article 122(2) states that, "A person shall be entitled to be enrolled on the electoral role for a constituency delimited for the purpose of election to the Parliament, if he (a) is a citizen of Bangladesh; (b) is not less than 18 years of age;(c) does not stand declared by a competent court to be of unsound mind; and (d) is or is deemed by law to be a resident of that constituency."

References:

Articles 11, 27, 122 (1,2) of Bangladesh Constitution

YES: A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

NO: A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

YES | NO

References:

Article 123 of the Bangladesh Constitution

YES: A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

NO: A NO score is earned if no such framework exists.

15. Can all citizens exercise their right to vote?

75

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

Comments:

Under the present caretaker government who came in power on Jan. 11, 2007, the Election Commission of Bangladesh organized the election of four city corporations and nine municipalities on Aug. 4, 2008. Various election observation groups and organizations including the Election Working Group (EWG), a coalition of 33 civil society organizations, the Fair Election Monitoring Alliance (Fema), Janipop, Brotee, and the Bangladesh Human Rights Commission all declared that the above mentioned polls were held in a peaceful, credible, impartial and free atmosphere, except with a few cases of irregularities.

They also noticed that a small number of women, ethnic and religious minorities failed to cast their votes due to various flaws in the voter rolls and the voter ID cards. In general, the voters participated in the poll willingly and the voting environment was favorable for the voters.

References:

1. Bangladesh Human Rights Commission (BHRC), City Corporation and Pourashava Election Observation Report 2008
2. The Daily Star, August 5, 2008, <http://www.thedailystar.net/story.php?nid=48989>

3. Election Working Group (EWG), Election Observation Report 2008
4. Fair Election Monitoring Alliance (FEMA), Election Observation Report 2008, Dhaka, Bangladesh.
5. Bangladesh Election Commission, <http://www.ecs.gov.bd/>
6. The Independent, Violation of code of conducts by candidates alleged, July 2008, <http://www.theindependent-bd.com/details.php?nid=91443>

100: Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

75:

50: Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

25:

0: Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

15b. In practice, ballots are secret or equivalently protected.

100 | **75** | 50 | 25 | 0

Comments:

Under the present caretaker government who came in power on Jan. 11, 2007, the Election Commission of Bangladesh organized the election of four city corporations and nine municipalities on Aug. 4, 2008. Various election observation groups and organizations including the Election Working Group (EWG), a coalition of 33 civil society organizations, the Fair Election Monitoring Alliance (Fema), Janipop, Brotee, and the Bangladesh Human Rights Commission all declared that the above mentioned polls were held in a peaceful, credible, impartial and free atmosphere, except with a few cases of irregularities.

They also noticed that a small number of women, ethnic and religious minorities failed to cast their votes due to various flaws in the voter rolls and the voter ID cards. In general, the voters participated in the poll willingly and the voting environment was favorable for the voters.

The Election Commission has taken initiatives to introduce transparent ballot boxes in ninth national election. The transparent ballot boxes are going to be used for the first time in parliamentary elections scheduled for December.

References:

1. Bangladesh Human Rights Commission (BHRC), City Corporation and Pourashava Election Observation Report 2008
2. The Daily Star, Aug. 5, 2008, <http://www.thedailystar.net/story.php?nid=48989>
3. Election Working Group (EWG), Election Observation Report 2008
4. Fair Election Monitoring Alliance (FEMA), Election Observation Report 2008, Dhaka, Bangladesh.
5. Bangladesh Election Commission, <http://www.ecs.gov.bd/>
6. The Independent, Violation of code of conducts by candidates alleged, July 2008, <http://www.theindependent-bd.com/details.php?nid=91443>

100: Ballots are secret, or there is a functional equivalent protection, in all cases.

75:

50: Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

25:

0: Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

15c. In practice, elections are held according to a regular schedule.

100 | 75 | 50 | 25 | 0

References:

1. Bangladesh Human Rights Commission (BHRC), City Corporation and Pourashava Election Observation Report 2008
2. The Daily Star, August 5, 2008, <http://www.thedailystar.net/story.php?nid=48989>
3. Election Working Group (EWG), Election Observation Report 2008
4. Fair Election Monitoring Alliance (FEMA), Election Observation Report 2008, Dhaka, Bangladesh.
5. Bangladesh Election Commission, <http://www.ecs.gov.bd/>
6. The Independent, Violation of code of conducts by candidates alleged, July 2008, <http://www.theindependent-bd.com/details.php?nid=91443>

100: Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

75:

50: Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

25:

0: Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

16. Are citizens able to participate equally in the political process?

75

16a. In law, all citizens have a right to form political parties.

YES | NO

Comments:

The constitution provides for the right of every citizen to form associations, subject to reasonable restrictions” in the interest of morality or public order, and the government generally respects this right. Individuals are free to join private groups.

References:

Article 38, the Constitution of Bangladesh

YES: A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned

from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

NO: A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

16b. In law, all citizens have a right to run for political office.

YES | NO

Comments:

Article 38 of the constitution states that every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interest of morality or public order.”

Article 152 of the constitution states that a “political party” includes a group or combination of persons who operate within or outside parliament under a distinctive name and who hold themselves out for the purpose of propagating a political opinion or engaging in any other political activity.”

Article 90A. (3) (b) of “The Representation of the People Order, 1972” provides that an application under clause (1) shall contain ” the address of its head office, name of point of contact, telephone and fax number” which clearly indicates the right of the citizens to run for political office.

References:

1. Articles 38, 152 of the Constitution of Bangladesh
2. Articles 90A. 3 (b) of Chapter VIA of The Representation of the People Order, 1972”, President’s Order No. 155 of 1972.

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if individuals with a history of violence, terrorism, or criminality are banned from running for office.

NO: A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

Comments:

On Oct. 6, 2008, the Council of Advisers approved the Representation of People (Amendment) Ordinance 2008’ with a provision of political parties registration. Before this amendment, anyone could form a political party and operate a political party office without registration to Election Commission.

References:

1. New Nation, June 27, 2007, Badruddoza drops Oli: Split in LDP, new presidium formed, http://nation.ittefaq.com/artman/publish/printer_37155.shtml
2. Wikipedia, List of political parties in Bangladesh, http://en.wikipedia.org/wiki/List_of_political_parties_in_Bangladesh
3. Reuters, Bangladesh Nobel winner names new political party, <http://www.reuters.com/article/idUSDHA33014220070218>
4. The Representation of People Order (Second Amendment) 2008

5. Bangladesh Election Commission, <http://www.ecs.gov.bd/>
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: While there is no guarantee of electoral success, political parties can form freely without opposition.

75:

50: Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

25:

0: Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

16d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

Comments:

On Oct. 6, 2008, the Council of Advisers approved the Representation of People (Amendment) Ordinance 2008" with a provision of political parties registration. Before this amendment, anyone could form a political party and operate a political party office without registration to Election Commission.

References:

1. New Nation, June 27, 2007, Badruddoza drops Oli: Split in LDP, new presidium formed, http://nation.ittefaq.com/artman/publish/printer_37155.shtml
2. Wikipedia, List of political parties in Bangladesh, http://en.wikipedia.org/wiki/List_of_political_parties_in_Bangladesh
3. Reuters, Bangladesh Nobel winner names new political party, <http://www.reuters.com/article/idUSDHA33014220070218>
4. The Representation of People Order (Second Amendment) 2008
5. Bangladesh Election Commission, <http://www.ecs.gov.bd/>
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

75:

50: Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office. A system of party lists may discourage or prevent independent candidates from running for office.

25:

0: Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

16e. In practice, an opposition party is represented in the legislature.

100 | 75 | 50 | 25 | 0

Comments:

Under the present caretaker government who came in power Jan. 11, 2007, no national election was held during the study period. The next parliamentary election (Ninth Parliament) is scheduled for Dec. 18, 2008. In the last parliament (i.e. in 8th Parliament) the opposition parties represented about 25 percent seats in the parliament. In the 8th Parliament the main opposition party boycotted about 60 percent working days.

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Transparency International Bangladesh, Role of 8th Parliament to Institutionalize Democracy , Dhaka, February 2007
3. Transparency International Bangladesh, Corruption and Parliamentary Oversight: Primacy of the Political Will, December 2006
4. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008

100: The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

75:

50: The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition's ability to force votes or publicly debate certain topics may be limited.

25:

0: The opposition party has only token participation in the legislature's proceedings and cannot advance legislation or force a debate.

II-2. Election Integrity

18. Is the election monitoring agency effective?

70

18a. In law, the agency or set of agencies/entities is protected from political interference.

YES | NO

Comments:

The Election Commission is an independent constitutional body. The Commission has the power to require any person or authority to perform such functions or render such assistance for the purpose of election. For more details please visit the website of Bangladesh Election Commission, <http://www.ecs.gov.bd/>

References:

1. Article 118, 119, 58 B, of the Constitution
2. Article 3, 3A, 4, 5 of the Representation of the People Order, 1972, www.ecs.gov.bd/handbook/RPO%201972.pdf

YES: A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | **50** | 25 | 0

Comments:

The Election Commission has the authority to appoint a returning officer and assistant returning officer among government officials and withdraw any officer during elections But the Election Commission has to depend on the Public Service Commission for recruitment of its first class officers. Again, promotion depends on partisan identity. Appointment of the chief election commissioner and election commissioners depends on the commitment to the ruling party.

References:

1. Global Corruption Report 2008, <http://www.ti-bangladesh.org/research/TI-GCR-08-BdChapter.pdf>
2. Bangladesh Election Commission
3. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
5. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
6. Transparency International Bangladesh, Working Paper on Bangladesh Election Commission, 2006

100: Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | **75** | 50 | 25 | 0

Comments:

The Bangladesh Election Commission is an electoral management body established under Article 118 of the Constitution of Bangladesh. It has its own secretariat. The Secretariat is located in Dhaka. It has field offices at the regional, district and upazilla level. It has professional and full-time staff, but few positions are vacant

References:

1. Bangladesh Election Commission, <http://www.ecs.gov.bd/>
2. Transparency International Bangladesh, Working Paper on Bangladesh Election Commission, 2006
3. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

75:

50: The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | **75** | 50 | 25 | 0

Comments:

According to the Constitution of Bangladesh, the Bangladesh Election Commission is an electoral management body who is responsible for announcing both the national and local government election result. The election commission is committed to announce the election results immediately after preparing it and makes it public through press releases. Most of the time, the people get the results within a day.

References:

1. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 7, 2008
3. Bangladesh Election Commission, <http://www.ecs.gov.bd/>
4. Election Working Group (EWG), Election Observation Report 2008

100: Reports are released to the public on a predictable schedule, without exceptions.

75:

50: Reports are released, but may be delayed, difficult to access, or otherwise limited.

25:

0: The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

Under the present caretaker government who came in power Jan. 11, 2007, the Election Commission of Bangladesh organized the election of four city corporations and nine municipalities on Aug. 4, 2008.

It is alleged that most of the candidates violated the electoral rules including using the party office for meetings and gatherings, concealing facts regarding income and assets and spreading black-market money. In a few cases, the Election Commission was silent and unable to take action. The Election Commission removed a few illegal election camps. The Bangladesh Election Commission also had given notice to a few candidates to stop the violation of the electoral rules and to follow the electoral code of conduct.

References:

1. The Independent, Violation of code of conducts by candidates alleged, July 2008, <http://www.theindependent-bd.com/details.php?nid=91443>
2. The Independent Bangladesh, July 17, 2008, Liton gets EC warning, <http://www.independent-bangladesh.com/200807177630/country/liton-gets-ec-warning.html>
3. Election Working Group (EWG), Election Observation Report 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
5. Bangladesh Human Rights Commission (BHRC), City Corporation and Pourashava Election Observation Report 2008
6. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008

100: When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

75:

50: The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

19. Are elections systems transparent and effective?

88

19a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | 50 | 25 | 0

Comments:

Bangladesh Election Commission has prepared the electoral roll with photographs. This electoral roll was introduced for the first time in Bangladesh. This will ensure the transparency and accountability in the voter registration process. It will help check fake voter registration and identify fraudulent voting. A national ID card will be provided to the voter.

References:

1. Bangladesh Election Commission, <http://www.ecs.gov.bd/>
2. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 7, 2008

100: There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

75:

50: There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

25:

0: The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and ghost" voting by non-existent voters is common.

19b. In law, election results can be contested through the judicial system.

YES | NO

Comments:

The election shall be called into question by an election petition presented by a candidate for that election. An election petition should be presented to the Election Commission within 45 days after the publication in the official gazette of the name of the candidate.

Then the Election Commission (EC) makes the arrangement for submission of the election petition to the concerned election tribunals, constituted for this purpose by the EC. The tribunal may (i) cancel the petition; (ii) cancel the election for the elected candidate and declare another contestant candidate as properly elected, or (iii) cancel the whole election.

References:

The Representation of the People Order, 1972, 49, 91A, www.ecs.gov.bd/handbook/RPO%201972.pdf

YES: A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

NO: A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

19c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | 50 | 25 | 0

Comments:

Most of the time, the electoral appeals mechanism takes the complaint from the candidates, but it does not act on complaints promptly. It takes more time to resolve this appeal. After the 8th parliamentary election in 2001, 31 cases were filed in the High Court. Among these, 16 were dismissed due to either reluctance of the petitioners to continue the cases or on grounds of lack of merits.

One was rejected, one became legally ineffective, and 13 remain pending with the Appellate and High Court division. But 12 election petitions of 1991 elections were not resolved.

References:

1. Transparency International Bangladesh, Working Paper on Bangladesh Election Commission, 2006
2. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
3. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
5. Bangladesh Election Commission, <http://www.ecs.gov.bd/>
6. Transparency International Bangladesh, Working Paper on Bangladesh Election Commission, 2006

100: The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

75:

50: The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

25:

0: The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

19d. In practice, the military and security forces remain neutral during elections.

100 | 75 | 50 | 25 | 0

Comments:

The election working group (EWG), a coalition of 33 civil society organizations said the voting process of city corporation, held Aug. 4, 2008 was peaceful with some irregularities. In a statement, the EWG mentioned that 14.8 percent of polling center observers reported that security officials were not performing their duties in a neutral way in Sylhet. The EWG also added that observers were prevented from entering 17.5 percent of polling centers in three city corporations.

References:

1. BangladeshNews. com.bd, Observers give clean chit, <http://www.bangladeshnews.com.bd/2008/08/05/observers-give-clean-chit/>
2. Election Working Group (EWG), Election Observation Report 2008
3. Bangladesh Human Rights Commission (BHRC), City Corporation and Pourashava Election Observation Report 2008
4. The Daily Star, Aug. 5, 2008, <http://www.thedailystar.net/story.php?nid=48989>

100: The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

75:

50: The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

25:

0: The military or other security forces are an active and explicit player in politics and overtly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

19e. In law, domestic and international election observers are allowed to monitor elections.

YES | NO

References:

1. Article 91C of The Representation of The People Order, 1972, www.ecs.gov.bd/handbook/RPO%201972.pdf
2. Guidelines for Foreign Observer (2001) & Guidelines for National Observer (2001)

YES: A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

NO: A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

19f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

Comments:

Under the present caretaker government who came in power Jan. 11, 2007, the Election Commission of Bangladesh organized the election of four city corporations and nine municipalities on Aug. 4, 2008.

Various election observation groups and organizations including the Election Working Group (EWG), a coalition of 33 civil society organizations, Fair Election Monitoring Alliance (Fema), Janipop, Brotee, Bangladesh Human Rights Commission all declared that the above mentioned polls were held in a peaceful, credible, impartial and free atmosphere except with a few cases of irregularities.

References:

1. Bangladesh Human Rights Commission (BHRC), City Corporation and Pourashava Election Observation Report 2008
2. The Daily Star, Aug. 5, 2008, <http://www.thedailystar.net/story.php?nid=48989>
3. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 7, 2008

5. Election Working Group (EWG), Election Observation Report 2008
6. Fair Election Monitoring Alliance (FEMA), Election Observation Report 2008, Dhaka, Bangladesh .
7. Odhikar, Report on 17 Months of Emergency in Bangladesh, June 12, 2008, <http://www.odhikar.org/press.html>
8. Bangladesh Election Commission, http://www.ecs.gov.bd/English/QLTemplate1.php?Parameter_QLSCat_ID=42&ByDate=0&Year=

100: Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

75:

50: Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

25:

0: Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

17. Is there an election monitoring agency or set of election monitoring agencies/entities?

100

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

YES | NO

Comments:

The Election Commission is the only independent constitutional body with the mandate of holding election at different tiers.

References:

Bangladesh Election Commission, www.ecs.gov.bd

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

NO: A NO score is earned if no domestic agency or set of domestic agencies/entities exists that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

20. Are there regulations governing the financing of political parties?

43

20a. In law, there are regulations governing private contributions to political parties.

YES | **NO**

References:

1. The Ganoprothiniditha Oddhyadesh (amendment), 2008 (Representation of the People Ordinance (amendment), 2008)
2. Rules of the Registration of Political Parties
3. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>

YES: A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to political parties, including prohibitions against foreign donations.

NO: A NO score is earned if there is no regulation of private contributions to political parties.

20b. In law, there are limits on individual donations to political parties.

YES | **NO**

Comments:

There was no clause (s) in RPO 1972 related to individual or corporate donations, grants to political parties till study period. Later it has been added in the law by amendment. On August 19, 2008, the Representation of the People Order 1972 amended incorporating few clauses in connection to gift, donation, grant or money etc. For example, article 90F(1) of the Representation of the People (Amendment) Ordinance, 2008 states that, Subject to the provision of clause (2), a registered political party shall be entitled to-

(a) receive donation or grants from any person, company, group of companies except the sources mentioned in clause (1) of Article 44CC :

Provided that such amount of donation or grants shall not exceed the following limits, in a calendar year-

- (i) in the case of a person, taka five lakh or property or service equivalent to it ;
- (ii) in the case of a company or organization, taka twenty five lakh or property or service equivalent to it ;

(2) No registered political party shall receive any gift, donation, grant or money from any other country, or non-government organization or from any person who is not a Bangladeshi or any organization established or maintained by such person.

The above mentioned clauses were added on August 19, 2008 which is out of study period (July 2007-June 2008).

References:

1. THE REPRESENTATION OF THE PEOPLE ORDER, 1972 (President's Order No. 155 of 1972)
2. The Representation of the People Ordinance (amendment), 2008
3. Rules of the Registration of Political Parties
3. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>

YES: A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also earned if individual contributions are prohibited.

NO: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20c. In law, there are limits on corporate donations to political parties.

YES | NO

Comments:

There was no clause (s) in RPO 1972 related to individual or corporate donations, grants to political parties till study period. Later it has been added in the law by amendment. On August 19, 2008, the Representation of the People Order 1972 amended incorporating few clauses in connection to gift, donation, grant or money etc. For example, article 90F(1) of the Representation of the People (Amendment) Ordinance, 2008 states that, Subject to the provision of clause (2), a registered political party shall be entitled to-

(a) receive donation or grants from any person, company, group of companies except the sources mentioned in clause (1) of Article 44CC :

Provided that such amount of donation or grants shall not exceed the following limits, in a calendar year-

- (i) in the case of a person, taka five lakh or property or service equivalent to it ;
- (ii) in the case of a company or organization, taka twenty five lakh or property or service equivalent to it ;

(2) No registered political party shall receive any gift, donation, grant or money from any other country, or non-government organization or from any person who is not a Bangladeshi or any organization established or maintained by such person.

The above mentioned clauses were added on August 19, 2008 which is out of study period (July 2007-June 2008).

References:

1. THE REPRESENTATION OF THE PEOPLE ORDER, 1972 (President's Order No. 155 of 1972)
2. The Representation of the People Ordinance (amendment), 2008
3. Rules of the Registration of Political Parties
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>

YES: A YES score is earned if there are any limits in size on corporate contributions to political parties. A YES score is earned if corporate contributions are prohibited.

NO: A NO score is earned if there are no limits on corporate contributions to political parties. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20d. In law, there are limits on total political party expenditures.

YES | NO

References:

1. The Ganoprothiniditha Oddhyadesh (amendment), 2008 (Representation of the People Ordinance (amendment), 2008)
2. Article 44CC of the Representation of the People Order, 1972

YES: A YES score is earned if there are any limits in size on political party expenditures. A YES score is earned if all party expenditures are prohibited.

NO: A NO score is earned if there are no limits on political party expenditures. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20e. In law, there are requirements for the disclosure of donations to political parties.

YES | NO

Comments:

The election regulations (RPO 1972) require only disclosure of campaign funds of individual candidates.

Article 44AA (1) of the Representation of the People Order, 1972 states that Every contesting candidate shall submit to the returning officer, within seven days following the withdrawal day, a statement, in the prescribed form, of the probable sources of funding to meet his election expenses showing (a) the sum to be provided by him from his own income and the sources of such income; (b) the sum to be borrowed, or received as voluntary contribution, from his relation and the sources of their income; (c) the sum to be borrowed, or received as voluntary contribution, from any other person; (d) the sum to be received as voluntary contribution, from any political party, organization or association; (e) the sum to be received from any other source.”

Article 44CC (4) of the Representation of the People Order, 1972 states that no such political party shall receive any donation amounting to more than 1,000 taka (US\$14.5) unless it is made by check.

Article 44CCC (3) of the Representation of the People Order, 1972 states that “Every political party shall furnish to the commission a separate statement, certified to be correct and complete by the secretary to the party, showing the opening balance of the party funds on the date of publication of the notification under clause (1) of Article 11 the closing balance of the funds on the date of completion of election in all constituencies and the total amount received by the party, as donation or otherwise, during the period between the said two dates.”

References:

1. The Ganoprothiniditha Oddhyadesh (amendment), 2008 (Representation of the People Ordinance (amendment), 2008)
2. Articles 44C (1) & 44CCC (3) of the Representation of the People Order, 1972

YES: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties.

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties, existing regulations do not require a donor’s name or amount given, or the regulations allow for anonymous donations.

20f. In law, there are requirements for the independent auditing of the finances and expenditures of political parties.

YES | NO

Comments:

Substantial donations and their sources are not typically made public. No official reports or audits of campaign financing or expenditure are prepared by any independent institutions, nor are such reports presented to the parliament

References:

1. The Ganoprothiniditha Oddhyadesh (amendment), 2008 (Representation of the People Ordinance (amendment), 2008)
2. Rules of the Registration of Political Parties
3. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>

YES: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties' finances and expenditures or if such requirements exist but allow for parties to self-audit.

20g. In law, there is an agency or entity that monitors the financing of political parties.

YES | NO

References:

Bangladesh Election Commission

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of political parties. A YES score is earned even if the agency/entity is ineffective in practice.

NO: A NO score is earned if there is no such agency or entity.

21. Are there regulations governing the financing of individual political candidates?

50

21a. In law, there are regulations governing private contributions to individual political candidates.

YES | NO

Comments:

The election regulations (RPO 1972) require only the disclosure of campaign funds of individuals candidates.

Article 44AA (1) of the Representation of the People Order, 1972 states that Every contesting candidate shall submit to the returning officer, within seven days following the withdrawal day, a statement, in the prescribed form, of the probable sources of funding to meet his election expenses showing (a) the sum to be provided by him from his own income and the sources of such income; (b) the sum to be borrowed, or received as voluntary contribution, from his relation and the sources of their income; (c) the sum to be borrowed, or received as voluntary contribution, from any other person; (d) the sum to be received as voluntary contribution, from any political party, organization or association; (e) the sum to be received from any other source."

References:

Articles 44C (1) & 44CCC (3) of the Representation of the People Order, 1972

YES: A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to individual political candidates, including prohibitions against foreign donations.

NO: A NO score is earned if there is no regulation of private contributions to individual political candidates.

21b. In law, there are limits on individual donations to political candidates.

YES | **NO**

Comments:

The election regulations (RPO 1972) require only disclosure of campaign funds of individuals and candidates.

Article 44AA (1) of the Representation of the People Order, 1972 states that Every contesting candidate shall submit to the returning officer, within seven days following the withdrawal day, a statement, in the prescribed form, of the probable sources of funding to meet his election expenses showing (a) the sum to be provided by him from his own income and the sources of such income; (b) the sum to be borrowed, or received as voluntary contribution, from his relation and the sources of their income; (c) the sum to be borrowed, or received as voluntary contribution, from any other person; (d) the sum to be received as voluntary contribution, from any political party, organization or association; (e) the sum to be received from any other source.”

References:

Articles 44C (1) & 44CCC (3) of the Representation of the People Order, 1972

YES: A YES score is earned if there are any limits in size on individual contributions to political candidates. A YES score is also earned if individual contributions are prohibited.

NO: A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21c. In law, there are limits on corporate donations to individual political candidates.

YES | **NO**

Comments:

The election regulations (RPO 1972) require only disclosure of campaign funds of individuals and candidates.

Article 44AA (1) of the Representation of the People Order, 1972 states that Every contesting candidate shall submit to the returning officer, within seven days following the withdrawal day, a statement, in the prescribed form, of the probable sources of funding to meet his election expenses showing (a) the sum to be provided by him from his own income and the sources of such income; (b) the sum to be borrowed, or received as voluntary contribution, from his relation and the sources of their income; (c) the sum to be borrowed, or received as voluntary contribution, from any other person; (d) the sum to be received as voluntary contribution, from any political party, organization or association; (e) the sum to be received from any other source.”

References:

Articles 44C (1) & 44CCC (3) of the Representation of the People Order, 1972

YES: A YES score is earned if there are any limits in size on corporate contributions to individual political candidates. A YES score is earned if corporate contributions are prohibited.

NO: A NO score is earned if there are no limits on corporate contributions to individual political candidates. A NO score is also earned if limits are applied by the government on opposition candidates in a discriminatory manner.

21d. In law, there are requirements for the disclosure of donations to individual political candidates.

YES | NO

Comments:

The election regulations (RPO 1972) require only disclosure of campaign funds of individuals and candidates.

Article 44AA (1) of the Representation of the People Order, 1972 states that Every contesting candidate shall submit to the returning officer, within seven days following the withdrawal day, a statement, in the prescribed form, of the probable sources of funding to meet his election expenses showing (a) the sum to be provided by him from his own income and the sources of such income; (b) the sum to be borrowed, or received as voluntary contribution, from his relation and the sources of their income; (c) the sum to be borrowed, or received as voluntary contribution, from any other person; (d) the sum to be received as voluntary contribution, from any political party, organization or association; (e) the sum to be received from any other source.”

References:

1. The Ganoprothiniditha Oddhyadesh (amendment), 2008 (Representation of the People Ordinance (amendment), 2008)
2. Articles 44C (1) & 44CCC (3) of the Representation of the People Order, 1972

YES: A YES score is earned if there are any requirements mandating the disclosure of financial contributions to individual political candidates.

NO: A NO score is earned if there are no requirements mandating the disclosure of contributions to individual political candidates, existing regulations do not require a donor’s name or amount given, or the regulations allow for anonymous donations.

21e. In law, there are requirements for the independent auditing of the campaign finances of individual political candidates.

YES | NO

Comments:

Substantial donations and their sources are not typically made public. No official reports or audits of campaign financing or expenditure are prepared by any independent institutions, nor are such reports presented to the parliament.

References:

1. The Ganoprothiniditha Oddhyadesh (amendment), 2008 (Representation of the People Ordinance (amendment), 2008)
2. Articles 44C (1) & 44CCC (3) of the Representation of the People Order, 1972
3. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>

YES: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of an individual candidate’s campaign finances and expenditures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of an individual candidate's campaign finances and expenditures or if such requirements exist but allow for candidates to self-audit.

21f. In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.

YES | NO

References:

Bangladesh Election Commission, <http://www.ecs.gov.bd/>

YES: A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around the financing of individual political candidates' campaigns. A YES score is earned even if the agency/entity is ineffective in practice.

NO: A NO score is earned if there is no such agency or entity.

22. Are the regulations governing the political financing of parties effective?

4

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

Comments:

In Bangladesh, there is no disclosure rule applicable to political party funding. Donations and their sources are not typically made public. No official reports and/or audits of campaign financing or expenditure are prepared by any independent institutions.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which individuals can indirectly support political parties

above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company's ability to financially support a political party.

100 | 75 | 50 | 25 | 0

Comments:

In Bangladesh, there is no disclosure rule applicable to political party funding. Donations and their sources are not typically made public. No official reports and/or audits of campaign financing or expenditure are prepared by any independent institutions. In the 8th parliamentary election held in 2001, no political party submitted its election expenses, but the Election Commission has not taken action against a single party

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.

100: Existing limits represent the full extent to which a company can directly or indirectly financially support a political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support a political party. However, exceptions and loopholes exist through which companies can indirectly support political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular party; unregulated loans to parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to political parties are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

22c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

Comments:

In Bangladesh, there is no disclosure rule applicable to political party funding. Donations and their sources are not typically made public. No official reports and/or audits of campaign financing or expenditure are prepared by any independent institutions. In the 8th parliamentary election held in 2001, no political party submitted its election expenses, but the Election Commission has not taken action against a single party.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.

100: Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

75:

50: Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

22d. In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

Comments:

In Bangladesh, there is no disclosure rule applicable to political party funding. Donations and their sources are not typically made public. No official reports and/or audits of campaign financing or expenditure are prepared by any independent institutions. In the 8th parliamentary election held in 2001, no political party submitted its election expenses, but the Election Commission has not taken action against a single party.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power.

22e. In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

In Bangladesh, there is no disclosure rule applicable to political party funding. Donations and their sources are not typically made public. No official reports and/or audits of campaign financing or expenditure are prepared by any independent institutions. In the 8th parliamentary election held in 2001, no political party submitted its election expenses, but the Election Commission has not taken action against a single party.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power.

22f. In practice, contributions to political parties are audited.

100 | 75 | 50 | 25 | 0

Comments:

In Bangladesh, there is no disclosure rule applicable to political party funding. Donations and their sources are not typically made public. No official reports and/or audits of campaign financing or expenditure are prepared by any independent institutions. In the 8th parliamentary election held in 2001, no political party submitted its election expenses, but the Election Commission has not taken action against a single party.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.

100: Political party finances are regularly audited using generally accepted auditing practices. This includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

75:

50: Political party finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

23. Are the regulations governing the political financing of individual candidates effective?

0

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual's ability to financially support a particular candidate.

100 | 75 | 50 | 25 | 0

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. Limits are reasonably low enough in the context of the total costs of running a campaign.

75:

50: Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular

political candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a particular political candidate are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company's ability to financially support a candidate.

100 | 75 | 50 | 25 | 0

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.

100: Existing limits represent the full extent to which a company can directly or indirectly financially support an individual candidate. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

75:

50: Existing limits generally represent the full extent to which a company can directly or indirectly financially support an individual candidate. However, exceptions and loopholes exist through which companies can indirectly support individual candidates above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate; unregulated loans to candidates (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

25:

0: Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to individual candidates are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

23c. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

In Bangladesh, no official reports or audits of electoral campaign financing or expenditure are prepared.

A report on the Bangladesh Election Commission (EC) conducted by Transparency International Bangladesh in November 2006 revealed that there has been no monitoring system of keeping accounts of the candidates' election expenses. The EC failed to identify a single candidate violating the election expenditure margin in 2001. There was a provision of maximum expenses Tk. 5 lacs (or 500,000 Taka) in national election and every elected MP showed the election expenses within this limit in paper though in practice it was much more higher.

Under the present caretaker government, which came in power Jan. 11, 2007, the Election Commission of Bangladesh organized the election of four city corporations and nine municipalities on Aug. 4, 2008. It is alleged that most of the candidates violated the electoral rules including using party offices for meetings and gatherings, concealing facts regarding income and assets, and spreading black-market money. The Election Commission was silent and unable to take action except in a few cases. The Election Commission removed few illegal election camps. The Bangladesh Election Commission also had given notice to few candidates to stop the violation of the electoral rules and to follow the electoral code of conduct.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.

100: The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of individual candidates' campaigns. The agency is fair in its application of this power.

75:

50: The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates' campaigns imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

Under the present caretaker government who came into power Jan/ 11, 2007, no national election was held during study period. The next parliamentary election (Ninth Parliament) is scheduled for Dec. 18, 2008.

In Bangladesh, no official reports or audits of electoral campaign financing or expenditure are prepared.

A report on the Bangladesh Election Commission conducted by Transparency International Bangladesh in November 2006 revealed that the personal expenditure reports are rarely submitted to the returning officers within the stipulated time, but the returning officer(s) is neither under any legal obligation nor willing to bring that matter to the notice of the Election Commission or to the courts.

The report also mentioned that there has been no monitoring system of keeping accounts of the candidates' election expenses. The EC failed to identify a single candidate violating the election expenditure margin in 2001. There was a provision of maximum expenses Tk. 5 lacs (or 500,000 Taka) in national election and every elected MP showed the election expenses within this limit in paper though in practice it was much more higher in most of the cases.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.
6. Transparency International Bangladesh, Working Paper on Bangladesh Election Commission, 2006
7. Election Working Group (EWG), Election Observation Report 2008
8. Fair Election Monitoring Alliance (FEMA), Election Observation Report 2008, Dhaka, Bangladesh.
9. The Independent, Violation of code of conducts by candidates alleged, July 2008, <http://www.theindependent-bd.com/details.php?nid=91443>
10. The Independent Bangladesh, July 17, 2008, Liton gets EC warning, <http://www.independent-bangladesh.com/200807177630/country/liton-gets-ec-warning.html>

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders.

75:

50: The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power.

23e. In practice, the finances of individual candidates' campaigns are audited.

100 | 75 | 50 | 25 | 0

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.
6. Transparency International Bangladesh, Working Paper on Bangladesh Election Commission, 2006
7. Election Working Group (EWG), Election Observation Report 2008
8. Fair Election Monitoring Alliance (FEMA), Election Observation Report 2008, Dhaka, Bangladesh.
9. The Independent, Violation of code of conducts by candidates alleged, July 2008, <http://www.theindependent-bd.com/details.php?nid=91443>
10. The Independent Bangladesh, July 17, 2008, Liton gets EC warning, <http://www.independent-bangladesh.com/200807177630/country/liton-gets-ec-warning.html>

100: The finances of individual candidates' campaigns are regularly audited using generally accepted auditing practices.

75:

50: The finances of individual candidates' campaigns are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions.

25:

0: The finances of individual candidates' campaigns are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

24. Can citizens access records related to the financing of political parties?

0

24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.
6. Transparency International Bangladesh, Working Paper on Bangladesh Election Commission, 2006

100: Political parties disclose their sources of funding and expenditures at least every quarter.

75:

50: Political parties disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Political parties never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

24b. In practice, citizens can access the financial records of political parties within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.
6. Transparency International Bangladesh, Working Paper on Bangladesh Election Commission, 2006

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.
6. Transparency International Bangladesh, Working Paper on Bangladesh Election Commission, 2006

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

25. Can citizens access records related to the financing of individual candidates' campaigns?

25

25a. In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Under the present caretaker government who came in power Jan. 11, 2007, no national election was held during study period. The next parliamentary election (Ninth Parliament) is scheduled for Dec. 18, 2008.

A report on the Bangladesh Election Commission conducted by Transparency International Bangladesh in November 2006, revealed that the personal expenditure reports are rarely submitted to the returning officers within the stipulated time, and the returning officer(s) is neither under any legal obligation nor willing to bring that matter to the notice of the Election Commission or to the courts.

In the 8th parliamentary election held in 2001, no political party submitted its election expenses, but the Election Commission has not taken action against a single party.

Under the present caretaker government, the Election Commission of Bangladesh organized the election of four city corporations and nine municipalities on Aug. 4, 2008. Individual candidates disclosed their sources of funding to election commission. But there has been no monitoring system of keeping accounts of the candidates' election expenses. In Bangladesh, no official reports or audits of electoral campaign expenditures are prepared.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.
6. Transparency International Bangladesh, Working Paper on Bangladesh Election Commission, 2006

100: Individual candidates disclose their sources of funding and expenditures at least every quarter.

75:

50: Individual candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

25:

0: Individual candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

100 | 75 | 50 | **25** | 0

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.
6. Transparency International Bangladesh, Working Paper on Bangladesh Election Commission, 2006

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take two to four weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.

100 | 75 | 50 | **25** | 0

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Bangladesh, Sept. 29, 2008.
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
4. Transparency International, Germany, 2006, National Integrity Systems in South Asia, p. 6, <http://www.transparency.org>
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Sept. 29, 2008.
6. Transparency International Bangladesh, Working Paper on Bangladesh Election Commission, 2006

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

Category III. Government Accountability

III-1. ⁵³ Executive Accountability

27. Can the chief executive be held accountable for his/her actions?

27a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

100: The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

75:

50: The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

25:

0: The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

27b. In law, the judiciary can review the actions of the executive.

YES | NO

Comments:

Under Article 102 of the Constitution, the High Court issues directions or orders to any person or authority for infringement of any of the fundamental rights as embodied in Part III of the Constitution. Under Article 102 of the Constitution, a writ petition can be filed by an aggrieved person against any person performing the functions in connection with the affairs of the Republic or of a local authority. The person must be a public functionary including all statutory authorities as defined in Article 152 of the Constitution.

Individuals can bring legal actions against any law or action which violates any fundamental right under Part III of the Constitution of Bangladesh. Article 26(1) provides that all existing laws inconsistent with the provisions of Part III shall, to the extent of inconsistency, become void on the commencement of the Constitution. Article 26(2) provides that the state shall not make any law which would be inconsistent with any provisions of Part III, and any law so made shall, to the extent of inconsistency, be void.

References:

Articles 26, 102, 152 of the Constitution of Bangladesh

YES: A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

27c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | **50** | 25 | 0

Comments:

Under Article 102 of the Constitution, the High Court issues directions or orders to any person or authority for infringement of any of the fundamental rights as embodied in Part III of the Constitution. Under Article 102 of the Constitution, a writ petition can be filed by an aggrieved person against any person performing the functions in connection with the affairs of the Republic or of a local authority. The person must be a public functionary including all statutory authorities as defined in Article 152 of the Constitution.

Individuals can bring legal actions against any law or action which violates any fundamental right under Part III of the Constitution of Bangladesh. Article 26(1) provides that all existing laws inconsistent with the provisions of Part III shall, to the extent of inconsistency, become void on the commencement of the Constitution. Article 26(2) provides that the state shall not make any law which would be inconsistent with any provisions of Part III, and any law so made shall, to the extent of inconsistency, be void.

The judiciary reviews the action of executive. For example, there are about 10,000 writ cases pending in the Chittagong Custom House.

References:

1. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
5. The Constitution of Bangladesh

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to rely upon the executive to initiate a constitutional or legal review.

75:

50: The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

27d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | **50** | 25 | 0

Comments:

The country is now ruled by a caretaker government, which most often relies on executive orders to govern.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2007, May 2008.
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
3. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

100: The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

75:

50: The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

25:

0: The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

28. Is the executive leadership subject to criminal proceedings?

50

28a. In law, the heads of state and government can be prosecuted for crimes they commit.

YES | **NO**

Comments:

President's Impunity:

Article 51 (1 & 2) of the Constitution of Bangladesh states that (1) without prejudice to the provisions of Article 52, the president shall not be answerable in any court for anything done or omitted by him in the exercise or purported exercise of the functions of this office, but this clause shall not prejudice the right of any person to take proceedings against the Government; (2) during his term of office no criminal proceedings whatsoever shall be instituted or continued against the president in, and no process for his arrest or imprisonment shall issue from, any court.

Article 52 (1-5) of the Constitution of Bangladesh states that (1) the president may be impeached on a charge of violating the Constitution or of grave misconduct, preferred by a notice of motion signed by a majority of the total number of members of the parliament and delivered to the speaker, setting out the particulars of the charges, and the motion shall not be debated earlier than 14 nor later than 30 days after the notice is so delivered; and the speaker shall forthwith summon parliament if it is not in session; (2) the conduct of the president may be referred by parliament to any court, tribunal or body appointed or designated by parliament for the investigation of a charge under this article; (3) the President shall have the right to appear and to be represented during the consideration of the charge; (4) if after the consideration of the charge, a resolution is passed by parliament by votes of not less than two-thirds of the total number of members declaring that the charge has been substantiated, the president shall vacate his office on the date on which the resolution is passed; (5) where the speaker is exercising the functions of the president under Article 54, the provisions of this article shall apply subject to the modifications that the reference to the speaker in clause (1) shall be construed as a reference to the deputy speaker, and that the reference in clause (4) to the vacation by the president of his office shall be construed as a reference to the vacation by the speaker of his office as speaker; and on the passing of a resolution such as is referred to in clause (4) the speaker shall cease to exercise the functions of president.

References:

Articles 51, 52 of the Constitution of Bangladesh

YES: A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

YES | NO

References:

1. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
2. The Constitution of Bangladesh, http://en.wikipedia.org/wiki/Constitution_of_Bangladesh

YES: A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

NO: A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

29. Are there regulations governing conflicts of interest by the executive branch?

0

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

YES | NO

References:

1. The Constitution of Bangladesh
2. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008

YES: A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if either the head of state or government is not required to disclose assets.

29b. In law, ministerial-level officials are required to file a regular asset disclosure form.

YES | **NO**

References:

1. The Conduct of Election Rules, 1972, Dhaka, GOB.
2. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>

YES: A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

NO: A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

29c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

YES | **NO**

References:

1. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
2. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
3. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

29d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

YES | **NO**

Comments:

Article 27A (2) of The Conduct of Election Rules, 1972” states “A contesting candidate shall, within seven days next following the withdrawal day, submit the statement of his assets and liabilities and his annual income and expenditure required under article 44AA (2) in Form XVIIIB.” The Election Commission can investigate matters relating to the election of the candidates.

But there is no provision for the independent auditing of the asset disclosure forms of members of the national legislature and for the monitoring of assets and liabilities of ministers/head of state/government.

References:

1. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
2. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
3. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

29e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

YES | **NO**

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2007, May 2008.
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
3. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

YES: A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

NO: A NO score is earned if no such restrictions exist.

29f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | **0**

References:

1. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
2. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
3. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

100: The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no cases or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off” period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

29g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2007, May 2008.
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
3. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

100: The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

29h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

100 | 75 | 50 | 25 | 0

Comments:

Article 27A (2) of The Conduct of Election Rules, 1972” states, “A contesting candidate shall, within seven days next following the

withdrawal day, submit the statement of his assets and liabilities and his annual income and expenditure required under article 44AA (2) in Form XVIIIB." The Election Commission can investigate matters relating to the election of the candidates.

But there is no provision for the independent auditing of the asset disclosure forms of members of the national legislature and for the monitoring of assets and liabilities of ministers/head of state/government.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2007, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
3. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
5. Transparency International Bangladesh, Role of 8th Parliament to Institutionalize Democracy, Dhaka, February 2007

100: Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

30. Can citizens access the asset disclosure records of the heads of state and government?

0

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES | **NO**

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2007, May 2008.
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
3. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
5. Transparency International Bangladesh, Role of 8th Parliament to Institutionalize Democracy, Dhaka, February 2007.

YES: A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

30b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2007, May 2008.
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
3. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
5. Transparency International Bangladesh, Role of 8th Parliament to Institutionalize Democracy, Dhaka, February 2007.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some additional delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

30c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2007, May 2008.
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
3. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
5. Transparency International Bangladesh, Role of 8th Parliament to Institutionalize Democracy, Dhaka, February 2007.

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

26. Can citizens sue the government for infringement of their civil rights?

100

26. In law, can citizens sue the government for infringement of their civil rights?

YES | NO

References:

1. Articles 26 & 102 of the Constitution
2. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
3. Transparency International, Berlin, 2004
4. National Integrity Systems Country Study Report: Bangladesh 2003

YES: A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

NO: A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

31. Official government functions are kept separate and distinct from the functions of the ruling political party.

50

31. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | 50 | 25 | 0

Comments:

During political government, it was found that politicization had taken a heavy toll on bureaucracy. Ministers tried to influence the public officials to take administrative decisions in their favor. Even the ministers, or MPs, threatened the officials with awful consequences if their demands were not met. However, this is not really applicable to the current situation in Bangladesh with the caretaker government.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2007, May 2008
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
3. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
5. Transparency International Bangladesh, Role of 8th Parliament to Institutionalize Democracy, Dhaka, February 2007

100: Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

75:

50: The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be the use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

25:

0: The government bureaucracy is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

III-2. Legislative Accountability

32. Can members of the legislature be held accountable for their actions?

92

32a. In law, the judiciary can review laws passed by the legislature.

YES | NO

References:

1. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
2. The Constitution of Bangladesh
3. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988.

YES: A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

NO: A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

32b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, October 19, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
6. The Constitution of Bangladesh
7. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
8. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000.

100: When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

75:

50: The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

25:

0: The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

32c. In law, are members of the national legislature subject to criminal proceedings?

YES

NO

Comments:

Rule 172 of the Rules of Procedure of Parliament Bangladesh states that when a member is arrested on a criminal charge or for a criminal offense or is sentenced to imprisonment by a court, or is detained under an executive order, the committing judge, magistrate, or executive authority, as the case may be, shall immediately intimate such fact to the speaker indicating the reasons for the arrest, detention or imprisonment of the member in the appropriate form set out in Schedule III.

Rule 173 of the Rules of Procedure of Parliament of Bangladesh states that when a member is arrested and after conviction released on bail pending an appeal, or otherwise released, such fact shall also be intimated to the speaker by the authority concerned in the appropriate form set out in Schedule III.

Rule 174 of the Rules of Procedure of Parliament of Bangladesh states that no arrest shall be made within the precincts of the house without obtaining the permission of the speaker.

Rule 175 of the Rules of Procedure of Parliament of Bangladesh no legal process, civil or criminal, shall be served within the precincts of the house without obtaining the permission of the speaker.

References:

1. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
2. Penal Code 1860, Dhaka, Bangladesh
3. The Code of Civil Procedure, 1908
4. The Anti-Corruption Commission Act, 2004.

YES: A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

NO: A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature.

33. Are there regulations governing conflicts of interest by members of the national legislature?

14

33a. In law, members of the national legislature are required to file an asset disclosure form.

YES | NO

References:

Article 27A (2) of The Conduct of Election Rules, 1972", Dhaka, GOB

YES: A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the legislature is not required to disclose assets.

33b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

YES | NO

References:

1. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
3. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
4. Transparency International, Berlin, 2004, National Integrity Systems Country Study Report: Bangladesh 2003

YES: A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

33c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

YES | NO

Comments:

There is no Code of Conduct” or guidelines with respect to gifts or hospitality offered to members of the legislature.

References:

1. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
2. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
3. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
4. Transparency International, Berlin, 2004, National Integrity Systems Country Study Report: Bangladesh 2003.

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

33d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

YES | NO

Comments:

There is no provision for the independent auditing of the asset disclosure forms of members of the national legislature.

References:

1. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
2. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
3. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
4. Transparency International, Berlin, 2004, National Integrity Systems Country Study Report: Bangladesh 2003

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

33e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
6. The Constitution of Bangladesh

100: The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

33f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
6. The Constitution of Bangladesh

100: The regulations governing gifts and hospitality to national legislators are regularly enforced. Legislators never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to national legislators are routinely ignored and unenforced. Legislators routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

33g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

References:

11. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
6. The Constitution of Bangladesh
7. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>

100: Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Legislative branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

34. Can citizens access the asset disclosure records of members of the national legislature?

50

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

YES | NO

Comments:

According to Te Conduct of Election Rules, 1972" all contesting candidates submit the statement of his/her assets and liabilities and annual income and expenditure to the Election Commission. This document is open for all. After elections, being a MP, there are no regulations or Code of Conduct for MPs in connection to asset disclosure.

References:

1. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
2. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
3. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

YES: A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

34b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
6. The Constitution of Bangladesh
7. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
8. Representative of People Order (2nd Amendment), 2008

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
6. The Constitution of Bangladesh
7. RPO (Amendment), 2008

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

35. Can citizens access legislative processes and documents?

67

35a. In law, citizens can access records of legislative processes and documents.

YES

NO

Comments:

Article 298 (2) of the Rules of Procedure of Parliament states, All papers and documents laid on the table shall be considered public.”

Article 306 of the Rules of Procedure of Parliament states, “The secretary shall cause to prepare a full report of the proceedings of the house at each of its sittings and shall, as soon as practicable, publish it in such form and manner as the speaker may, from time to time, direct”.

Article 309 (1 &2) of the Rules of Procedure of Parliament states, “(1) The speaker may authorize printing, publication, distribution or sale of any paper, document or report in connection with the business of the house or any paper, document or report laid on the table or presented to the house or a Committee thereof; (2) A paper, document or report printed, published, distributed or sold in pursuance of sub-rule (1) shall be deemed to have been printed, published, distributed or sold under the authority of the house within the meaning of clause (4) of Article 78 of the Constitution.”

Article 310 of the Rules of Procedure of Parliament states, “The secretary shall have custody of all records, documents and papers belonging to the house or any of its committees or the parliament secretariat, and he shall not permit any such record, documents or papers to be taken from the [parliament] without the permission of the speaker.”

Article 312 of the Rules of Procedure of Parliament states, “The admission of strangers during the sitting of the house to those portions of the house which are not reserved for the exclusive use of members shall be regulated in accordance with orders made by the speaker.”

Article 313 of the Rules of Procedure of Parliament states, “The speaker may, whenever he thinks fit, order the withdrawal of strangers from any part of the house.”

References:

Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>

YES: A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

NO: A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there exemptions to the general right that are not clearly defined by formal rules.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

1. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
2. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
3. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
4. Transparency International Bangladesh, Roe of 8th Parliament to Institutionalize Democracy, Dhaka, February 2007.

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

1. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
2. Rules of Procedure of Parliament of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>
3. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
4. Transparency International Bangladesh, Roe of 8th Parliament to Institutionalize Democracy, Dhaka, February 2007

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

36. Are judges appointed fairly?

92

36a. In law, there is a transparent procedure for selecting national-level judges.

YES | NO

Comments:

Article 95 of the Constitution states, (1) the chief justice and other judges shall be appointed by the president; (2) a person shall not be qualified for appointment as a judge unless he is a citizen of Bangladesh and; (a) has, for not less than 10 years, been an advocate of the Supreme Court; or (b) has, for not less than 10 years, held judicial office in the territory of Bangladesh; or (c) has such other qualifications as may be prescribed by law for appointment as a judge of the Supreme Court; (3) In this articles, "Supreme Court" includes a court which at any time before the commencement of the Second Proclamation (Tenth Amendment) Order, 1977, exercised jurisdiction as a High Court or Supreme Court in the territory now forming part of Bangladesh.

References:

1. The Constitution of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>
2. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

YES: A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

NO: A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

36b. In practice, professional criteria are followed in selecting national-level judges.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008

4. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

100: National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

75:

50: Most national-level judges selected meet these qualifications, with some exceptions.

25:

0: National-level judges are often unqualified due to lack of training or experience.

36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

YES | NO

References:

1. The Constitution of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>
2. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
3. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000.

YES: A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency independent from the body appointing the judges.

NO: A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by a body directed by the body appointing the judges (such as review by the head of police if judges are appointed by the executive).

37. Can members of the judiciary be held accountable for their actions?

88

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

YES | NO

References:

1. The Constitution of Bangladesh
2. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
3. Judicial Service Commission Rules, 2007

YES: A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

NO: A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

37b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
6. The Constitution of Bangladesh
7. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

100: Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

75:

50: Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

25:

0: Judges commonly issue decisions without formal explanations.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

YES | NO

Comments:

Article 96 of the Constitution of Bangladesh states, (1) Subject to the other provisions of this article, a judge shall hold office until he attains the age of 67 years; (2) A judge shall not be removed from office except in accordance with the following provisions of this article; (3) There shall be a Supreme Judicial Council, in this article referred to as the council, which shall consist of the chief justice of Bangladesh, and the two next senior judges, provided that if, at any time, the Council is inquiring into the capacity or conduct of a judge who is a member of the Council, or a member of the Council is absent or is unable to act due to illness or other cause, the judge who is next in seniority to those who are members of the Council shall act as such member; (4) The function of the Council shall be:

(a) to prescribe a Code of Conduct to be observed by the judges; and (b) to inquire into the capacity or conduct of a judge or of any other functionary who is not removable from office except in like manner as a judge. (5) Where, upon any information received from the Council or from any other source, the president has reason to apprehend that a judge (a) may have ceased to be capable of properly performing the functions of his office by reason of physical or mental incapacity, or (b) may have been guilty of gross misconduct, the president may direct the Council to inquire into the matter and report its finding; (6) If, after making the inquiry, the Council reports to the president that in its opinion the judge has ceased to be capable of properly performing the

functions of his office or has been guilty of gross misconduct, the president shall, by order, remove the judge from office; (7) For the purpose of an inquiry this article, the Council shall regulate its procedure and shall have, in respect of issue and execution of processes, the same power as the Supreme Court.”

References:

1. The Constitution of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>
2. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
3. Judicial Service Commission Rules, 2007
4. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000.

YES: A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary.

NO: A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

YES | NO

Comments:

Article 96 of the Constitution of Bangladesh states, (1) Subject to the other provisions of this article, a judge shall hold office until he attains the age of 67 years; (2) A judge shall not be removed from office except in accordance with the following provisions of this article; (3) There shall be a Supreme Judicial Council, in this article referred to as the council, which shall consist of the chief justice of Bangladesh, and the two next senior judges, provided that if, at any time, the Council is inquiring into the capacity or conduct of a judge who is a member of the Council, or a member of the Council is absent or is unable to act due to illness or other cause, the judge who is next in seniority to those who are members of the Council shall act as such member; (4) The function of the Council shall be:

(a) to prescribe a Code of Conduct to be observed by the judges; and (b) to inquire into the capacity or conduct of a judge or of any other functionary who is not removable from office except in like manner as a judge. (5) Where, upon any information received from the Council or from any other source, the president has reason to apprehend that a judge (a) may have ceased to be capable of properly performing the functions of his office by reason of physical or mental incapacity, or (b) may have been guilty of gross misconduct, the president may direct the Council to inquire into the matter and report its finding; (6) If, after making the inquiry, the Council reports to the president that in its opinion the judge has ceased to be capable of properly performing the functions of his office or has been guilty of gross misconduct, the president shall, by order, remove the judge from office; (7) For the purpose of an inquiry this article, the Council shall regulate its procedure and shall have, in respect of issue and execution of processes, the same power as the Supreme Court.”

References:

1. The Constitution of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>
2. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
3. Judicial Service Commission Rules, 2007
4. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000.

YES: A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is protected from political interference by the executive and legislative branches.

NO: A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an inherently subordinate organization, such as an executive ministry or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

On March 27, 2007, the president of Bangladesh directed the Supreme Judicial Council to investigate into the allegations against High Court judge Faisal Mahmud Faizee. On March 28, 2007, the Supreme Judicial Council held its first meeting on that issue. Later, on July 11, 2007, Faizee resigned.

In 2004, the council investigated the allegation against Judge Syed Shahidur Rahman and based on the recommendation of council Shahidur was removed.

References:

1. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
6. The Constitution of Bangladesh
7. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

100: The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

75:

50: The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or equivalent mechanism), though limited in effectiveness, is still fair in its application of power.

25:

0: The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

37f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

On March 27, 2007, the president of Bangladesh directed the Supreme Judicial Council to investigate into the allegations against High Court judge Faisal Mahmud Faizee. On March 28, 2007, the Supreme Judicial Council held its first meeting on that issue. Later, on July 11, 2007, Faizee resigned.

In 2004, the council investigated the allegation against Judge Syed Shahidur Rahman and based on the recommendation of council Shahidur was removed.

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3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
6. The Constitution of Bangladesh
7. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

100: When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

38. Are there regulations governing conflicts of interest for the national-level judiciary?

25

38a. In law, members of the national-level judiciary are required to file an asset disclosure form.

YES | **NO**

References:

1. The Constitution of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>
2. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
3. Judicial Service Commission Rules, 2007
4. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000
5. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008

YES: A YES score is earned if all members of the national-level judiciary are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.

38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

YES | NO

Comments:

Article 8 of the Code of Conduct of the Judges of the Supreme Court of Bangladesh states, "A judge will not accept gifts or hospitality except from his family, close relatives and friends."

References:

Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000.

YES: A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

NO: A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

38c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

YES | NO

Comments:

Article 14 of the Code of Conduct of the Judges of the Supreme Court states, "A judge should disclose his assets and liabilities if, asked for, by the chief justice." The spirit of this provision is often disregarded. There is no provision about publicly disclosing assets.

References:

1. The Constitution of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>
2. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
3. Judicial Service Commission Rules, 2007
4. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000
5. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

YES | NO

Comments:

There is no provision or regulation restricting the private sector employment for national-level judges after retirement.

References:

1. The Constitution of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>
2. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
3. Judicial Service Commission Rules, 2007
4. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000
5. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008

YES: A YES score is earned if there are regulations restricting national-level judges' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

38e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
6. The Constitution of Bangladesh
7. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

100: The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no cases or few cases of judges taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain cases, judges are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

38f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

Comments:

The regulations governing gifts and hospitality to members of the national-level judiciary are enforced strictly. There is no evidence of taking gifts or hospitality against national level judges.

Recently Justice Sharif Uddin Chaklader came into the attention for granting a large bail release to a high-profile corruption detainee within a very short time.

References:

1. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
6. The Constitution of Bangladesh
7. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
8. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000

100: The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. Judges never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to members of the national-level judiciary are routinely ignored and unenforced. Judges routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

38g. In practice, national-level judiciary asset disclosures are audited.

References:

1. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
6. The Constitution of Bangladesh
7. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
8. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000

100: National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: National-level judiciary asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: National-level judiciary asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

39. Can citizens access the asset disclosure records of members of the national-level judiciary?

0

39a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

YES | **NO**

Comments:

Article 14 of the Code of Conduct of the Judges of the Supreme Court states, "A judge should disclose his assets and liabilities if, asked for, by the chief justice." The spirit of this provision is often disregarded. There is no provision about disclosing assets publicly.

References:

1. The Constitution of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>
2. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
3. Judicial Service Commission Rules, 2007
4. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000.

YES: A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

NO: A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.

39b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | **0**

References:

1. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008

4. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
6. The Constitution of Bangladesh
7. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
8. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

39c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
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6. The Constitution of Bangladesh
7. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
8. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

40. Can the legislature provide input to the national budget?

67

40a. In law, the legislature can amend the budget.

YES | NO

References:

1. Articles 122-123, Rules of Procedure of Parliament of Bangladesh
2. Article 91 of the Constitution of Bangladesh

YES: A YES score is earned if the legislature has the power to add or remove items to the national government budget.

NO: A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

40b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

References:

1. Ministry of Finance, Government of Bangladesh, Budget 2005-06, 2006-07, 2007-08, 2008-09, http://www.mof.gov.bd/previous_budget/budget_2006/inbrief/inbrief_eng_contents.php
2. Bangladesh Institute of Parliamentary Studies, Parliament and Public Spending in Bangladesh: Limits of Control, Dhaka, September 2000
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
4. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008

100: All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

75:

50: Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

25:

0: The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

40c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

Comments:

Under the present caretaker government, which came in power Jan. 11, 2007, no national election was held during the study period. The next parliamentary election (Ninth Parliament) is scheduled for Dec. 18, 2008. The parliamentary standing committee is now absent until next parliament comes into power. The concerned ministry performs the oversight functions along with CAG office, but they have human resource constraints.

References:

1. Ministry of Finance, Government of Bangladesh, Budget 2005-06, 2006-07, 2007-08, 2008-09, http://www.mof.gov.bd/previous_budget/budget_2006/inbrief/inbrief_eng_contents.php
2. Bangladesh Institute of Parliamentary Studies, Parliament and Public Spending in Bangladesh: Limits of Control, Dhaka, September 2000
3. Transparency International Bangladesh, December 2006, Corruption and Parliamentary Oversight: Primacy of the Political Will
4. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
5. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008

100: Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

75:

50: Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

25:

0: Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

41. Can citizens access the national budgetary process?

67

41a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | 50 | 25 | 0

Comments:

Under the present caretaker government, which came in power Jan. 11, 2007, no national election was held during the study period. The next parliamentary election (Ninth Parliament) is scheduled for Dec. 18, 2008. The parliamentary standing committee is now absent until next parliament comes into power.

The budget formulation is highly influenced by bureaucrats in Bangladesh. On June 9, 2008, the finance and planning advisor to the caretaker government presented the budget for the fiscal year 2008-09 of nearly 1 trillion taka (US\$14.6 billion). There is no formal mechanism for ensuring citizen participation in the early budget making process. After presenting the budget, the civil society, business body like FBCCI, BGMEA etc. and media provide feedbacks and created pressure on the government to be responsive.

References:

1. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

100: Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

75:

50: There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

25:

0: Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

41b. In practice, citizens provide input at budget hearings.

100 | 75 | **50** | 25 | 0

Comments:

Under the present caretaker government, which came in power Jan. 11, 2007, no national election was held during the study period. The next parliamentary election (Ninth Parliament) is scheduled for Dec. 18, 2008. The parliamentary standing committee is now absent until next parliament comes into power.

The budget formulation is highly influenced by bureaucrats in Bangladesh. On June 9, 2008, the finance and planning advisor to the caretaker government presented the budget for the fiscal year 2008-09 of nearly 1 trillion taka (US\$14.6 billion). There is no formal mechanism for ensuring citizen participation in the early stage of budget making process. After presenting the budget, the civil society, business body and media provide feedbacks and create pressure on the government to be responsive.

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1. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

100: Citizens, usually acting through CSOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

75:

50: Citizens or CSOs can provide input, but this information is often not relevant to budget decisions.

25:

0: Citizens or CSOs have no formal access to provide input to the budget debate.

41c. In practice, citizens can access itemized budget allocations.

100 | 75 | 50 | 25 | 0

References:

1. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

100: Citizens, journalists and CSOs can access itemized lists of budget allocations. This information is easily available and up to date.

75:

50: Citizens, journalists and CSOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

25:

0: Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

43. Is the legislative committee overseeing the expenditure of public funds effective?

17

43a. In practice, department heads regularly submit reports to this committee.

100 | 75 | 50 | 25 | 0

References:

1. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

100: Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

75:

50: Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

25:

0: There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

43b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | 50 | 25 | 0

References:

1. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

100: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

75:

50: The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

25:

0: The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

43c. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

100 | 75 | 50 | 25 | 0

Comments:

The budget formulation is highly influenced by bureaucrats in Bangladesh. There is no formal mechanism for ensuring citizen participation in the budget process. On June 9, 2008, the finance and planning advisor to the caretaker government presented the budget for the fiscal year 2008-09 of nearly 1 trillion taka (US\$14.6 billion). There is no formal mechanism for ensuring citizen participation in the budget process. After presenting the budget, the civil society and media created pressure on the government to be responsive.

Under the present caretaker government, which came in power Jan. 11, 2007, no national election was held during study period. The next parliamentary election (Ninth Parliament) is scheduled for Dec. 18, 2008. The parliamentary standing committee is now

absent until next parliament comes into power. The concerned ministry performs the oversight functions along with CAG office, but they have human resource constraints. For that they do not perform their oversight role effectively.

References:

1. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

100: When irregularities are discovered, the committee is aggressive in investigating the government.

75:

50: The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

42. Is there a separate legislative committee which provides oversight of public funds?

100

42. In law, is there a separate legislative committee which provides oversight of public funds?

YES | NO

References:

1. Article 76, 91 of the Constitution of Bangladesh
2. Article 234 of the Rule of Procedure of Parliament of the People's Republic of Bangladesh
<http://www.parliamentofbangladesh.org/rprocedure.htm>

YES: A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

NO: A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

IV-1. ⁷⁹ Civil Service Regulations

44. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

100

44a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

YES | NO

Comments:

Rule 30 of The Government Servant (Conduct) Rules, 1979" states, " No government servant shall bring, or attempt to bring, political or other outside influence, directly or indirectly, to bear on the government or any government servant in support, of any claim arising in connection with his employment as such."

References:

1. The Government Servants (Conduct) Rules, 1979, Government of Bangladesh
2. The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh

YES: A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

NO: A NO score is earned if there are no formal rules establishing an independent civil service.

44b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

Comments:

Rule 27 of The Government Servant (Conduct) Rules, 1979" states, "No government servant shall indulge in parochialism, favoritism, victimization and willful abuse of office."

Rule 27B of "The Government Servant (Conduct) Rules, 1979" states, " (i) Where a government servant while discharging his official duty, finds (a) that any person who is a member of his family or his first degree relative is interested in any matter pending with him, relating to any contract with any company or firm or to any other person; (b) that any person who is a member of his family or his first degree relative is employed in such company or firm or under such person, he shall not deal with the matter and sent the same to his higher authority for decision. Explanation: For the purpose of this rule, family and first-degree relatives include wife, husband, parents, son, daughter, brother, sister and person wholly dependent upon the concerned government servant. (ii) Where the spouse of a government servant is a member of any political party or involved in any political activity in any manner, the concerned government servant shall, at once, in writing, report it to the government."

Rule 30 of the "The Government Servant (Conduct) Rules, 1979" states, "No government servant shall bring, or attempt to bring, political or other outside influence, directly or indirectly, to bear on the government or any government servant in support, of any claim arising in connection with his employment as such."

References:

1. The Government Servants (Conduct) Rules, 1979, Government of Bangladesh
2. The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh

YES: A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

NO: A NO score is earned if no such regulations exist.

44c. In law, there is an independent redress mechanism for the civil service.

YES | NO

Comments:

There are tribunals set up as redress mechanisms for civil service redress.

References:

- 1 Article 117, 135 of The Constitution of the People's Republic of Bangladesh.
2. The Government Servants (Conduct) Rules, 1979, Government of Bangladesh
3. The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh

YES: A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism's decisions to the judiciary.

NO: A NO score is earned if no such mechanism exists.

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

YES | NO

References:

Rules 3 and 4 of Chapter 3 of The Government Servants Discipline and Appeal Rules, 1985", Government of Bangladesh

YES: A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

NO: A NO score is earned if no such rules exist or if the ban is not a lifetime ban.

45. Is the law governing the administration and civil service effective?

67

45a. In practice, civil servants are protected from political interference.

100 | 75 | **50** | 25 | 0

Comments:

Under the present caretaker government, which came into power Jan. 11, 2007, no national election was held during study period. The next parliamentary election (Ninth Parliament) is scheduled for Dec. 18, 2008.

During political government regime, it was found that politicization had taken a heavy toll on bureaucracy. Ministers tried to influence the public officials to take administrative decisions in their favor. Even the ministers, or MPs, threaten officials with awful consequence if their demands are not met.

Due to successive politicization process in public administration, incompetent people have been placed in different key points in the administration.

References:

1. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
2. Transparency International Bangladesh, Diagnostic Study on Bangladesh Public Service Commission, March, 2007, www.ti-bangladesh.org
3. Human Rights Council, Asian Legal Resource Centre, Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, Aug. 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
4. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
5. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

75:

50: Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

25:

0: Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.

References:

1. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
2. Transparency International Bangladesh, Diagnostic Study on Bangladesh Public Service Commission, March, 2007, www.ti-bangladesh.org
3. Human Rights Council, Asian Legal Resource Centre, Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, Aug. 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
4. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
5. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

45c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

References:

1. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
2. Transparency International Bangladesh, Diagnostic Study on Bangladesh Public Service Commission, March, 2007, www.ti-bangladesh.org
3. Human Rights Council, Asian Legal Resource Centre, Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, Aug. 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
4. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
5. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

75:

50: Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

25:

0: Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

45d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

References:

1. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
2. Transparency International Bangladesh, Diagnostic Study on Bangladesh Public Service Commission, March, 2007, www.ti-bangladesh.org
3. Human Rights Council, Asian Legal Resource Centre, Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, Aug. 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
4. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
5. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person's authority, responsibility and base pay.

75:

50: Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

25:

0: Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

45e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | 25 | 0

Comments:

Civil servants receive bonus for largest religious festival.

References:

1. Transparency International Bangladesh, Diagnostic Study on Bangladesh Public Service Commission, March, 2007, www.ti-bangladesh.org
2. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

75:

50: Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

25:

0: Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

45f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | **50** | 25 | 0

References:

1. Transparency International Bangladesh, Diagnostic Study on Bangladesh Public Service Commission, March, 2007, www.ti-bangladesh.org
2. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: The government publishes such a list on a regular basis.

75:

50: The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

25:

0: The government rarely or never publishes such a list, or when it does it is wholly incomplete.

45g. In practice, the independent redress mechanism for the civil service is effective.

100 | 75 | **50** | 25 | 0

Comments:

There is no independent mechanism directed specifically towards the concerns of civil servants, but they may use the court system.

References:

1. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
2. Transparency International Bangladesh, Diagnostic Study on Bangladesh Public Service Commission, March, 2007, www.ti-bangladesh.org

bangladesh.org

3. Human Rights Council, Asian Legal Resource Centre, Bangladesh: Prolonged State of Emergency threatening the judiciary and human rights defenders' ability to work, Aug. 21, 2008, <http://www.alrc.net/doc/mainfile.php/hrc9/519/>
4. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>
5. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

75:

50: The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

25:

0: The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

45h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008

100: In the past year, no civil servants have been paid late.

75:

50: In the past year, some civil servants have been paid late.

25:

0: In the past year, civil servants have frequently been denied due pay.

45i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008

100: A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective. Some bans are only temporary.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

46. Are there regulations addressing conflicts of interest for civil servants?

44

46a. In law, senior members of the civil service are required to file an asset disclosure form.

YES | NO

References:

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh

YES: A YES score is earned if senior members of the civil service are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

NO: A NO score is earned if any senior member of the civil service is not required to disclose assets.

46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

YES | NO

Comments:

Rule 27B of The Government Servant (Conduct) Rules, 1979” states “(Conflict of Interest) (i) Where a government servant while discharging his official duty, finds (a) that any person who is a member of his family or his first degree relative is interested in any matter pending with him, relating to any contract with any company or firm or to any other person; (b) that any person who is a member of his family or his first degree relative is employed in such company or firm or under such person, he shall not deal with the matter and sent the same to his higher authority for decision.

“Explanation: For the purpose of this rule family and first-degree relatives include – wife, husband, parents, son, daughter, brother, sister and person wholly dependent upon the concerned government servant. (ii) Where the spouse of a government servant is a member of any political party or involved in any political activity in any manner, the concerned government servant shall, at once, in writing, report it to the government.”

References:

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh

YES: A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

NO: A NO score exists if no such requirements exist in regulation or law.

46c. In law, there are restrictions for civil servants entering the private sector after leaving the government.

YES | **NO**

References:

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh

YES: A YES score is earned if there are regulations restricting civil servants’ ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

NO: A NO score is earned if no such restrictions exist.

46d. In law, there are regulations governing gifts and hospitality offered to civil servants.

YES | NO

References:

Rules 5 to 7 of the Government Servants (Conduct) Rules, 1979, Government of Bangladesh

YES: A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

NO: A NO score is earned if there are no such guidelines or regulations.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

YES | NO

Comments:

On Dec. 10, 2007, the ministry of establishment circulated an order asking all government staff to disclose their assets, but there is no legal requirements for the independent auditing of civil service asset disclosure.

There is a provision of assets declaration of government servants in Rule 13 of the Government Servant (Conduct) Rules, 1979” which states:

“(i) Every government servant shall, at the time of entering government service, make a declaration to the government through the usual channel, of all immovable and movable properties, including shares, certificates, securities, insurance policies and jewellery having a total value of 50,000 taka (US\$728) or more belonging to, or held by, him or a member of his family and such declaration shall (a) state the district within which the property is situated; (b) show separately individual items of jewellery exceeding 50,000 taka in value (US\$728), and (c) give such further information as the government may, by general or special order, require; (ii) Every government servant shall, after every five years in the month of December submit to the government through usual channel, a return of his assets showing any increase or decrease of his property as shown in the declaration made under sub-rule (i) or in the last five years return, as the case may be; (iii) The government may by order published in the official gazette, prescribe the manner for submission of the return of assets under this rule and the authority to which the return is to be submitted.”

The score for this indicator is no because the submission of asset disclosure forms is a passive process, without the requirement of independent auditing. In addition, the process only occurs every five years, leaving large gaps of time in between the submission of disclosure forms.

References:

1. The Government Servants (Conduct) Rules, 1979, Government of Bangladesh
2. The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.
3. Ministry of Establishment, Government of Bangladesh

YES: A YES score is earned if there is a legal or regulatory requirement for independent auditing of civil service asset disclosures. The auditing is performed by an impartial third-party.

NO: A NO score is earned if there are no legal or regulatory requirements for the independent auditing of civil service asset disclosures or if such requirements exist but allow for self-auditing.

46f. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008

100: The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off” period.

75:

50: The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

25:

0: The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

46g. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | **50** | 25 | 0

Comments:

Some civil servants in certain sectors like police, customs, taxes, etc., are known to receive gifts and hospitality from outside interest groups or private sector individuals.

References:

1. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
2. Transparency International Bangladesh, Diagnostic Study on Bangladesh Public Service Commission, March, 2007, www.ti-bangladesh.org
3. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
5. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008

100: The regulations governing gifts and hospitality to civil servants are regularly enforced. Civil servants never or rarely accept gifts or hospitality above what is allowed.

75:

50: The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

25:

0: The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

46h. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | **50** | 25 | 0

Comments:

The requirements that civil servants recuse themselves from policy decisions are followed in most cases , but it is alleged that in

certain sectors like NBR, the civil servants participate in policy decisions in some cases where their personal interests are affected.

References:

1. Institute of Governance Studies, The State of Governance in Bangladesh 2007, Dhaka, May 2008
2. Transparency International Bangladesh, Diagnostic Study on Bangladesh Public Service Commission, March, 2007, www.ti-bangladesh.org
3. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
5. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
6. Odhikar, Human Rights Concerns 2007, Bangladesh, January 2008, <http://www.odhikar.org/reports.html>

100: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

75:

50: The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

25:

0: Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

46i. In practice, civil service asset disclosures are audited.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008

100: Civil service asset disclosures are regularly audited using generally accepted auditing practices.

75:

50: Civil service asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

25:

0: Civil service asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

47. Can citizens access the asset disclosure records of senior civil servants?

0

47a. In law, citizens can access the asset disclosure records of senior civil servants.

YES | **NO**

References:

1. Official Secrecy Act, 1923
2. The Government Servants (Conduct) Rules, 1979, Government of Bangladesh
3. The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

YES: A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

NO: A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

47b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | **0**

References:

1. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

References:

1. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

IV-2. Whistle-blowing Measures

48. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

75

48a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

References:

1. The Constitution of Bangladesh
2. The Police Act of 1861
3. The Police Regulation of Bengal (PRB), 1943
4. The Government Servants (Conduct) Rules, 1979, Government of Bangladesh
5. The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh
6. Anti-Corruption Commission Act, 2004
7. The Anti-Corruption Commission (Staffs) Service Rules 2008
8. Truth and Accountability Commission Ordinance 2008 (Swopronodito Tothoprokash Ordinance, 2008)
9. Penal Code 1868
10. The Code of Civil Procedure, 1908

YES: A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for public-sector whistleblowers.

48b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | **50** | 25 | 0

Comments:

Public sector whistleblowers are sometimes able to come forward, but whistleblowers are most often punished either through official or unofficial means. There is no robust mechanism to protect them.

References:

1. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008

100: Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

48c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

References:

1. The Constitution of Bangladesh
2. The Police Act of 1861
3. The Police Regulation of Bengal (PRB), 1943
4. The Government Servants (Conduct) Rules, 1979, Government of Bangladesh
5. The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh
6. Anti-Corruption Commission Act, 2004
7. The Anti-Corruption Commission (Staffs) Service Rules 2008
8. Truth and Accountability Commission Ordinance 2008 (Swopronodito Tothoprokash Ordinance, 2008)

- 9. Penal Code 1868
- 10. The Code of Civil Procedure, 1908

YES: A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

NO: A NO score is earned if there are no legal protections for private-sector whistleblowers.

48d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | **50** | 25 | 0

Comments:

Whistleblowers are sometimes able to come forward to report cases of corruption, graft, abuse of power or abuse of resources but whistleblowers are most often punished either through official or unofficial means. There is no robust mechanism to protect them.

References:

1. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007

100: Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

75:

50: Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

69

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
4. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
5. Anti Corruption Commission, Dhaka, Bangladesh

100: The agency/entity has staff sufficient to fulfill its basic mandate.

75:

50: The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

25:

0: The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The government allocated budget for all concerned ministries/divisions, Anti Corruption Commission, Tax Ombudsman office, constitutional bodies like Judiciary, CAG, Public Service Commission etc., in every fiscal year based on demand.

Though the oversight role of ACC is now active and ACC receives a budget from government based on their demand, the oversight role of other agencies against corruption is not strong due to different shortcomings like budget deficiencies, lack of capacities etc. The revised budget of Anti Corruption Commission for the fiscal year 2006-07 & 2007-08 were Tk. 8, 97, 40,000 & Tk. 30, 48,33, 000, respectively.

References:

1. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
2. Anti Corruption Commission, Dhaka, Bangladesh
3. Ministry of Finance, <http://www.mof.gov.bd/>

100: The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

50c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

The present government is trying to implement the reform programs in different departments. If irregularities are discovered against any personnel, the concerned department investigate the complaint and take necessary action accordingly.

For example, there is a complaint form on the website of the police where anyone can make a complaint to police officials, and according to law, the concerned higher authority is supposed to take necessary action against the accused police and inform the applicant accordingly within 15 days. But in practice, its effectiveness is limited.

References:

1. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
4. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
5. Anti Corruption Commission, Dhaka, Bangladesh

100: The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

50d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The present government is trying to implement the reform programs in different departments. If irregularities are discovered against any personnel, the concerned department will investigate the complaint and take necessary action accordingly.

For example, there is a complaint form on the website of the police where anyone can make a complaint to police officials, and according to law, the concerned higher authority is supposed to take necessary action against the accused police and inform the applicant accordingly within 15 days. But in practice, its effectiveness is limited.

References:

1. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 15, 2007
4. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
5. Anti Corruption Commission, Dhaka, Bangladesh

100: When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

49. Is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

100

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

YES | NO

Comments:

Anti Corruption Commission is responsible to inquire into any allegation of corruption, investigate or file cases on its own initiative, or upon application filled by anyone. Anyone can report corruption to the Anti-Corruption Commission in written form or through email. (<http://acc.org.bd/contact.php>). Beside, NBR, the law enforcement agencies, CAG office or concerned ministry or departments can take initiatives against corruption by different way. Civil servants can report corruption to higher authority of concerned ministry or departments.

Article 3 of The Government Servants (Discipline and Appeal) Rules, 1985" states, "Where a government servant in the opinion of the authority, is guilty of misconduct; or is guilty of desertion; or is corrupt, or may reasonably be considered corrupt, or is engaged, or is reasonably suspected of being engaged, in subversive activities, or is reasonably suspected of being associated with others engaged in subversive activities, and whose retention in service is considered prejudicial to national security; the authority may, subject to the provision of sub-rule (6) of rule 4, impose on his one or more penalties. The act of submission of petitions before any authority containing wild, vexatious, false or frivolous accusation against a government servant will be considered as misconduct. "

References:

1. The Constitution of Bangladesh
2. The Police Act of 1861
3. The Police Regulation of Bengal (PRB), 1943
4. The Government Servants (Conduct) Rules, 1979, Government of Bangladesh
5. The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh
6. Anti-Corruption Commission Act, 2004
7. The Anti-Corruption Commission (Staffs) Service Rules 2008

8. Truth and Accountability Commission Ordinance 2008 (Swopronodito Tothoprokash Ordinance, 2008)
9. Penal Code 1868
10. The Code of Civil Procedure, 1908

YES: A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

NO: A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

81 IV-3. Procurement

51. Is the public procurement process effective?

80

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

References:

1. Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh
2. Government of Bangladesh, Public Procurement Act (Amendment) 2007
3. Ministry of Planning, Government of Bangladesh, March 2004, "The Procedures for Implementation of the Public Procurement Regulations 2003"
4. Government of Bangladesh, Public Procurement Rules 2008

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

NO: A NO score is earned if no such rules exist.

51b. In law, there is mandatory professional training for public procurement officials.

YES | NO

References:

1. Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh
2. Government of Bangladesh, Public Procurement Act (Amendment) 2007
3. Ministry of Planning, Government of Bangladesh, March 2004, "The Procedures for Implementation of the Public Procurement Regulations 2003"
4. Government of Bangladesh, Public Procurement Rules 2008

YES: A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.

NO: A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, unrelated to procurement processes, or voluntary.

51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | **50** | 25 | 0

Comments:

Corruption is pervasive in public procurement. There is a clause of conflict of interest" in the Public Procurement Act, but it is flawed sometimes.

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
5. Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>
6. Board of Investment, Government of Bangladesh, <http://www.boi.gov.bd/privatization.php>
7. Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>

100: Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

75:

50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

25:

0: Conflict-of-interest regulations do not exist, or are consistently ineffective.

51d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

YES | **NO**

Comments:

There are few rules and regulations related to public procurement like The Public Procurement Regulations, 2003", "The Public

Procurement Act, 2006”, “The Public Procurement Rules, 2008”.

Though there is no specific clause in public procurement rules and regulations regarding the monitoring of assets, income and spending habits of public procurement officials, but there is a provision of assets declaration of government servants in Rule 13 of the “Government Servant (Conduct) Rules, 1979”, which states:

“(i) Every government servant shall, at the time of entering government service, make a declaration to the government through the usual channel, of all immovable and movable properties, including shares, certificates, securities, insurance policies and jewellery having a total value of 50,000 taka (US\$728) or more belonging to, or held by, him or a member of his family and such declaration shall (a) state the district within which the property is situated, (b) show separately individual items of jewellery exceeding 50,000 taka (US\$728) in value, and (c) give such further information as the government may, by general or special order, require;

(ii) Every government servant shall, after every five years in the month of December submit to the government through usual channel, a return of his assets showing any increase or decrease of his property as shown in the declaration made under sub-rule (i) or in the last five years return, as the case may be;

(iii) The government may by order published in the official gazette, prescribe the manner for submission of the return of assets under this rule and the authority to which the return is to be submitted.”

Recently, the ministry of establishment circulated an order asking all government staff to disclose their assets by Feb. 28, 2008, to their respective ministries, departments and directorates. But there are no legal requirements for the independent auditing of civil service asset disclosure.

The score for this indicator is no because the submission of asset disclosure forms is a passive process, without the requirement of independent auditing. In addition, the process only occurs every five years, leaving large gaps of time in between the submission of disclosure forms.

References:

1. Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh
2. Government of Bangladesh, Public Procurement Act (Amendment) 2007
3. Ministry of Planning, Government of Bangladesh, March 2004, The Procedures for Implementation of the Public Procurement Regulations 2003”
4. Government of Bangladesh, Public Procurement Rules 2008
5. The Government Servants (Conduct) Rules, 1979, Government of Bangladesh
6. The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh

YES: A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

NO: A NO score is earned if no such mandate exists.

51e. In law, major procurements require competitive bidding.

YES | NO

References:

1. Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh
2. Government of Bangladesh, Public Procurement Act (Amendment) 2007
3. Ministry of Planning, Government of Bangladesh, March 2004, The Procedures for Implementation of the Public Procurement Regulations 2003”
4. Government of Bangladesh, Public Procurement Rules 2008

YES: A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

NO: A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

51f. In law, strict formal requirements limit the extent of sole sourcing.

YES | NO

References:

1. Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh
2. Government of Bangladesh, Public Procurement Act (Amendment) 2007
3. Ministry of Planning, Government of Bangladesh, March 2004, "The Procedures for Implementation of the Public Procurement Regulations 2003"
4. Government of Bangladesh, Public Procurement Rules 2008

YES: A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

NO: A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

YES | NO

References:

1. Regulation 53 of the Public Procurement Regulations 2003, Bangladesh
2. Government of Bangladesh, Public Procurement Act (Amendment) 2007
3. Government of Bangladesh, Public Procurement Rules 2008

YES: A YES score is earned if there is a formal appeal process for unsuccessful bidders.

NO: A NO score is earned if no such process exists.

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

YES | NO

References:

1. Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh
2. Government of Bangladesh, Public Procurement Act (Amendment) 2007
3. Ministry of Planning, Government of Bangladesh, March 2004, The Procedures for Implementation of the Public Procurement Regulations 2003"
4. Government of Bangladesh, Public Procurement Rules 2008

YES: A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

NO: A NO score is earned if no such process exists.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | NO

References:

1. Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh
2. Government of Bangladesh, Public Procurement Act (Amendment) 2007
3. Ministry of Planning, Government of Bangladesh, March 2004, The Procedures for Implementation of the Public Procurement Regulations 2003"
4. Government of Bangladesh, Public Procurement Rules 2008

YES: A YES score is earned if there are formal procurement blacklists, designed to prevent convicted companies from doing business with the government.

NO: A NO score is earned if no such process exists.

51j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

Comments:

The government has published the debarment lists of those who were engaged in fraudulent and collusive practices. The Central Procurement Technical unit published the debarment list through its website. For more details, please visit the link <http://www.cptu.gov.bd/DebarmentList.aspx> . It is alleged that some procurements or companies may not be affected by the system.

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
5. Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>
6. Board of Investment, Government of Bangladesh, <http://www.boi.gov.bd/privatization.php>
7. Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>

100: A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

75:

50: A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

25:

0: There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

52. Can citizens access the public procurement process?

92

52a. In law, citizens can access public procurement regulations.

YES | **NO**

Comments:

According to the Regulation 8(1) of the Public Procurement Regulations 2003, The regulations, the procedures, user guides and instructions including standard documents shall be made available to the public, both in paper format and on the CPTU website and shall be systematically maintained by the CPTU.”

References:

1. Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh
2. Government of Bangladesh, Public Procurement Act (Amendment) 2007
3. Ministry of Planning, Government of Bangladesh, March 2004, The Procedures for Implementation of the Public Procurement Regulations 2003”
4. Government of Bangladesh, Public Procurement Rules 2008

YES: A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

NO: A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

52b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

References:

1. Regulation 36 of the Public Procurement Regulations 2003, Government of Bangladesh
2. Government of Bangladesh, Public Procurement Act (Amendment) 2007
3. Ministry of Planning, Government of Bangladesh, March 2004, The Procedures for Implementation of the Public Procurement Regulations 2003”
4. Government of Bangladesh, Public Procurement Rules 2008

YES: A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

52c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

1. Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>
2. Board of Investment, Government of Bangladesh, <http://www.boi.gov.bd/privatization.php>
3. Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>
4. Central Procurement Technical Unit, GOB, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>
5. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

52d. In practice, citizens can access public procurement regulations at a reasonable cost.

References:

1. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
2. Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>
3. Board of Investment, Government of Bangladesh, <http://www.boi.gov.bd/privatization.php>
4. Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>
5. Central Procurement Technical Unit, GOB, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line. These records are defined here as the rules governing the competitive procurement process.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

52e. In practice, major public procurements are effectively advertised.

References:

1. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
2. Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>
3. Board of Investment, Government of Bangladesh, <http://www.boi.gov.bd/privatization.php>
4. Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>
5. Central Procurement Technical Unit, GOB, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>

100: There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising major public procurements or the process is superficial and ineffective.

52f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
2. Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>
3. Board of Investment, Government of Bangladesh, <http://www.boi.gov.bd/privatization.php>
4. Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>
5. Central Procurement Technical Unit, GOB, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>

100: Records of public procurement results are publicly available through a formal process.

75:

50: Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

25:

0: This information is not available to the public through an official process.

IV-4. Privatization

53. Is the privatization process effective?

92

53a. In law, all businesses are eligible to compete for privatized state assets.

YES | NO

Comments:

Government of Bangladesh has decided to privatize most of the State-Owned Enterprises (SOEs).

References:

1. Privatization Commission Bangladesh, Government of Bangladesh

2. Revised Industrial Policy (RIP), 1986
3. Company's Act 1994

YES: A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

NO: A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

53b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

YES | NO

References:

1. Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh
2. Government of Bangladesh, Public Procurement Act (Amendment) 2007
3. Ministry of Planning, Government of Bangladesh, March 2004, "The Procedures for Implementation of the Public Procurement Regulations 2003"
4. Government of Bangladesh, Public Procurement Rules 2008
5. The Government Servants (Conduct) Rules, 1979, Government of Bangladesh
6. The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh

YES: A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

NO: A NO score is earned if there are no such formal regulations.

53c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | 50 | 25 | 0

References:

1. Transparency International Bangladesh, Governance in the Power Sector, November 2007, http://www.ti-bangladesh.org/research/ES_Power_071120.pdf
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
5. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

100: Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

75:

50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

25:

0: Conflict of interest regulations do not exist, or are consistently ineffective.

54. Can citizens access the terms and conditions of privatization bids?

100

54a. In law, citizens can access privatization regulations.

YES | NO

References:

1. Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>
2. Board of Investment, Government of Bangladesh, <http://www.boi.gov.bd/privatization.php>

YES: A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

NO: A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

54b. In practice, privatizations are effectively advertised.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
5. Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>
6. Board of Investment, Government of Bangladesh, <http://www.boi.gov.bd/privatization.php>
7. Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>

100: There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

75:

50: There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising privatizations or the process is superficial and ineffective.

54c. In law, the government is required to publicly announce the results of privatization decisions.

YES | NO

References:

1. Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>
2. Board of Investment, Government of Bangladesh, <http://www.boi.gov.bd/privatization.php>
3. Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>

YES: A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

NO: A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

54d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

All rules and procedure of privatization are available on the website of the Privatized Commission Bangladesh. Again, according to the Regulation 8(1) of the Public Procurement Regulations 2003, The regulations, the procedures, user guides and instructions including standard documents shall be made available to the public, both in paper format and on the CPTU website and shall be systematically maintained by the CPTU.”

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
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4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
5. Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>
6. Board of Investment, Government of Bangladesh, <http://www.boi.gov.bd/privatization.php>

100: Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

All rules and procedure of privatization are available on the website of the Privatized Commission Bangladesh. Again, according to the Regulation 8(1) of the Public Procurement Regulations 2003, The regulations, the procedures, user guides and instructions including standard documents shall be made available to the public, both in paper format and on the CPTU website and shall be systematically maintained by the CPTU.”

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1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
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4. Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
5. Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>
6. Board of Investment, Government of Bangladesh, <http://www.boi.gov.bd/privatization.php>

100: Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

Category V. Oversight and Regulation

V-1. ⁷⁵National Ombudsman

56. Is the national ombudsman effective?

56a. In law, the ombudsman is protected from political interference.

YES | NO

References:

1. Ombudsman Act 1980
2. Bangladesh Law Commission, Report on Ombudsman Act 1980, July 9, 2000.
3. Tax Ombudsman Act 2005
4. Dr. Rashid ul Ahsan Chowdhury, Advisor (Indirect Tax), Office of the Tax Ombudsman: Tax Ombudsman: A new concept for Bangladesh, The Financial Express, March 8, 2008, http://www.thefinancialexpress-bd.com/search_index.php?page=detail_news&news_id=27406

YES: A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

56b. In practice, the ombudsman is protected from political interference.

100 | 75 | **50** | 25 | 0

Comments:

Although there is a provision in the Bangladesh constitution to establish the office of ombudsman, the office of the national ombudsman has not come into being.

Bangladesh set up a national sector, the tax ombudsman office, in July 2006. The office of the tax ombudsman remains dependent on the government, both operationally and financially. The effectiveness of the tax ombudsman depends on the political commitment.

The office of the tax ombudsman received 119 complaints in 2007, of those 47 complaints were considered for investigation and 72 complaints were not considered for investigation due to insufficient merit. Of the 47 complaints, 36 were investigated and disposed off with recommendations to the National Board of Revenue. Eleven recommendations have been implemented by the National Board of Revenue and its subordinate offices. The remaining 25 are under the process of implementation.

References:

1. Dr. Rashid ul Ahsan Chowdhury, Advisor (Indirect Tax), Office of the Tax Ombudsman: Tax Ombudsman: A new concept for Bangladesh, The Financial Express, March 8, 2008, http://www.thefinancialexpress-bd.com/search_index.php?page=detail_news&news_id=27406
2. Bangladesh Law Commission, Report on Ombudsman Act 1980, July 9, 2000
3. Tax Ombudsman Act 2005
4. Iftekharuzzaman, Transparency International Bangladesh, Ombudsman for Good Governance in Bangladesh: Why Now, and How?, May 15, 2007, www.ti-bangladesh.org/Ombudsman150507.pdf
5. Md. Awal Hossain, lecturer, Department of Public Administration, University of Rajshahi, Bangladesh, Ombudsman for Bangladesh: Theory and Reality.
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information.

75:

50: This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

56c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | **50** | 25 | 0

References:

1. Dr. Rashid ul Ahsan Chowdhury, Advisor (Indirect Tax), Office of the Tax Ombudsman: Tax Ombudsman: A new concept for Bangladesh, The Financial Express, March 8, 2008, http://www.thefinancialexpress-bd.com/search_index.php?page=detail_news&news_id=27406
2. Bangladesh Law Commission, Report on Ombudsman Act 1980, July 9, 2000
3. Tax Ombudsman Act 2005
4. Iftekharuzzaman, Transparency International Bangladesh, Ombudsman for Good Governance in Bangladesh: Why Now, and How?, May 15, 2007, www.ti-bangladesh.org/Ombudsman150507.pdf
5. Md. Awal Hossain, lecturer, Department of Public Administration, University of Rajshahi, Bangladesh, Ombudsman for Bangladesh: Theory and Reality
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

56d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | **75** | 50 | 25 | 0

Comments:

Although there is a provision in the Bangladesh Constitution to establish the office of ombudsman, the office of the national ombudsman has not come into being.

Bangladesh set up a national sector, the tax ombudsman office, in July 2006. The office of the tax ombudsman remains dependent on the government, both operationally and financially. It has professional full time staff but few positions are vacant.

References:

1. Dr. Rashid ul Ahsan Chowdhury, Advisor (Indirect Tax), Office of the Tax Ombudsman: Tax Ombudsman: A new concept for Bangladesh, The Financial Express, March 8, 2008, http://www.thefinancialexpress-bd.com/search_index.php?page=detail_news&news_id=27406
2. Bangladesh Law Commission, Report on Ombudsman Act 1980, July 9, 2000
3. Tax Ombudsman Act 2005
4. Iftekharuzzaman, Transparency International Bangladesh, Ombudsman for Good Governance in Bangladesh: Why Now, and How?, May 15, 2007, www.ti-bangladesh.org/Ombudsman150507.pdf
5. Md. Awal Hossain, lecturer, Department of Public Administration, University of Rajshahi, Bangladesh, Ombudsman for Bangladesh: Theory and Reality
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

56e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

100 | 75 | **50** | 25 | 0

Comments:

Although there is a provision in the Bangladesh Constitution to establish the office of ombudsman, the office of the national ombudsman has not come into being.

Bangladesh set up a national sector, the tax ombudsman office, in July 2006. The office of the tax ombudsman remains dependent on the government, both operationally and financially. It has professional full time staff but few positions are vacant. The effectiveness of the tax ombudsman depends on the political commitment.

References:

1. Dr. Rashid ul Ahsan Chowdhury, Advisor (Indirect Tax), Office of the Tax Ombudsman: Tax Ombudsman: A new concept for Bangladesh, The Financial Express, March 8, 2008, http://www.thefinancialexpress-bd.com/search_index.php?page=detail_news&news_id=27406
2. Bangladesh Law Commission, Report on Ombudsman Act 1980, July 9, 2000
3. Tax Ombudsman Act 2005
4. Iftekharuzzaman, Transparency International Bangladesh, Ombudsman for Good Governance in Bangladesh: Why Now, and How?, May 15, 2007, www.ti-bangladesh.org/Ombudsman150507.pdf
5. Md. Awal Hossain, lecturer, Department of Public Administration, University of Rajshahi, Bangladesh, Ombudsman for Bangladesh: Theory and Reality
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

56f. In practice, the ombudsman agency (or agencies) receives regular funding.

100 | 75 | **50** | 25 | 0

Comments:

Although there is a provision in the Bangladesh Constitution to establish the office of ombudsman, the office of the national ombudsman has not come into being.

Bangladesh set up a national sector, the tax ombudsman office, in July 2006. The office of the tax ombudsman remains dependent on the government, both operationally and financially. It has professional full time staff but few positions are vacant.

The effectiveness of the tax ombudsman depends on the political commitment. The office of the tax ombudsman received 119 complaints in 2007, of those 47 complaints were considered for investigation and 72 complaints were not considered for investigation due to insufficient merit. Of the 47 complaints, 36 were investigated and disposed of with recommendations to the National Board of Revenue. Eleven recommendations have been implemented by the National Board of Revenue and its subordinate offices. The remaining 25 are under the process of implementation. To date, the tax ombudsman office does not make any public report.

References:

1. Dr. Rashid ul Ahsan Chowdhury, Advisor (Indirect Tax), Office of the Tax Ombudsman: Tax Ombudsman: A new concept for Bangladesh, The Financial Express, March 8, 2008, http://www.thefinancialexpress-bd.com/search_index.php?page=detail_news&news_id=27406
2. Bangladesh Law Commission, Report on Ombudsman Act 1980, July 9, 2000
3. Tax Ombudsman Act 2005
4. Iftekharuzzaman, Transparency International Bangladesh, Ombudsman for Good Governance in Bangladesh: Why Now, and How?, May 15, 2007, www.ti-bangladesh.org/Ombudsman150507.pdf
5. Md. Awal Hossain, lecturer, Department of Public Administration, University of Rajshahi, Bangladesh, Ombudsman for Bangladesh: Theory and Reality
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

56g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

Comments:

Although there is a provision in the Bangladesh constitution to establish the office of ombudsman, the office of the national ombudsman has not come into being. Bangladesh set up a national sector, the tax ombudsman office, in July 2006. It has professional full time staff, but few positions are vacant.

On April 3, 2008, the annual report of the tax ombudsman's office for the year 2007 submitted to President Professor Iajuddin Ahmed at Bangabhaban. The office of tax ombudsman received 95 allegations in 2007, of those 34 allegations were registered, and 61 allegations were not registered due to either unspecified or out of date or anonymous. Twenty-nine allegations were disposed out of 39.

References:

1. Dr. Rashid ul Ahsan Chowdhury, Advisor (Indirect Tax), Office of the Tax Ombudsman: Tax Ombudsman: A new concept for Bangladesh, The Financial Express, March 8, 2008, http://www.thefinancialexpress-bd.com/search_index.php?page=detail_news&news_id=27406
2. Bangladesh Law Commission, Report on Ombudsman Act 1980, July 9, 2000
3. Tax Ombudsman Act 2005
4. Iftekharuzzaman, Transparency International Bangladesh, Ombudsman for Good Governance in Bangladesh: Why Now, and How?, May 15, 2007, www.ti-bangladesh.org/Ombudsman150507.pdf
5. Md. Awal Hossain, lecturer, Department of Public Administration, University of Rajshahi, Bangladesh, Ombudsman for Bangladesh: Theory and Reality
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
7. The Bangabhaban, The President House of Bangladesh, http://www.bangabhaban.gov.bd/arc_tax.html

100: The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

56h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

Although there is a provision in the Bangladesh constitution to establish the office of ombudsman, the office of the national ombudsman has not come into being. Bangladesh set up a national sector, the Tax Ombudsman office, in July 2006. The office of the Tax Ombudsman remains dependent on the government, both operationally and financially. The Tax ombudsman does not have the power taking action except forwarding the recommendation based on the investigation.

The effectiveness of the Tax ombudsman depends on the political commitment. The office of the Tax Ombudsman received 119 complaints in 2007. 47 complaints were considered for investigation and 72 complaints were not considered for investigation due

to insufficient merit. Among 47 complaints, 36 were investigated and disposed off with recommendations to the National Board of Revenue. 11 recommendations have been implemented by the National Board of Revenue and its subordinate offices. The remaining 25 are under the process of implementation. Till date, the Tax Ombudsman office does not make any public report.

References:

1. Dr. Rashid ul Ahsan Chowdhury, Advisor (Indirect Tax), Office of the Tax Ombudsman: Tax Ombudsman: A new concept for Bangladesh, The Financial Express, March 8, 2008, http://www.thefinancialexpress-bd.com/search_index.php?page=detail_news&news_id=27406
2. Bangladesh Law Commission, Report on Ombudsman Act 1980, July 9, 2000
3. Tax Ombudsman Act 2005
4. Iftekharuzzaman, Transparency International Bangladesh, Ombudsman for Good Governance in Bangladesh: Why Now, and How?, May 15, 2007, www.ti-bangladesh.org/Ombudsman150507.pdf
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6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

75:

50: The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

25:

0: The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

56i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

Comments:

Although there is a provision in the Bangladesh constitution to establish the office of ombudsman, the office of the national ombudsman has not come into being. Bangladesh set up a national sector, the tax ombudsman office, in July 2006.

The office of the tax ombudsman remains dependent on the government, both operationally and financially. The tax ombudsman does not have the power of taking action except forwarding the recommendation based on the investigation. It has professional full time staff but few positions are vacant.

References:

1. Dr. Rashid ul Ahsan Chowdhury, Advisor (Indirect Tax), Office of the Tax Ombudsman: Tax Ombudsman: A new concept for Bangladesh, The Financial Express, March 8, 2008, http://www.thefinancialexpress-bd.com/search_index.php?page=detail_news&news_id=27406
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5. Md. Awal Hossain, lecturer, Department of Public Administration, University of Rajshahi, Bangladesh, Ombudsman for Bangladesh: Theory and Reality
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

75:

50: The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

25:

0: The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | **50** | 25 | 0

Comments:

Although there is a provision in the Bangladesh constitution to establish the office of ombudsman, the office of the national ombudsman has not come into being. Bangladesh set up a national sector, the tax ombudsman office, in July 2006. The office of the tax ombudsman remains dependent on the government, both operationally and financially. The tax ombudsman does not have the power taking action except forwarding the recommendation based on the investigation. It has professional full time staff, but few positions are vacant.

The effectiveness of the tax ombudsman depends on the political commitment. The office of the tax ombudsman received 119 complaints in 2007, of those 47 complaints were considered for investigation and 72 complaints were not considered for investigation due to insufficient merit. Of the 47 complaints, 36 were investigated and disposed of with recommendations to the National Board of Revenue. Eleven recommendations have been implemented by the National Board of Revenue and its subordinate offices. The remaining 25 are under the process of implementation. To date, the tax ombudsman office has not make any public reports.

References:

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2. Bangladesh Law Commission, Report on Ombudsman Act 1980, July 9, 2000
3. Tax Ombudsman Act 2005
4. Iftekharuzzaman, Transparency International Bangladesh, Ombudsman for Good Governance in Bangladesh: Why Now, and How?, May 15, 2007, www.ti-bangladesh.org/Ombudsman150507.pdf
5. Md. Awal Hossain, lecturer, Department of Public Administration, University of Rajshahi, Bangladesh, Ombudsman for Bangladesh: Theory and Reality
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, ombudsman's reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Ombudsman's reports are often ignored, or given superficial attention. Ombudsman's reports do not lead to policy changes.

56k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | **50** | 25 | 0

Comments:

Although there is a provision in the Bangladesh constitution to establish the office of ombudsman, the office of the national ombudsman has not come into being. Bangladesh set up a national sector, the tax ombudsman office, in July 2006. The office of the tax ombudsman remains dependent on the government, both operationally and financially. The tax ombudsman does not have the power taking action except forwarding the recommendation based on the investigation. It has professional full time staff, but few positions are vacant.

The effectiveness of the tax ombudsman depends on the political commitment. The office of the tax ombudsman received 119 complaints in 2007, of those 47 complaints were considered for investigation and 72 complaints were not considered for investigation due to insufficient merit. Of the 47 complaints, 36 were investigated and disposed of with recommendations to the National Board of Revenue. Eleven recommendations have been implemented by the National Board of Revenue and its subordinate offices. The remaining 25 are under the process of implementation.

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2. Bangladesh Law Commission, Report on Ombudsman Act 1980, July 9, 2000
3. Tax Ombudsman Act 2005
4. Iftekharuzzaman, Transparency International Bangladesh, Ombudsman for Good Governance in Bangladesh: Why Now, and How?, May 15, 2007, www.ti-bangladesh.org/Ombudsman150507.pdf
5. Md. Awal Hossain, lecturer, Department of Public Administration, University of Rajshahi, Bangladesh, Ombudsman for Bangladesh: Theory and Reality
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

57. Can citizens access the reports of the ombudsman?

33

57a. In law, citizens can access reports of the ombudsman(s).

YES | NO

Comments:

Article 77(3) of the constitution states that the ombudsman shall prepare an annual report concerning the discharge of his functions, and such report shall be laid before parliament. Although there is a provision in the Bangladesh constitution to establish the office of ombudsman, the office of the national ombudsman has not come into being. Bangladesh set up a national sector, the tax ombudsman office, in July 2006.

According to Tax Ombudsman Act of 2005, the ombudsman will present an annual report to the president and it will then be presented in the parliament.

On April 3, 2008, the annual report of tax ombudsman's office for the year 2007 submitted to President Professor Iajuddin Ahmed at Bangabhaban. The office of tax ombudsman received 95 allegations in 2007, of those 34 allegations were registered and 61 allegations were not registered due to either unspecified or out of date or anonymous. Twenty-nine allegations were disposed out of 39.

References:

1. Article 77 (3) of the Constitution of Bangladesh
2. Tax Ombudsman Act 2005

YES: A YES score is earned if all ombudsman reports are publicly available.

NO: A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

57b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Although there is a provision in the Bangladesh constitution to establish the office of ombudsman, the office of the national ombudsman has not come into being. Bangladesh set up a national sector, the tax ombudsman office, in July 2006. To date, the tax ombudsman office has not made any public report.

References:

1. Dr. Rashid ul Ahsan Chowdhury, Advisor (Indirect Tax), Office of the Tax Ombudsman: Tax Ombudsman: A new concept for Bangladesh, The Financial Express, March 8, 2008, http://www.thefinancialexpress-bd.com/search_index.php?page=detail_news&news_id=27406
2. Bangladesh Law Commission, Report on Ombudsman Act 1980, July 9, 2000
3. Tax Ombudsman Act 2005
4. Iftekharuzzaman, Transparency International Bangladesh, Ombudsman for Good Governance in Bangladesh: Why Now, and How?, May 15, 2007, www.ti-bangladesh.org/Ombudsman150507.pdf
5. Md. Awal Hossain, lecturer, Department of Public Administration, University of Rajshahi, Bangladesh, Ombudsman for Bangladesh: Theory and Reality
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

Although there is a provision in the Bangladesh constitution to establish the office of ombudsman, the office of the national ombudsman has not come into being. Bangladesh set up a national sector, the tax ombudsman office, in July 2006. To date, the tax ombudsman office has not made any public report.

References:

1. Dr. Rashid ul Ahsan Chowdhury, Advisor (Indirect Tax), Office of the Tax Ombudsman: Tax Ombudsman: A new concept for Bangladesh, The Financial Express, March 8, 2008, http://www.thefinancialexpress-bd.com/search_index.php?page=detail_news&news_id=27406
2. Bangladesh Law Commission, Report on Ombudsman Act 1980, July 9, 2000
3. Tax Ombudsman Act 2005
4. Iftekharuzzaman, Transparency International Bangladesh, Ombudsman for Good Governance in Bangladesh: Why Now, and How?, May 15, 2007, www.ti-bangladesh.org/Ombudsman150507.pdf
5. Md. Awal Hossain, lecturer, Department of Public Administration, University of Rajshahi, Bangladesh, Ombudsman for Bangladesh: Theory and Reality
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

55. Is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

YES | NO

Comments:

Article 77 of the Constitution of Bangladesh states that Parliament may, by law, provide for the establishment of the office of ombudsman.”

Article 77(2) states, “The ombudsman shall exercise such powers and perform such functions as parliament may, by law, determine, including the power to investigate any action taken by a ministry, a public officer or a statutory public authority.”

References:

1. Article 77 of the Constitution of Bangladesh
2. The Ombudsman Act, 1980

YES: A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

NO: A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

V-2. Supreme Audit Institution

59. Is the supreme audit institution effective?

75

59a. In law, the supreme audit institution is protected from political interference.

YES | NO

Comments:

Article 128 (4) of the Bangladesh Constitution states, The Auditor-General, in the exercise of his functions under clauses (1), shall not be subject to the direction or control of any other person or authority.”

Article 129 (2) of the Bangladesh Constitution states, “The Auditor-General shall not be removed from his office except in like manner and on the like ground as a judge of the Supreme Court.”

References:

Articles 127, 128(4), 129 (2) of the Constitution of Bangladesh

YES: A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

59b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

References:

1. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. The Constitution of Bangladesh.
4. Transparency International Bangladesh, Fact Finding Report on Comptroller & Auditor General Office, December 2002, www.ti-bangladesh.org
5. Office of the Comptroller and Auditor General of Bangladesh, Journal & Audit Reports, <http://www.cagbd.org>

100: The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director of the agency can be removed at the will of political leadership.

59c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

1. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Transparency International Bangladesh, Fact Finding Report on Comptroller & Auditor General Office, December 2002, www.ti-bangladesh.org
4. Office of the Comptroller and Auditor General of Bangladesh, Journal & Audit Reports, <http://www.cagbd.org>

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

59d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | **50** | 25 | 0

Comments:

Though the constitution of Bangladesh provides independence to the office of CAG, it depends on the Public Service Commission and Ministry of Establishment for the first and second class recruitment. There are many vacant posts in the CAG office, which hampers carrying out the routine work of CAG office. Appointments are usually based on professional qualifications.

References:

1. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Transparency International Bangladesh, Fact Finding Report on Comptroller & Auditor General Office, December 2002, www.ti-bangladesh.org
4. Office of the Comptroller and Auditor General of Bangladesh, Journal & Audit Reports, <http://www.cagbd.org>

100: Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

59e. In practice, the audit agency receives regular funding.

100 | 75 | 50 | 25 | 0

References:

1. Ministry of Finance, Government of Bangladesh, National Budget 2008-2009, 2007-2008
2. Ministry of Finance, Bangladesh Economic Review 2006-2007 & 2007-2008

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

59f. In practice, the audit agency makes regular public reports.

100 | 75 | 50 | 25 | 0

References:

1. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Transparency International Bangladesh, Fact Finding Report on Comptroller & Auditor General Office, December 2002, www.ti-bangladesh.org
4. Office of the Comptroller and Auditor General of Bangladesh, Journal & Audit Reports, <http://www.cagbd.org>

100: The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

25:

0: The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

59g. In practice, the government acts on the findings of the audit agency.

100 | 75 | 50 | 25 | 0

Comments:

From the first parliament of Bangladesh to April 2004, the Public Accounts Committee was able to discuss only 20.7 percent of the audit reports. Between July 2003 and February 2005, the PAC were able to discuss 149 audit objections.

References:

1. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Transparency International Bangladesh, Fact Finding Report on Comptroller & Auditor General Office, December 2002, www.ti-bangladesh.org
4. Office of the Comptroller and Auditor General of Bangladesh, Journal & Audit Reports, <http://www.cagbd.org>
5. Transparency International Bangladesh, Corruption & Parliamentary Oversight: Primacy of the Political Will", <http://www.ti-bangladesh.org>

100: Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

75:

50: In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

25:

0: Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

59h. In practice, the audit agency is able to initiate its own investigations.

100 | 75 | 50 | 25 | 0

Comments:

The supreme audit institution can generally investigate, but due to human resource and technical constraints they were not able to complete their task timely. Again there are huge numbers of pending audit reports for discussion in the parliamentary standing committee.

Under the present caretaker government, which came into power Jan. 11, 2007, no national election was held during the study period. The next parliamentary election (Ninth Parliament) is scheduled for Dec. 18, 2008. The parliamentary standing committee is now absent until the next parliament.

References:

1. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Transparency International Bangladesh, Fact Finding Report on Comptroller & Auditor General Office, December 2002, www.ti-bangladesh.org
4. Office of the Comptroller and Auditor General of Bangladesh, Journal & Audit Reports, <http://www.cagbd.org>
5. Transparency International Bangladesh, Corruption & Parliamentary Oversight: Primacy of the Political Will", <http://www.ti-bangladesh.org>

100: The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

75:

50: The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

25:

0: The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

60. Can citizens access reports of the supreme audit institution?

58

60a. In law, citizens can access reports of the audit agency.

YES | NO

References:

Article 132 of the Constitution of Bangladesh provides that, The reports of the Auditor-General relating to the public accounts of the Republic shall be submitted to the president, who shall cause them to be laid before Parliament.” After all, it is a public document.

YES: A YES score is earned if all supreme auditor reports are available to the general public.

NO: A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

60b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

In Bangladesh, any kind of documents from government offices depend on personal connections and relationships with high-ranking officials or giving bribes. If the agency denies providing the required information or documents, the people are helpless.

There is no specific mechanism for appeal if they deny providing information. The Office of the Comptroller and Auditor General of Bangladesh posted the reports to their website, but the website is not updated.

References:

1. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Transparency International Bangladesh, Fact Finding Report on Comptroller & Auditor General Office, December 2002, www.ti-bangladesh.org
4. Office of the Comptroller and Auditor General of Bangladesh, Journal & Audit Reports, <http://www.cagbd.org>
5. Transparency International Bangladesh, Corruption & Parliamentary Oversight: Primacy of the Political Will”, <http://www.ti-bangladesh.org>

100: Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

75:

50: Reports take around two weeks to obtain. Some delays may be experienced.

25:

0: Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

60c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

In Bangladesh, any kind of documents from government offices depend on personal connections and relationships with high-ranking officials or giving bribes. If the agency denies providing the required information or documents, the people are helpless.

There is no specific mechanism for appeal if they deny providing information. The Office of the Comptroller and Auditor General of Bangladesh posted the reports to their website, but the website is not updated.

References:

1. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
2. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
3. Transparency International Bangladesh, Fact Finding Report on Comptroller & Auditor General Office, December 2002, www.ti-bangladesh.org
4. Office of the Comptroller and Auditor General of Bangladesh, Journal & Audit Reports, <http://www.cagbd.org>
5. Transparency International Bangladesh, Corruption & Parliamentary Oversight: Primacy of the Political Will", <http://www.ti-bangladesh.org>

100: Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

75:

50: Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

58. Is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

YES | NO

Comments:

The Office of the CAG is administratively under the executive branch, but is functionally independent.

References:

The Constitution of Bangladesh provides independence to the office of the Comptroller & Auditor General (CAG). Article 127 (1 & 2) of The Constitution of Bangladesh states, There shall be a Comptroller and Auditor-General of Bangladesh (hereinafter referred to as the Auditor General) who shall be appointed by the president. Subject to the provisions of this constitution and of any law made by parliament, the conditions of service of the Auditor-General shall be such as the president may, by order, determine.”

The Supreme Audit Institution (i.e., Office of the Comptroller and Auditor General of Bangladesh) was created in 1973. For more details, please visit <http://www.cagbd.org/>.

YES: A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

NO: A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

78
V-3. Taxes and Customs

62. Is the tax collection agency effective?

88

62a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Under the overall control of Internal Resources Division, NBR administers the Excise, VAT, Customs and Income Tax services consisting of 3,434 officers of various grades and 10,195 supporting staff positions.

References:

1. National Board of Revenue, <http://www.nbr-bd.org>
2. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

References:

1. National Board of Revenue, Government of the People s Republic of Bangladesh, <http://www.nbr-bd.org>
2. Ministry of Finance, <http://www.mof.gov.bd/>

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

65. Is the customs and excise agency effective?

88

65a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

References:

1. Transparency International Bangladesh, Diagnostic Study on Chittagong Custom House, June, 2008, www.ti-bangladesh.org
2. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008

100: The agency has staff sufficient to fulfill its basic mandate.

75:

50: The agency has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

References:

1. National Board of Revenue, Government of Bangladesh, <http://www.nbr-bd.org>
2. Ministry of Finance, Budget, <http://www.mof.gov.bd/>

100: The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

61. Is there a national tax collection agency?

100

61. In law, is there a national tax collection agency?

YES | NO

Comments:

The National Board of Revenue (NBR) is the central authority for tax administration in Bangladesh.

References:

1. President's Order No. 76 of 1972
2. The Finance Act, 1987
3. Taxes Act, 1931 (XVI of 1931)

YES: A YES score is earned if there is a national agency formally mandated to collect taxes.

NO: A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

63. Are tax laws enforced uniformly and without discrimination?

75

63. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | 50 | 25 | 0

References:

1. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Dhaka, Oct. 18, 2008
2. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008

100: Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

75:

50: Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

25:

0: Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

64. Is there a national customs and excise agency?

100

64. In law, is there a national customs and excise agency?

YES | NO

Comments:

Bangladesh customs officials are working under the umbrella of the National Board of Revenue (NBR). There are four customs houses and 30 active land customs stations for import and export activities and for passenger movement across Bangladesh. The customs department collects customs duty, supplementary duties, etc.

References:

1. President's Order No. 76 of 1972
2. Customs Act, 1969

YES: A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

NO: A NO score is earned if that function is spread over several agencies, or does not exist.

66. Are customs and excise laws enforced uniformly and without discrimination?

50

66. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | **50** | 25 | 0

Comments:

A complex and lengthy procedure at customs encourages corruption in Bangladesh.

Corruption has taken an institutional form in the customs department of Bangladesh. A win-win game exists in the customs house in Bangladesh where traders and customs officials benefit, whereas the government loses the revenue. On May 25, 2008, the joint forces (law enforcement agency) detained nine employees of the customs department on charges of irregularities and corruption. The present caretaker government has taken initiatives to reduce the corruption in the custom house, especially in Chittagong Custom House. Automation in customs procedure has been introduced in Chittagong Custom House.

References:

1. Transparency International Bangladesh, Diagnostic Study on Chittagong Custom House, June, 2008, www.ti-bangladesh.org
2. Interview with Md. Motiur Rahman, Joint Commissioner, Chittagong Customs House, Bangladesh, Oct. 18, 2008

100: Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

75:

50: Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

25:

0: Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?

60

68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.

YES | NO

References:

1. The Constitution of Bangladesh
2. Anti-Corruption Commission of Bangladesh

YES: A YES score is earned only if the agency, series of agencies, or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency, series of agencies, or equivalent mechanism is a subordinate part of any government ministry or agency.

68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

Under the present caretaker government, which came into power Jan. 11, 2007, no national election was held during the study period. The next parliamentary election (Ninth Parliament) is scheduled for Dec. 18, 2008. The parliamentary standing committee is now absent until the next parliament. The concerned ministry/department performs the oversight functions along with CAG office, but they have human resource constraints. For that they do not perform their oversight role effectively.

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Office of the Comptroller and Auditor General of Bangladesh, <http://www.cagbd.org>

100: The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

75:

50: The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency, series of agencies, or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Office of the Comptroller and Auditor General of Bangladesh, <http://www.cagbd.org>

100: The agency, series of agencies, or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency, series of agencies, or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

68d. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

Under the present caretaker government, which came into power Jan. 11, 2007, no national election was held during the study period. The next parliamentary election (Ninth Parliament) is scheduled for Dec. 18, 2008. The parliamentary standing committee is now absent until the next parliament. The concerned ministry/department performs the oversight functions along with CAG office, but they have human resource constraints. For that they do not perform their oversight role effectively.

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008

3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Office of the Comptroller and Auditor General of Bangladesh, <http://www.cagbd.org>

100: When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

75:

50: The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | 50 | **25** | 0

Comments:

The parliamentary standing committee is now absent until the next parliament comes to power after the December 2008 elections. The concerned ministry/department performs the oversight functions along with CAG office, but they have human resource constraints. For that they do not perform their oversight role effectively. There are huge numbers of pending audit reports for discussion in the parliamentary standing committee.

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Office of the Comptroller and Auditor General of Bangladesh, <http://www.cagbd.org>
5. Transparency International Bangladesh, Corruption and parliamentary Oversight: Primacy of the Political Will, Shaka, December 2006
6. Transparency International Bangladesh, Role of 8th Parliament to Institutionalize Democracy, Dhaka, February 2007

100: When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75:

50: The agency, series of agencies, or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency, series of agencies, or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency, series of agencies, or equivalent mechanism may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency, series of agencies, or equivalent mechanism may be partisan in its application of power.

69. Can citizens access the financial records of state-owned companies?

65

69a. In law, citizens can access the financial records of state-owned companies.

YES | NO

References:

Article 128, The Constitution of Bangladesh

YES: A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

NO: A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

69b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | 50 | 25 | 0

Comments:

Under the present caretaker government, which came into power Jan. 11, 2007, no national election was held during the study period. The next parliamentary election (Ninth Parliament) is scheduled for Dec. 18, 2008. The parliamentary standing committee is now absent until the next parliament. The concerned ministry/department performs the oversight functions along with CAG office, but they have human resource constraints. For that they do not perform their oversight role effectively. Most of the state-owned companies disclose financial data, but it is flawed sometime. The concerned ministry/department and CAG office enforces rules, but is limited in its effectiveness. There are huge numbers of pending audit reports for discussion in the parliamentary standing committee.

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Office of the Comptroller and Auditor General of Bangladesh, <http://www.cagbd.org>
5. Transparency International Bangladesh, Corruption and parliamentary Oversight: Primacy of the Political Will, Shaka, December 2006
6. Transparency International Bangladesh, Role of 8th Parliament to Institutionalize Democracy, Dhaka, February 2007

100: State-owned companies always publicly disclose financial data, which is generally accurate and up to date.

75:

50: State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, file the information behind schedule, or not publicly disclose certain data.

25:

0: Financial data is not publicly available, or is consistently superficial or otherwise of no value.

69c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Office of the Comptroller and Auditor General of Bangladesh, <http://www.cagbd.org>
5. Transparency International Bangladesh, Corruption and parliamentary Oversight: Primacy of the Political Will, Shaka, December 2006
6. Transparency International Bangladesh, Role of 8th Parliament to Institutionalize Democracy, Dhaka, February 2007

100: Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

75:

50: Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

25:

0: State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

69d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Few records are available online. In Bangladesh, the access to information depends on personal connections and relationships with high-ranking officials or giving bribes. If the agency denies providing the required information, the people are helpless. There is no specific mechanism for appeal if the government agency does not provide information.

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Office of the Comptroller and Auditor General of Bangladesh, <http://www.cagbd.org>
5. Transparency International Bangladesh, Corruption and parliamentary Oversight: Primacy of the Political Will, Shaka,

100: Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

75:

50: Records take around two weeks to obtain. Some delays may be experienced.

25:

0: Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | **50** | 25 | 0

Comments:

Few records are available online. In Bangladesh, the access to information depends on personal connections and relationships with high-ranking officials or giving bribes. If the agency denies providing the required information, the people are helpless. There is no specific mechanism for appeal if the government agency does not provide information.

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
3. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Oct. 10, 2008
4. Office of the Comptroller and Auditor General of Bangladesh, <http://www.cagbd.org>
5. Transparency International Bangladesh, Corruption and parliamentary Oversight: Primacy of the Political Will, Shaka, December 2006
6. Transparency International Bangladesh, Role of 8th Parliament to Institutionalize Democracy, Dhaka, February 2007

100: Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

75:

50: Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:

0: Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

67. Is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?

YES | NO

Comments:

Every public department and/or company is controlled by their line ministries. There is the office of Comptroller and Auditor General and Standing Committee on Public Accounts, which are responsible for monitoring all state-owned organizations.

References:

Articles 18 & 76, The Constitution of Bangladesh

YES: A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. State-owned companies are defined as companies owned in whole or in part by the government.

NO: A NO score is earned if this function does not exist, or if some state-owned companies are free from government oversight.

75
V-5. Business Licensing and Regulation

70. Are business licenses available to all citizens?

88

70a. In law, anyone may apply for a business license.

YES | NO

References:

1. The Constitution of Bangladesh
2. The Local Government (Union Parishads) Ordinance, 1983
3. The Company Act 1994

YES: A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

NO: A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required

70b. In law, a complaint mechanism exists if a business license request is denied.

YES | NO

References:

1. The Constitution of Bangladesh
2. The Local Government (Union Parishads) Ordinance, 1983
3. The Company Act 1994

YES: A YES score is earned if there is a formal process for appealing a rejected license.

NO: A NO score is earned if no such mechanism exists.

70c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | **75** | 50 | 25 | 0

Comments:

According to the Doing Business 2009" report, on average six days is required to get a trading license from the city corporation. However, the regulations and procedure can be unclear, inconsistent and complex. Lack of transparency may raise operational costs and time.

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
4. World Bank, Doing Business 2009

100: Licenses are not required, or licenses can be obtained within roughly one week.

75:

50: Licensing is required and takes around one month. Some groups may be delayed up to a three months

25:

0: Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

70d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | 50 | 25 | 0

Comments:

According to Doing Business 2009" report, an average 5,000 taka (US\$72) is required to get a trading license from the city corporation. However, the regulations and procedures can be unclear, inconsistent and complex. Lack of transparency may raise operational costs and time.

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008

100: Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

75:

50: Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

25:

0: Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

YES | NO

References:

1. The Constitution of Bangladesh
2. The Local Government (Union Parishads) Ordinance, 1983
3. The Company Act 1994
4. Brick Klin License Regulations, 1989, Dhaka, Bangladesh.
5. Department of Environment, GOB <http://www.doe-bd.org/>

YES: A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

YES | NO

References:

1. The Constitution of Bangladesh
2. The Local Government (Union Parishads) Ordinance, 1983
3. The Company Act 1994
4. Brick Klin License Regulations, 1989, Dhaka, Bangladesh.
5. Department of Environment, GOB, <http://www.doe-bd.org/>

YES: A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

YES | NO

References:

1. The Constitution of Bangladesh
2. The Local Government (Union Parishads) Ordinance, 1983
3. The Company Act 1994
4. Brick Klin License Regulations, 1989, Dhaka, Bangladesh.
5. Department of Environment, GOB <http://www.doe-bd.org/>

YES: A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

NO: A NO score is earned if such requirements are not made public or are otherwise not transparent.

72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

72a. In practice, business inspections by government officials to ensure public health standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008

100: Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008

100: Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

72c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | **50** | 25 | 0

References:

1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Oct. 18, 2008
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008

100: Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

75:

50: Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

25:

0: Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

Category VI. Anti-Corruption and Rule of Law

VI-1. ⁸²Anti-Corruption Law

73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

YES | NO

References:

1. Anti-corruption Commission Act, 2004
2. The Anti-Corruption Commission (Staffs) Service Rules 2008
3. Truth and Accountability Commission Ordinance 2008 (Swopronodito Tothoprokash Ordinance, 2008)
4. Article 161 of the Criminal Law Amendment Act 1958
5. Articles 161,162,163 of Penal Code 1860 (Act XLV of 1860)
6. Money Laundering Prevention Act (amendment), 2002
7. Money Laundering Prevention Ordinance 2008
8. Public Procurement Act (Amendment) 2007

YES: A YES score is earned if corruption laws include attempted acts.

NO: A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

YES | NO

References:

1. Anti-corruption Commission Act, 2004
2. The Anti-Corruption Commission (Staff) Service Rules 2008
3. Truth and Accountability Commission Ordinance 2008 (Swopronodito Tothoprokash Ordinance, 2008)
4. Article 403 of the Criminal Law Amendment Act 1958
5. Money Laundering Prevention Act (Amendment) 2002
6. Money Laundering Prevention Ordinance 2008
7. Public Procurement Act (Amendment) 2007

YES: A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

NO: A NO score is earned if this is not illegal.

73c. In law, offering a bribe (i.e. active corruption) is illegal.

YES | NO

References:

1. Anti-corruption Commission Act, 2004
2. The Anti-Corruption Commission (Staff) Service Rules 2008
3. Truth and Accountability Commission Ordinance 2008 (Swopronodito Tothoprokash Ordinance, 2008)

4. Article 161 of the Criminal Law Amendment Act 1958
5. Articles 161,162,163 of Penal Code 1860 (Act XLV of 1860)
6. Money Laundering Prevention Act (Amendment) 2002
7. Money Laundering Prevention Ordinance 2008
8. Public Procurement Act (Amendment) 2007

YES: A YES score is earned if offering a bribe is illegal.

NO: A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

YES | NO

References:

1. Anti-corruption Commission Act, 2004
2. The Anti-Corruption Commission (Staff) Service Rules 2008
3. Article 161 of the Criminal Law Amendment Act 1958
4. Articles 161,162,163 of Penal Code 1860 (Act XLV of 1860)
5. Money Laundering Prevention Act (Amendment), 2002
6. Money Laundering Prevention Ordinance 2008
7. Public Procurement Act (Amendment) 2007

YES: A YES score is earned if receiving a bribe is illegal.

NO: A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.

YES | NO

References:

1. Anti-corruption Commission Act 2004
2. The Anti-Corruption Commission (Staffs) Service Rules 2008
3. Truth and Accountability Commission Ordinance 2008 (Swopronodito Tothoprokash Ordinance, 2008)
4. Article 161 of the Criminal Law Amendment Act 1958
5. Articles 161,162,163 of Penal Code 1860 (Act XLV of 1860)
6. Money Laundering Prevention Act (Amendment) 2002
7. Money Laundering Prevention Ordinance 2008
8. Public Procurement Act (Amendment) 2007

YES: A YES score is earned if bribing a foreign official is illegal.

NO: A NO score is earned if this is not illegal.

73f. In law, using public resources for private gain is illegal.

YES | NO

References:

1. Anti-corruption Commission Act 2004
2. The Anti-Corruption Commission (Staff) Service Rules 2008
3. The Prevention of Corruption Act 1947
4. Truth and Accountability Commission Ordinance 2008 (Swopronodito Tothoprokash Ordinance, 2008)
5. Article 161 of the Criminal Law Amendment Act 1958
6. Articles 161,162,163 of Penal Code 1860 (Act XLV of 1860)
7. Money Laundering Prevention Act (Amendment) 2002
8. Money Laundering Prevention Ordinance 2008
9. Public Procurement Act (Amendment) 2007
10. Penal Code 1860 (XLV of 1860)
11. Foreign Exchange Regulation Act 1947 (VII of 1947)

YES: A YES score is earned if using public resources for private gain is illegal.

NO: A NO score is earned if this is not illegal.

73g. In law, using confidential state information for private gain is illegal.

YES | NO

References:

Sections 3,4,5,8 of the Official Secrets Act, 1923

YES: A YES score is earned if using confidential state information for private gain is illegal.

NO: A NO score is earned if this is not illegal.

73h. In law, money laundering is illegal.

YES | NO

References:

1. Anti-corruption Commission Act 2004

2. The Anti-Corruption Commission (Staff) Service Rules 2008
3. The Prevention of Corruption Act 1947
5. The Criminal Law Amendment Act 1958
6. The Penal Code 1860 (Act XLV of 1860)
7. Money Laundering Prevention Act (Amendment) 2002
8. Money Laundering Prevention Ordinance 2008
9. Public Procurement Act (Amendment) 2007
10. Foreign Exchange Regulation Act 1947 (VII of 1947)

YES: A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

NO: A NO score is earned if this is not illegal.

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

YES | NO

References:

1. Section 13 (a,b,c) of the Criminal Law Amendment Act 1958
2. Sections 161-166, 168, 217, 218, 420, 465-471, 477(A) of the Penal Code 1860
3. The Prevention of Corruption Act 1947
4. Anti-corruption Commission Act 2004

YES: A YES score is earned if organized crime is illegal.

NO: A NO score is earned if this is not illegal.

VI-2. Anti-Corruption Agency

75. Is the anti-corruption agency effective?

81

75a. In law, the anti-corruption agency (or agencies) is protected from political interference.

YES | NO

Comments:

Article 3(2) of the Anti-Corruption Commission Act 2004 states that the Commission shall be independent and impartial”.

References:

Anti-Corruption Commission Act 2004

YES: A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

NO: A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

The Anti-corruption Commission (ACC) is still dependent on the government for a budget; therefore the government can exercise a strong influence. It is necessary to make the ACC a constitutional body, which will prevent it from the dependency on the executive for budget and recruitment.

The reconstituted ACC is now more active, functional and efficient. Besides, it is sometimes alleged that ACC is influenced by the government to file the cases.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International, Global Corruption Report 2008, Section 7.3, page 181-6, Cambridge University Press, June 2008, <http://www.ti-bangladesh.org/>
3. The Daily Star, ACC to be Self-governed, Nov. 1, 2007
4. The New Age, Aug. 21, 2007
5. South Asia Analysis Group, Paper No. 2358, Sept. 5, 2007, <http://www.southasiaanalysis.org/papers24/paper2358.html>
6. The New Nation, Corruption can't be rooted over night, Aug. 27, 2007, <http://nation.ittefaq.com/issues/2007/08/27/news0457.htm>
7. The Financial Express, Jan. 30, 2008, http://www.thefinancialexpress-bd.com/search_index.php?page=detail_news&news_id=23885
8. Independent Bangladesh, July 8, 2008, <http://www.independent-bangladesh.com/200807087262/country/hasina-cases-stayed-for-two-months.html>
9. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008

100: This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information. .

75:

50: This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

75c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

Comments:

According to the section 10 of ACC, the job of the ACC commissioners is protected from removal without relevant justification. In practice, it depends on political commitment against corruption and ensuring good governance. The present caretaker government is trying to reform various institutions in order to establish good governance and curbing corruption.

In this backdrop, the ACC has also been reconstituted. The reconstituted ACC is now more active, functional, efficient and free from political influence. Sometimes it is alleged that ACC is influenced by the government to file the cases. It is still necessary to make the ACC a constitutional body which will prevent it from the dependency on the executive for budget and recruitment.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International, Global Corruption Report 2008, Section 7.3, page 181-6, Cambridge University Press, June 2008, <http://www.ti-bangladesh.org/>
3. The Daily Star, ACC to be Self-governed, Nov. 1, 2007
4. The New Age, Aug. 21, 2007
5. South Asia Analysis Group, Paper No. 2358, Sept. 5, 2007, <http://www.southasiaanalysis.org/papers24/paper2358.html>
6. The New Nation, Corruption can't be rooted over night, Aug. 27, 2007, <http://nation.ittefaq.com/issues/2007/08/27/news0457.htm>
7. The Financial Express, Jan. 30, 2008, http://www.thefinancialexpress-bd.com/search_index.php?page=detail_news&news_id=23885
8. Independent Bangladesh, July 8, 2008, <http://www.independent-bangladesh.com/200807087262/country/hasina-cases-stayed-for-two-months.html>
9. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008

100: The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

75:

50: The director(s) can in some cases be removed through a combination of official or unofficial pressure.

25:

0: The director(s) can be removed at the will of political leadership.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

100 | 75 | 50 | 25 | 0

Comments:

On Feb. 22, 2007, the caretaker government appointed Lt.Gen. (Retd.) Hasan Mashhud Chowdhury as a chairman and other two individuals as members, who are all known as men of high integrity and efficiency.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International, Global Corruption Report 2008, Section 7.3, page 181-6, Cambridge University Press, June 2008, <http://www.ti-bangladesh.org/>
3. The Daily Star, ACC to be Self-governed, Nov. 1, 2007
4. The New Age, Aug. 21, 2007
5. South Asia Analysis Group, Paper No. 2358, Sept. 5, 2007, <http://www.southasiaanalysis.org/papers24/paper2358.html>
6. The New Nation, Corruption can't be rooted over night, Aug. 27, 2007, <http://nation.ittefaq.com/issues/2007/08/27/news0457.htm>
7. The Financial Express, Jan. 30, 2008, http://www.thefinancialexpress-bd.com/search_index.php?page=detail_news&news_id=23885
8. Independent Bangladesh, July 8, 2008, <http://www.independent-bangladesh.com/200807087262/country/hasina-cases-stayed-for-two-months.html>
9. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
10. AFP, Dhaka, July 8, 2008, http://afp.google.com/article/ALeqM5hIG9E7S7jug0MaYz_i463ric0u2g
11. UNDP, Study on Sustainability Assessment of the ACC, Reconstituted ACC makes significant success, <http://www.theindependent-bd.com/details.php?nid=89940>
12. Holiday, Editorial, April 20, 2007, <http://www.weeklyholiday.net/2007/200407/edit.html>

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:

The present caretaker government is trying to reform various institutions in order to establish good governance and curbing corruption. In this backdrop, the ACC has also been reconstituted. The reconstituted ACC is now more active, functional, efficient and free from political influence. The ACC has professional full time staff, but not enough to carry out duties. Sometimes different cases show that the officials of the ACC have a lack of skills. To strengthen the workforce of the ACC, a revised organizational chart was approved by the government.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. The Daily Star, ACC to be Self-governed, Nov. 1, 2007
3. The New Age, Aug. 21, 2007
4. South Asia Analysis Group, Paper No. 2358, Sept. 5, 2007, <http://www.southasiaanalysis.org/papers24/paper2358.html>
5. The New Nation, Corruption can't be rooted over night, Aug. 27, 2007, <http://nation.ittefaq.com/issues/2007/08/27/news0457.htm>
6. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
7. AFP, Dhaka, July 8, 2008, http://afp.google.com/article/ALeqM5hIG9E7S7jug0MaYz_i463ric0u2g
8. UNDP, Study on Sustainability Assessment of the ACC, Reconstituted ACC makes significant success, <http://www.theindependent-bd.com/details.php?nid=89940>

100: The agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

25:

0: The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

75f. In practice, the anti-corruption agency (or agencies) receives regular funding.

100 | 75 | 50 | 25 | 0

Comments:

The revised budget of Anti Corruption Commission for the fiscal year 2006-07 & 2007-08 were Tk. 8, 97, 40,000 & Tk. 30, 48,33, 000, respectively.

References:

1. Ministry of Finance, Combined Demand for Grants 2007-2008, GOB, <http://www.mof.gov.bd/budget>
2. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
3. UNDP, Study on Sustainability Assessment of the ACC, Reconstituted ACC makes significant success, <http://www.theindependent-bd.com/details.php?nid=89940>

100: The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

75:

50: The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

25:

0: The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

75g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

Comments:

The chairman and deputy general of the ACC regularly meet the press and provide up-to-date information. Besides, the recent reports or updated information are available in its website (<http://acc.org.bd/>). The annual report 2007-2008 has been published in September 2008 and made it public. It is also available in its website.

References:

1. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 7, 2008

3. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
4. UNDP, Study on Sustainability Assessment of the ACC, Reconstituted ACC makes significant success, <http://www.theindependent-bd.com/details.php?nid=89940>
5. Anti Corruption Commission, <http://acc.org.bd/>

100: The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

75:

50: The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

25:

0: The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

The caretaker government has already amended the Anti- Corruption Act of 2004, and published the Anti-Corruption Commission Bidhimala (Rules) of 2007 to strengthen the ACC.

A large number of high-profile politicians, businessman, and bureaucrats, including two former prime minister have been questioned or detained and are awaiting trial. Some have already received sentences and/or been fined. The ACC is able to send a message to society that nobody is above the law.

To speed up the prosecution of the cases, special tribunals were established. Special taskforces were created to gather case evidence. The National Coordination Council (NCC) is also assisting the ACC in investigating and arresting the suspected corrupt persons.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. The Daily Star, ACC to be Self-governed, Nov. 1, 2007
3. The New Age, Aug. 21, 2007
4. South Asia Analysis Group, Paper No. 2358, Sept. 5, 2007, <http://www.southasiaanalysis.org/papers24/paper2358.html>
5. The New Nation, Corruption can't be rooted over night, Aug. 27, 2007, <http://nation.ittefaq.com/issues/2007/08/27/news0457.htm>
6. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
7. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 7, 2008
8. AFP, Dhaka, July 8, 2008, http://afp.google.com/article/ALeqM5hIG9E7S7jug0MaYz_i463ric0u2g
9. UNDP, Study on Sustainability Assessment of the ACC, Reconstituted ACC makes significant success, <http://www.theindependent-bd.com/details.php?nid=89940>

100: The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

75:

50: The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

25:

0: The agency (or agencies) lacks significant powers which limit its effectiveness.

75i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

Comments:

The present caretaker government is trying to reform various institutions in order to establish good governance and curb corruption. In this backdrop, the ACC has also been reconstituted. The reconstituted ACC is now more active, functional, efficient and free from political influence. The ACC has professional full time staff, but don't have enough to carry out duties. Sometimes different cases illustrate that the officials of ACC lack skills. To strengthen the workforce of ACC, a revised organizational chart was approved by the government.

The caretaker government has already amended the Anti-Corruption Act of 2004, and published the Anti-Corruption Commission Bidhimala (Rules) of 2007 to strengthen the ACC.

A large number of high-profile politicians, businessman, and bureaucrats, including two former prime ministers have been questioned or detained and are awaiting trial. Some have already received sentences and/or been fined. The ACC is able to send a message to society that nobody is above the law.

To speed up the prosecution of the cases, special tribunals were established. Special taskforces were created to gather evidence of the cases. The National Coordination Council (NCC) is also assisting the ACC in investigating and arresting the suspected corrupt persons.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. The Daily Star, ACC to be Self-governed, Nov. 1, 2007
3. The New Age, Aug. 21, 2007
4. South Asia Analysis Group, Paper No. 2358, Sept. 5, 2007, <http://www.southasiaanalysis.org/papers24/paper2358.html>
5. The New Nation, Corruption can't be rooted over night, Aug. 27, 2007, <http://nation.ittefaq.com/issues/2007/08/27/news0457.htm>
6. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
7. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 7, 2008
8. AFP, Dhaka, July 8, 2008, http://afp.google.com/article/ALeqM5hIG9E7S7jug0MaYz_i463ric0u2g
9. UNDP, Study on Sustainability Assessment of the ACC, Reconstituted ACC makes significant success, <http://www.theindependent-bd.com/details.php?nid=89940>

100: When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

75:

50: The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

References:

1. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 7, 2008
3. UNDP, Study on Sustainability Assessment of the ACC, Reconstituted ACC makes significant success, <http://www.theindependent-bd.com/details.php?nid=89940>
4. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008

100: The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

References:

1. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 6, 2008
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 7, 2008
3. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
4. UNDP, Study on Sustainability Assessment of the ACC, Reconstituted ACC makes significant success, <http://www.theindependent-bd.com/details.php?nid=89940>

100: Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

75:

50: Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

74. Is there an agency (or group of agencies) with a legal mandate to address corruption?

100

74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

YES | NO

References:

1. Anti-corruption Commission
2. Anti-corruption Commission Act 2004

YES: A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

NO: A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

⁷⁷
VI-3. Rule of Law

77. Is there an appeals mechanism for challenging criminal judgments?

67

77a. In law, there is a general right of appeal.

YES | NO

References:

1. The Constitution of Bangladesh
2. Judicial Service Commission Rules, 2007
3. The Supreme Court of Bangladesh (Appellate Division) Rules 1988
4. Justice Kazi Ebadul Hoque, Administration of Justice in Bangladesh, Dhaka, 2003.
5. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000.
6. Barrister M. Amir-UI Islam, Paper presented at the Seminar entitled "Judicial Reform and Independence of the Judiciary", Aug. 11, 2007

YES: A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

NO: A NO score is earned if there is no such process.

77b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | **50** | 25 | 0

Comments:

There is a huge pending case both in the lower and high courts, which take a long time for disposal of cases.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International, Global Corruption Report 2007, Berlin, <http://www.ti-bangladesh.org/GCR-07-Judiciary-Highlights1.pdf>
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, October 19, 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
5. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

100: Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

75:

50: Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

25:

0: Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | **50** | 25 | 0

Comments:

There is a huge pending case both in the lower and high courts, which takes a long time for disposal of cases and also encourages corruption.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International, Global Corruption Report 2007, Berlin, <http://www.ti-bangladesh.org/GCR-07-Judiciary-Highlights1.pdf>
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
5. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorneys fees are not a barrier to appeals.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorneys fees present somewhat of a barrier to pursuing appeal.

25:

0: The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorneys fees greatly discourage the use of the appeals process.

78. Do judgments in the criminal system follow written law?

75

78. In practice, do judgments in the criminal system follow written law?

100 | 75 | 50 | 25 | 0

Comments:

Judgments in the criminal system are made according to established legal code and conduct.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International, Global Corruption Report 2007, Berlin, <http://www.ti-bangladesh.org/GCR-07-Judiciary-Highlights1.pdf>
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
5. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
6. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

100: Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

75:

50: Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

25:

0: Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

79. Are judicial decisions enforced by the state?

75

79. In practice, are judicial decisions enforced by the state?

100 | 75 | 50 | 25 | 0

Comments:

On Dec. 19, 2006, the Supreme Court (SC) stayed the High Court (HC) verdict ordering the Election Commission (EC) to collect and make public some vital information including income and wealth statements of the candidates for general elections.

But the Election Commission has taken long time to implement the verdict. According to Section 111 of the constitution, any verdict of the HC is like a law and Section 112 provides that implementation of HC verdicts is mandatory.”

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International, Global Corruption Report 2007, Berlin, <http://www.ti-bangladesh.org/GCR-07-Judiciary-Highlights1.pdf>
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
5. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
6. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

100: Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

75:

50: Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

25:

0: Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

80. Is the judiciary able to act independently?

94

80a. In law, the independence of the judiciary is guaranteed.

YES | NO

References:

1. The Constitution of Bangladesh
2. Supreme Judicial Commission Ordinance 2008
3. Judicial Service Commission Rules 2007
4. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000.

YES: A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence include financial issues (drafting, allocation, and managing the budget of the courts).

NO: A NO score is earned if there are no formal rules establishing an independent judiciary.

80b. In practice, national-level judges are protected from political interference.

100 | 75 | 50 | 25 | 0

Comments:

National level judges are typically independent. On April 29, 2007, Laments Chief Justice Ruhul Amin told a gathering of lawyers that in Bangladesh's most respected institution, the judiciary has been politicized and the damage will take more than 20 years to repair.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International, Global Corruption Report 2007, Berlin, <http://www.ti-bangladesh.org/GCR-07-Judiciary-Highlights1.pdf>
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
5. Interview with G M Kader, former Member of Parliament (MP), Dhaka, Oct. 19, 2008
6. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
7. The Daily Jugantor, April 30, 2007

100: National level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

75:

50: National level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges may be demoted or relocated in retaliation for unfavorable decisions.

25:

0: National level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.

YES | NO

References:

1. The Constitution of Bangladesh
2. Judicial Service Commission Rules, 2007
3. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
4. Justice Kazi Ebadul Hoque, Administration of Justice in Bangladesh, Dhaka, 2003.
5. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000
6. Bangladesh Judicial Service (Formation of Service, Appointment, Promotion in the Service and Temporary Suspension and Removal) Rules, 2007
7. Bangladesh Judicial Service (Determination of Service Place, Controlling of Granting Leave, Maintaining Discipline and others Conditions of Employment) Rules, 2007

YES: A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

NO: A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

80d. In law, national-level judges are protected from removal without relevant justification.

YES | NO

References:

1. The Constitution of Bangladesh
2. Judicial Service Commission Rules, 2007
3. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
4. Justice Kazi Ebadul Hoque, Administration of Justice in Bangladesh, Dhaka, 2003.
5. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000

YES: A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

NO: A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

81. Are judges safe when adjudicating corruption cases?

100

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES | NO

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International, Global Corruption Report 2007, Berlin, <http://www.ti-bangladesh.org/GCR-07-Judiciary-Highlights1.pdf>
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

YES: A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES | NO

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International, Global Corruption Report 2007, Berlin, <http://www.ti-bangladesh.org/GCR-07-Judiciary-Highlights1.pdf>
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

YES: A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

NO: A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

82. Do citizens have equal access to the justice system?

61

82a. In practice, judicial decisions are not affected by racial or ethnic bias.

Comments:

Generally, judicial decisions are not affected by racial or ethnic groups. Corruption, irregularities and harassment exist in judiciary in Bangladesh irrespective of racial or ethnic consideration, so far. Sometimes it is alleged that the influential persons get the special treatment or benefit from judiciary. According to National Household Survey on Corruption 2007 conducted by TIB states that, corruption including undue political and executive interference is widespread in Bangladesh's justice system, especially in the lower courts. It is also characterized by prolonged judicial process and delayed delivery of justice to the all types of service recipients."

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International, Global Corruption Report 2007, Berlin, <http://www.ti-bangladesh.org/GCR-07-Judiciary-Highlights1.pdf>
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
5. Transparency International Bangladesh, National Household Survey on Corruption 2007, June 2008

100: Judicial decisions are not affected by racial or ethnic bias.

75:

50: Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

25:

0: Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

82b. In practice, women have full access to the judicial system.

Comments:

Generally, Women enjoy full and equal status in the eyes of the courts. Corruption, irregularities and harassment exist in judiciary in Bangladesh irrespective of gender, racial or ethnic consideration, so far.

Sometimes it is alleged that the poor people are suffered more in judiciary and influential persons get the special treatment or benefit from judiciary. According to National Household Survey on Corruption 2007 conducted by TIB states that, corruption including undue political and executive interference is widespread in Bangladesh's justice system, especially in the lower courts. It is also characterized by prolonged judicial process and delayed delivery of justice to the all types of service recipients."

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International, Global Corruption Report 2007, Berlin, <http://www.ti-bangladesh.org/GCR-07-Judiciary-Highlights1.pdf>
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

75:

50: Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

25:

0: Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

82c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

YES | NO

References:

1. The Constitution of Bangladesh
2. Judicial Service Commission Rules, 2007
3. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
4. Justice Kazi Ebadul Hoque, Administration of Justice in Bangladesh, Dhaka, 2003.
5. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000

YES: A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

NO: A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

82d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | 50 | 25 | 0

Comments:

State-provided legal aid is available, but inadequate. Legal aid is unavailable to some impoverished defendants.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International, Global Corruption Report 2007, Berlin, <http://www.ti-bangladesh.org/GCR-07-Judiciary-Highlights1.pdf>

3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

75:

50: State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

25:

0: State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | **50** | 25 | 0

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International, Global Corruption Report 2007, Berlin, <http://www.ti-bangladesh.org/GCR-07-Judiciary-Highlights1.pdf>
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. Attorneys fees do not represent a major cost to citizens.

75:

50: In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive. Attorneys fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents middle class citizens from filing suits. Attorneys fees are high enough to discourage most citizens from bringing a case.

82f. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | **50** | 25 | 0

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International, Global Corruption Report 2007, Berlin, <http://www.ti-bangladesh.org/GCR-07-Judiciary-Highlights1.pdf>
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorneys fees do not represent a major cost to small businesses.

75:

50: In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive. Attorneys fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents small businesses from filing suits. Attorneys fees are high enough to discourage most small businesses from bringing a case.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | 75 | 50 | 25 | 0

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International, Global Corruption Report 2007, Berlin, <http://www.ti-bangladesh.org/GCR-07-Judiciary-Highlights1.pdf>
3. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

75:

50: Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

25:

0: Courts are unavailable to some regions without significant travel on the part of citizens.

VI-4. Law Enforcement

83. Is the law enforcement agency (i.e. the police) effective?

58

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International Bangladesh, Study on Public Service Commission, Dhaka, March 22, 2007, http://www.ti-bangladesh.org/research/Full_BPSC_eng.pdf
3. Transparency International, Global Corruption Report 2007, Berlin, <http://www.ti-bangladesh.org/GCR-07-Judiciary-Highlights1.pdf>
4. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008
6. Interview with G M Kader, former Member of Parliament (MP), Dhaka, October 2008

100: Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

75:

50: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

25:

0: Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

83b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | 50 | 25 | 0

Comments:

The law enforcement agency includes police, RAB, Ansar, VDP, joint forces, etc., where police can play the vital role. Police are faced with the problem of inadequate logistic support like prison vans, vehicle, modern arms, etc.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International Bangladesh, Study on Public Service Commission, Dhaka, March 22, 2007, <http://www.ti->

3. Transparency International, Global Corruption Report 2007, Berlin, <http://www.ti-bangladesh.org/GCR-07-Judiciary-Highlights1.pdf>

4. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008

5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

6. Interview with G M Kader, former Member of Parliament (MP), Dhaka, October 2008

100: The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

75:

50: The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

25:

0: The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

83c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | **50** | 25 | 0

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008

2. Transparency International Bangladesh, Study on Public Service Commission, Dhaka, March 22, 2007, http://www.ti-bangladesh.org/research/Full_BPSC_eng.pdf

3. Transparency International, Global Corruption Report 2007, Berlin, <http://www.ti-bangladesh.org/GCR-07-Judiciary-Highlights1.pdf>

4. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008

5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

6. Interview with G M Kader, former Member of Parliament (MP), Dhaka, October 2008

100: The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

75:

50: The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

25:

0: The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

84. Can law enforcement officials be held accountable for their actions?

84a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

Comments:

The complaint form is available on the website of the police where anyone can make a complaint against the police. The concerned authority will take the necessary action in this regard.

References:

1. Police Act, 1861
2. Anti-Corruption Commission Act, 2004
3. Bangladesh Police, <http://www.police.gov.bd/sitemap.php>

YES: A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

NO: A NO score is earned if there is no such mechanism

84b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:

Bangladesh police introduced the Citizen Charter. Article 14(a) of the Citizen Charter of Bangladesh police says, after getting a written complaint against any police officer, the concerned higher authority is supposed to take necessary action against the accused officer and inform the applicant accordingly within 15 days."

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International Bangladesh, Study on Public Service Commission, Dhaka, March 22, 2007, http://www.ti-bangladesh.org/research/Full_BPSC_eng.pdf
3. The Daily Star, Bangladesh Police: Existing problems and some reform proposals, Oct. 14, 2006, <http://www.thedailystar.net/law/2006/10/02/index.htm>
4. Asian Development Bank, Better Policing, Tackling the problems besetting the Bangladeshi police services means overcoming a long history and great shortage of funding, http://www.adb.org/Documents/Periodicals/ADB_Review/2005/vol37-2/better-policing.asp
5. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

75:

50: The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

25:

0: The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

YES | NO

Comments:

Law enforcement agencies includes police, Rapid Action Battalion (RAB), BDR, Joint Forces, etc.

Every law enforcement agency can take departmental or ministerial action against corrupt practices of their officials. For example, under the Home Ministry, there is a Counter Intelligence Unit (CIU) in the police headquarters. It is responsible for collecting information against corrupt police officials across the country and taking necessary actions. The Anti-Corruption Commission can investigate and prosecute corruption committed by law enforcement agency (ies).

References:

1. The Police Act 1861
2. The Police Regulation of Bengal (PRB), 1943.
3. The Penal Code 1868, GOB
4. The Code of Civil Procedure, 1908, GOB
5. Anti-Corruption Commission Act, 2004, GOB

YES: A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

NO: A NO score is earned if no such agency/entity exists.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | 50 | 25 | 0

Comments:

Bangladesh police introduced the Citizen Charter. Article 14(a) of the Citizen Charter of Bangladesh police says, after getting a written complaint against any police officer, the concerned higher authority is supposed to take necessary action against the accused police and inform the applicant accordingly within 15 days.”

The present government is trying to implement reform programs in the police department. If irregularities are discovered against RAB or army personnel, the concerned department is aggressive in investigating the complaint and taking necessary action accordingly. The police department also starts the investigation, but its effectiveness is limited.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International Bangladesh, Study on Public Service Commission, Dhaka, March 22, 2007, http://www.ti-bangladesh.org/research/Full_BPSC_eng.pdf
3. The Daily Star, Bangladesh Police: Existing problems and some reform proposals, Oct. 14, 2006, <http://www.thedailystar.net/law/2006/10/02/index.htm>
4. Asian Development Bank, Better Policing, Tackling the problems besetting the Bangladeshi police services means overcoming a long history and great shortage of funding, http://www.adb.org/Documents/Periodicals/ADB_Review/2005/vol37-2/better-policing.asp
5. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

75:

50: The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

25:

0: The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

84e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

References:

1. The Police Act 1861
2. The Police Regulation of Bengal (PRB), 1943.
3. The Penal Code 1868, GOB
4. The Code of Civil Procedure, 1908, GOB
5. Anti-Corruption Commission Act, 2004, GOB

YES: A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

NO: A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | 50 | 25 | 0

Comments:

Law enforcement officers are subject to criminal investigation for official misconduct. In a few cases they may get undue advantage from their own department, but in many of the cases departmental actions were taken.

The present government is trying to implement reform programs in police departments. If irregularities are discovered against RAB or army personnel, the concerned department is aggressive in investigating the complaint and takes necessary action accordingly. There is a complaint form on the police website where anyone can submit a complaint to police officials. According to law, the concerned higher authority is supposed to take necessary action against the accused police officer and inform the applicant accordingly within 15 days. But in practice, its effectiveness is limited.

References:

1. Institute of Governance Studies, BRAC University, The State of Governance in Bangladesh 2008, Dhaka, Bangladesh, May 2008
2. Transparency International Bangladesh, Study on Public Service Commission, Dhaka, March 22, 2007, http://www.ti-bangladesh.org/research/Full_BPSC_eng.pdf
3. The Daily Star, Bangladesh Police: Existing problems and some reform proposals, Oct. 14, 2006, <http://www.thedailystar.net/law/2006/10/02/index.htm>
4. Asian Development Bank, Better Policing, Tackling the problems besetting the Bangladeshi police services means overcoming a long history and great shortage of funding, http://www.adb.org/Documents/Periodicals/ADB_Review/2005/vol37-2/better-policing.asp
5. Interview with Abu Zayed Mohammad, Advocate, Supreme Court of Bangladesh, Oct. 19, 2008
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 8, 2008

100: Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

75:

50: Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

25:

0: Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.
