

Bangladesh: Civil Society Report by Transparency International Bangladesh (TIB)

An input to the UNCAC Implementation Review Mechanism:
Fifth year of review of UNCAC Chapters II and V

14 November 2023

This is the executive summary of a civil society parallel report from October 2023 reviewing Bangladesh's implementation and enforcement of selected articles in UN Convention against Corruption (UNCAC) Chapters II (Preventive Measures) and V (Asset Recovery). The report was supported by the UNCAC Coalition and is intended as a contribution to the UNCAC peer review process of Bangladesh covering those two chapters. The full report is available on the UNCAC Coalition's website.¹

Bangladesh enacted the Anti-Corruption Commission Act in 2004. After acceding the UNCAC in 2007, the country adopted the Anti-Corruption Rules in 2007 to strengthen the legal framework, as well as other initiatives and strategies to strengthen the fight against corruption, including the 2012 National Integrity Strategy (NIS), the 2009 Right to Information Act, the 2011 Public Interest Information Disclosure (Provide Protection) Act, the 2008 Public Procurement Rules, and the amended 2012 Anti-Money Laundering Act, among others. However, implementation and enforcement of these initiatives and strategies remain weak.

Assessment of the Review Process

Did the government disclose information about the country focal point?	Yes	Not publicly disclosed, but disclosed when approached.
Was the review schedule published somewhere/publicly known?	Yes	Not publicly disclosed, but disclosed when approached.
Was civil society consulted in the preparation of the self-assessment checklist?	Yes	Four CSOs were invited in June 2023, only TI Bangladesh participated.

¹ The parallel report was published on the UNCAC Coalition website in October 2023: <https://uncaccoalition.org/uncacparallelreportbangladesh/>.

Was the self-assessment checklist published online or provided to civil society?	Yes	The draft was shared with TI Bangladesh. ²
Did the government agree to a country visit?	Yes	By May 2023, they made their first contact with the visitor country.
Was a country visit undertaken?	No	Not as of June 2023.
Was civil society invited to provide input to the official reviewers?	No	Not as of August 2023.
Was the private sector invited to provide input to the official reviewers?	No	Not as of August 2023.
Has the government committed to publishing the full country report?	No	Unclear as of August 2023.

Main Findings and Recommendations (R)

Preventive Anti-Corruption Bodies

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

R: *Ensure the independence and higher professional capacity of the ACC and free it from political and bureaucratic influence. Remove all predicaments created by various*

² The draft was shared in June 2023, yet not before, when the CSO approached authorities while preparing this report. When four CSOs were invited for consultation, only TIB participated and was provided with the draft country review report as well.

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

legal and policy amendments to compromise the jurisdiction, scope and operational flexibility of ACC.

Public Sector Employment

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

R: Ensure that the recruitment process of civil servants is free and fair and that public institutions including the bureaucracy and law-enforcement agencies are de-politicized.

Management of Public Finances

There is an elaborate institutional and legal framework for financial management. It also facilitates overseeing of financial policies and socio-economic and statistical management. However, studies found limitations in terms of transparency, participation, and reporting on the budget. Furthermore, the 'whitening' of black money continues: over successive years during budget preparations, there were concerns among civil society organizations about the legalization of income disproportionate to legitimate sources.⁴ This has been widely criticized by civil society and think tanks, calling it synonymous with rewarding a crime.⁵

R: Produce and publish in-year reports, mid-year reviews, and year-end financial budget reports on time. Enhance transparency and accountability in financial management; and abolish the provision of 'whitening' black money.

Reporting Mechanisms and Whistleblower Protection

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

⁴ The Business Standard, 2021. TIB outraged by Finance Bill option for whitening black money, <https://www.tbsnews.net/bangladesh/tib-outraged-finance-bill-option-whitening-black-money-268660>, accessed 7 March 2022.

⁵ United News of Bangladesh, 2022. BIDS economist opposes budget proposal to whiten black money, <https://unb.com.bd/category/Bangladesh/bids-economist-opposes-budget-proposal-to-whiten-blackmoney/95197>, accessed on 07 June 2022

R: *Organize awareness-raising campaigns for implementation of the whistleblower protection act.*

Public Procurement

In 2006 a robust Public Procurement Act was enacted, followed by the adoption of comprehensive Public Procurement Rules in 2008. The government subsequently introduced an electronic government procurement (E-GP) system. Nevertheless, the alleged ‘nexus among a section of officials within the procuring entity and the contractors’ hinders transparency and accountability in the procurement process.⁶

R: *Strengthen legal and institutional capacity to ensure integrity in public procurement at all levels by elimination of political and bureaucratic influence and syndication. Ensure universal application of the e-GP system for all categories volumes of procurement.*

Judiciary and Prosecution Services

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

R: *Make appointments of Supreme Court Judges by an independent body (e.g., a Supreme Judicial Council). Complete the process of full separation of the judiciary from executive and political influence. Ensure strict compliance with codes of conduct by all judicial officers including mandatory and updatable income and asset disclosures.*

Access to Information

The 2009 Right to Information (RTI) Act ensures access to public interest-related information, allowing citizens to demand and receive information from all public bodies and non-governmental organizations. The law and other legal instruments including regulations and guidelines created subsequently, provide fairly robust proactive disclosure of information by the entities under their jurisdiction. The Information Commission was established under the RTI Act, as an independent appeal authority to ensure that authorities respect the timeline of providing information and take action against unjustifiable denials of information requests. However, the benefits of the law remain difficult to observe, with laws like the Official Secrets Act and the controversial 2018 Digital Security Act undermining its effectiveness. There is a negative impression of RTI applicants among some government officials, and instances of harassment of RTI applicants.

⁶ The Daily Star (25 September 2020), Govt. Procurement Process Riddled with Corruption. <https://www.thedailystar.net/editorial/news/govt-procurement-process-riddled-corruption-1967021>, accessed on 18 June 2022.

R: Build capacity of all institutions to ensure proactive and on-demand disclosure of information and drive civic activism to enhance public interest and participation in the movement for access to information.

Measures to Prevent Money Laundering

The 2002 Money Laundering Prevention Act, amended in 2012 and 2015 followed by the adoption of the Money Laundering Prevention Rules in 2019,⁷ provides a potentially effective legal framework. The Bangladesh Financial Intelligence Unit (BFIU), with its membership in the Egmont Group, has access to a wide range of opportunities for international cooperation. Despite commendable institutional and legal preparedness, the level of implementation of these acts and rules is not regarded as encouraging, as illicit financial flows have been increasing in recent years.

R: Amend the 2017 version of the Anti-Money Laundering Act and Rules to enhance the Anti-Corruption Commission's (ACC) jurisdiction through inclusion of all items of the schedule of offences as provided in the 2012 version.

International Cooperation

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

R: Upscale professional skills and the effectiveness of institutions and agencies mandated to prevent and monitor illicit financial transfers. Increase greater cooperation and coordination between them with particular emphasis on repatriation of stolen assets, taking advantage of opportunities for international cooperation, including mutual legal assistance.

⁷ The 2015 amendment of the Act and subsequent Rules promulgated in 2019 forfeited 26 out of 27 scheduled items of money laundering related crimes from the jurisdiction of ACC which is widely considered to undermine the authority of the ACC to investigate such crimes. See: <https://www.ti-bangladesh.org/articles/press-release/6731>, <https://www.thedailystar.net/opinion/views/news/income-tax-act-2023-yet-another-mortal-blow-acc-3357051>, accessed on 27 August 2023.