

# **CORRUPTION AND PARLIAMENTARY OVERSIGHT: PRIMACY OF THE POLITICAL WILL<sup>\*</sup>**

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## **I. INTRODUCTION**

Corruption<sup>1</sup> is a global problem. It is nothing new, nor is it peculiar to any particular context. It exists in greater or lesser degree in all countries of the world, irrespective of political and economic system, big or small, developed or developing. Corruption is an insidious menace that breeds and increases injustice and poverty. It prevents development, undermines democracy and governance. Corruption prevents rule of law, distorts market and stifles economic growth. It creates and perpetuates social and economic deprivation and inequality, and leads to violation of basic constitutional and human rights. Corruption breeds crimes, social frustration, discontent and insecurity. It limits citizen's access to basic public services.

The inherent bias of corruption against the poor is widely acknowledged.<sup>2</sup> Corruption, by its very nature, is about undermining of fairness and competition, and about disproportionality and inequality. By limiting growth and development and discouraging investment corruption also reduces the scope and prospect of poverty reduction. In addition, while corruption affects everyone, the poor are more vulnerable especially because they are easy victims of bribery, extortion and intimidation.<sup>3</sup>

For Bangladesh corruption is a key national challenge. Whatever way corruption is looked at, it is a key obstacle to development and poverty reduction. It increases social injustice and human insecurity. What is striking about Bangladesh is that it is hardly ever that corruption is punished. On the contrary, corruption, especially political corruption, has become a convenient way to echelons of power. Given that politics is the other name of investment for making quick money, and in the absence of effective deterrence against corruption it has become so widespread that even the common citizens are affected by it, whether it is political corruption, or it is in the public service delivery

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<sup>1</sup> Corruption is defined as abuse of entrusted power for private gain. See, for more on the concept and implications of corruption, Iftekharuzzaman, "Corruption and Human Insecurity in Bangladesh", [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

<sup>2</sup> See, Ibid.

<sup>3</sup> Among many resources on corruption and poverty linkage, see for example, Sanjeev Gupta, Hamid Davoodi and Rosa Alonso-Terme, "Does Corruption Affect Income Inequality and Poverty?" IMF working paper, 1998; World Bank, "Voices of the Poor Programme"; Transparency International, *Global Corruption Barometer 2003*, Berlin, 2003. Deepa Narajan, Raj Patel et al, "State Institutions in Voices of the Poor: Can Anyone Hear Us?" World Bank / Oxford University Press, 2000.

sectors such as health, education, police, local government, land administration, etc. Corruption must be fought comprehensively and strategically.

Success of anti-corruption efforts is a function of the degree of the strength, independence and effectiveness of key institutions of the national integrity system like the parliament, the executive, the law enforcement agencies, the judiciary, the anti-corruption commission, and the media. The lead must be taken by the public representatives, especially members of the parliament who should develop their own self-regulatory mechanisms and set examples for others to follow.

Within fifteen years of restoring parliamentary democracy, the Parliament of Bangladesh - as the key institution for establishing democracy, good governance and an effective national integrity system - faces a huge credibility crisis. Confrontational politics and a “winner takes all” attitude have led to a situation that “boycott” of successive sessions – an act unprecedented in the annals of parliamentary democracy - has been imposed as a regular practice in Bangladesh. Even when they are not formally boycotting the sessions, Members of the Parliament are hardly serious about attending the sessions. Absenteeism and delayed attendance are so common that on a number occasions during the 8<sup>th</sup> Parliament at least 5 bills had to be passed without the necessary quorum.<sup>4</sup> Most importantly, as it will be evident from what follows here, the Parliament is fast losing its capacity to deliver in terms of its responsibility to establish accountability of the Government.

Against this background this paper is an attempt to examine if and to what extent the Parliamentary Committees of the Bangladesh Parliament has been effective in playing their vital role of holding the Government accountable so that corruption could be effectively controlled. The paper is based on analyses of the parliamentary proceedings and review of the reports of the Parliament Watch series produced by Transparency International Bangladesh since the first session of the 8<sup>th</sup> Parliament and other relevant secondary literature. Experiences and practices in other relevant countries and contexts have been reviewed for a comparative purpose. It also draws heavily on the feedback from a series of local level consultations with citizens groups that the authors had in a process of sharing the findings of the Parliament Watch Report 2005.

## **II. WHY SHOULD THE POLITICIANS BE CONCERNED?**

Political will of the leadership at various levels is critical to fighting corruption in any context for both driving a reform programme and in leading by example. Champions of reform must demonstrate commitment from a wide variety of constituencies including building of anti-corruption

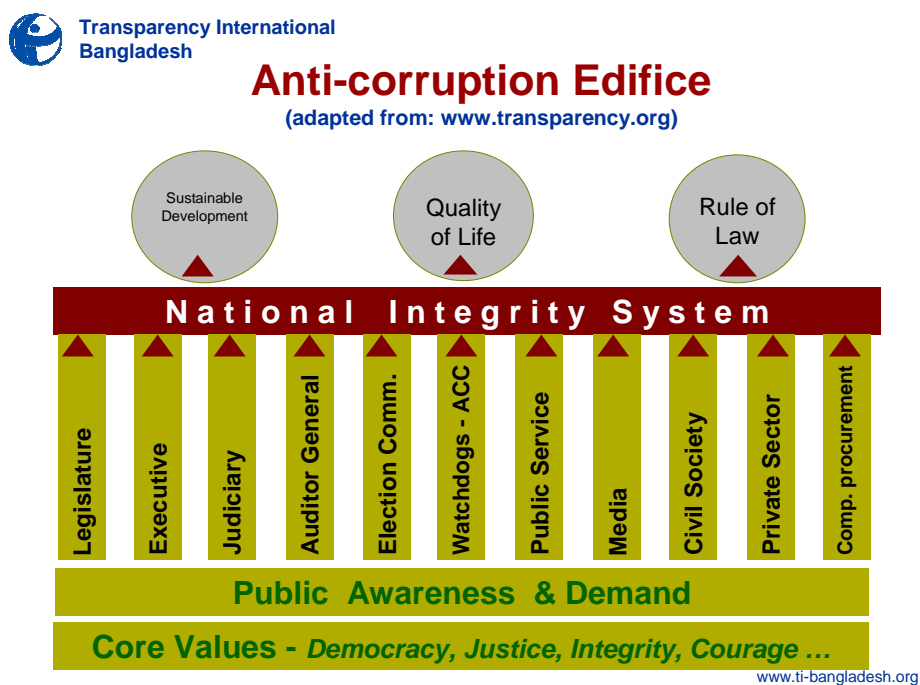
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<sup>4</sup> Transparency International Bangladesh, reports of the *Parliament Watch* series.

constituency at the grassroots. Political will and the preparedness to take firm action are so critical that in its absence no other anti-corruption measure can bring sustainable results.

**The National Integrity System**

The National Integrity System (NIS) is the sum total of the institutions and practices within a given country that address aspects of maintaining the honesty and integrity of government and private sector institutions. Any attempt to address corruption effectively and sustainably must be based on a holistic approach, involving each of these institutions in concert. Ad hoc reforms are unlikely to succeed.



The NIS is like a Greek Temple – it rests on public awareness & demand, and society’s core values – the stronger are these, the firmer is the foundation. At the roof is the nation’s integrity held by a series of mutually reinforcing pillars. The three balls on the roof emphasize that the roof must be kept level, failing which they can roll off. Pillars are interdependent, but may be of differing strengths from society to society. There can even be trade-offs in some cases. For instance, in Singapore restricted media freedom is compensated by efficient civil service and highly effective anti-corruption bureau. Each pillar needs some core tools, e.g., media must be backed by freedom of information law, civil society must have the legal space to organize itself and articulate its demand.

*The National Integrity System: Basic Rules of the Game*

Pillar	Rules of the Game
Parliament	<i>Fair Elections, Code of Ethics, Conflict of Interest Rules, Effective Committees</i>
Judiciary	<i>Independence, Integrity</i>
Auditor General	<i>Independence, Public Reporting &amp; Debate</i>
Anti-Corruption Commission/Ombudsman	<i>Independence, Capacity, Enforceable Law</i>
Election Commission	<i>Independence, Integrity, Capacity</i>
Public Service	<i>Non-partisan, Professional, Code of Ethics</i>
Media	<i>Freedom of Information Law, Integrity</i>
Civil Society	<i>Freedom of speech, Conducive Environ, Whistleblower Protection</i>
Private Sector	<i>Competition, Openness, Integrity – Publish What you Pay, Corporate Social Responsibility</i>
Procurement System	<i>Transparent &amp; accountable Procurement Law, including Conflict of Interest rules</i>

**Effective Parliament**

While the pillars are interdependent, each contributing to the strength of the other, the role of an effective parliament is *sin qua non* for the NIS to function effectively. Elected parliaments can be at the forefront of the fight against corruption. An elected parliament has the legitimacy, responsibility and the means to hold the executive accountable. The legislative body as a whole and the standing committees in particular, acting as people’s representatives are expected to ensure that the government, its various ministries and departments follow rules and procedures of transparency, accountability and efficient governance. They are also in a position to investigate allegations of corruption and recommend appropriate preventive as well as punitive measures. The extent to which a Parliament can deliver on such counts depends again on the political will at the highest level and on how effective the parliament itself is.<sup>5</sup>

The Parliament and the Parliamentarians are the bridge between the state and society. The Parliamentarians are expected to play the most important role in promoting and strengthening the values and practices of accountability, transparency and participation. Accountability is the degree to which a government can be compelled to explain or justify what it has done or failed to do with

<sup>5</sup> On effectiveness of the Bangladesh Parliament, see Transparency International Bangladesh, *ParliamentWatch* (4 Reports released during 2002-5).

respect to commitments made at the time of being elected to power. The parliament, acting on behalf of the citizens, have the responsibility and capacity to hold the government accountable. They can do so through legislative debates, articulating citizen feedback and strengthening democratic institutions including the media. But above all they can do so by establishing effectively and independently functioning committee systems without political bias and fear or favour to anybody.

To be sure, it is not only Bangladesh where the parliament fails to meet expectations in terms of controlling corruption. The results of the Transparency International's Global Corruption Barometer 2006<sup>6</sup> show that political parties and parliaments are perceived to be most affected by corruption.<sup>7</sup> The results are consistent with those of the Barometers in 2005 and 2004, and the lack of improvement is disappointing. The perception of parties and parliaments as most corrupt reinforces the view that governments are not on the whole acting effectively in fighting corruption. Rather, they themselves are seen to be a part of the problem, creating a dynamic in which they actually encourage corruption in a country.

Accountability can be established when a healthy balance of power exists between the key organs of the state – executive, legislature and judiciary, when each can discharge its designated functions effectively and when no one takes absolute control. The same balance is required between levels of government from the national to the local. Any imbalance of power invites fatal risks for not only accountability but also good governance. On a wider plane, accountability needs healthy balance of power between the state, civil society, the corporate sector and international actors with no one among them being in a position of extraordinary control.

A vital prerequisite for transparency is the availability of accurate and timely information. To be able to hold the government accountable for its actions or inactions the citizens must know what to expect from their government. Transparency, as a precondition itself for accountability and good governance, also requires that the roles and responsibilities of and between the various institutions that are part of the government and governance process are clearly delineated.

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<sup>6</sup> The Global Corruption Barometer 2006 is one of TI's key global tools for measuring corruption. The public opinion focus complements the Corruption Perceptions Index (CPI) and Bribe Payers Index (BPI). The CPI and BPI reflect the opinions of experts and business leaders, and focus on the perception of public sector and political corruption, and the supply side of bribery, respectively. The Global Corruption Barometer 2006, now the fourth in the series, reflects the findings of a survey of 59,661 people in 62 low, middle and high-income countries. The survey was carried out on behalf of TI by Gallup International, as part of its Voice of the People Survey, between July and September 2006.

<sup>7</sup> The police are also viewed rather poorly, a result which coincides with the findings of many other studies worldwide that the police are the institution most likely to be bribed around the world. Identifying parties, parliaments and police as corrupt throws into question some of the most representative and authoritative institutions in a society, and puts at risk their capacity to perform credibly with any degree of transparency and integrity.

## **Political Costs of Corruption**

Politicians appear to benefit from corruption, but in real terms and ultimate analysis corruption is highly damaging for politics and expensive for politicians. It affects quality of governance. In fact between governance and corruption there is an egg-n-chicken relationship – governance failure leads to corruption and in turn corruption leads to further failure in governance. But there is no doubt that when corruption gets deeper and wider the legitimacy and credibility of the political process become more and more undermined. Fighting corruption must be a concern for politicians because, it:

- Leads to substitution of personal or group interests for political interests, principles, values and commitments;
- Erodes government's capacity to implement and enforce laws and policies;
- Undermines the image of politicians and credibility of politics, increasingly associated with profiteering and black money;
- Encourages politics for business and pecuniary interests, limits it for the rich and makes politics difficult for clean and credible people;
- Undermines public trust in government, politicians and political institutions and processes, especially in the public representatives, elections and election processes;
- Increases politicization and undermining of the national integrity system, especially the key institutions like the bureaucracy and public service, law-enforcing institutions like police, and the judiciary;
- Encourages concentration of power in embedded network(s) based on patronage, cronyism, nepotism and favouritism;
- Undermines political competition and reduces the space for political participation;
- Creates and widens gap and disconnect between politicians and the people leading to increased suffering of the latter and disillusionment about politics;
- Impedes the development and sustainability of an open and democratic political system and process; and finally
- Politics becomes synonymous with personal and group patronage rendering elections into an exercise of patron-client relationship and delivery of direct benefits to powerbase and constituents, rather than a credible choice for representing public interests.

## **III. PARLIAMENTARY OVERSIGHT IN BANGLADESH: Institutional Provisions and Practices**

Apart from their primary role of law-making, the Members of the Parliament, as elected representatives of the people, have the highly important oversight responsibility and authority to ensure transparency in the functioning of the Government and take measures against irregularities and corruption in public transactions. This oversight function for accountability of the Government to the people, to be discharged by the Parliamentary Committees, follows from Article 7 of the Constitution which vest all powers of the Republic on the people. The Parliamentary Committees, by

exercising their oversight function over the Government not only prevent corruption and irregularities and ensures transparency, but also uphold the fundamental principle of democracy that the Government is accountable to the people for its policies and actions.

### **Standing Committees: Formation, Composition, Role**

The parliamentary oversight role is designed to prevent unlimited exercise of power of the executive branch and establish the sovereignty of the people under whose authority the government enjoys the legitimacy in general and the right to spend public resources in particular. The Parliament is a public institution, where the constituents raise their concerns and voices through their representatives, in ensuring accountability of the state agencies for establishing good governance<sup>8</sup>. It is through the Parliamentary Committees that the Members of the Parliament as representative of the people exercise this oversight function. Parliamentary committees are a constitutionally mandated system of facilitating law making and overseeing how the executive exercises its role according to the law.

In Bangladesh the formation, composition, status, functions and obligations are drawn from Article 76 of the Constitution<sup>9</sup> and the Parliamentary Rules of Procedures<sup>10</sup>. Provisions have been made for the following four main categories of Committees:

- Public Accounts Committee
- Committee of Privileges
- Committee on Rules of Procedure, and
- Standing Committees on Ministries

Among the various categories of Committees the Public Accounts Committee and the Standing Committees on Ministries are directly mandated to discharge the oversight functions.<sup>11</sup>

Functions of the Committees as defined by the Constitution are to:

- a) examine draft Bills and other legislative proposals;
- b) review the enforcement of laws and propose measures for such enforcement;
- c) in relation to any matter referred to it by parliament as a matter of public importance, investigate and inquire into the activities or administration of a Ministry and may require it to

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<sup>8</sup> Magdy Martinez Soliman, “The Committee System in Western Parliaments: A comparative Study Case”, A UNOPS Background Paper.

<sup>9</sup> Government of Bangladesh, Ministry of Law, Justice and Parliamentary Affairs, *The Constitution of the People’s Republic of Bangladesh*, (As modified up to 31<sup>st</sup> May, 2000), pp. 30-31.

<sup>10</sup> Bangladesh Parliament, *Rules of Procedure of Parliament of the People’s Republic of Bangladesh* (As modified upto 10<sup>th</sup> June 1977), Chapter XXVII.

<sup>11</sup> We are focusing in this paper mainly on the Public Accounts Committee and Standing Committees on various Ministries.



furnish, through an authorized representative, relevant information and to answer questions, orally or in writing;

d) perform any other function assigned to it by Parliament.

Parliament may by law confer on committees appointed under this article powers for –

- a) enforcing the attendance of witnesses and examining them on oath, affirmation or otherwise;
- b) compelling the production of documents.

The Constitution also provides for the establishment of the office of the Ombudsman, which could also play a vital oversight role. Article 77 says: The Parliament may, by law, provide for the establishment of the office of the Ombudsman. In elaborating its functions the article says:

- The Ombudsman shall exercise such powers and perform such functions as Parliament, by law, determine including the power to investigate any action taken by a Ministry, a public officer or a statutory authority; and
- The Ombudsman shall prepare an annual report concerning the discharge of his functions, and such report shall be laid before Parliament.

### ***Meetings, reporting and follow-up:***

Each Standing Committee shall meet at least once in a month<sup>12</sup>, a rule that has been scarcely followed by most of the Committees. There is no fixed time-line for conclusion of work on specific agenda items or references made to the Committee, which is a significant bottleneck against speedy, timely and meaningful discharge of the functions of the Committee. Even within the limitation, however, Rule 209 (1) provides that “Where the House has not fixed any time for the presentation of the report by a Committee, the report shall be presented within one month of the date on which reference to the Committee was made, provided that the House may at any time, on a motion being made, direct that the time for presentation of the report by the Committee be extended to a date specified in the motion”.

In terms of unfinished work, the Rule of Procedure no 216 provides that a Committee which is unable to complete its work before the expiration of its term or before the dissolution of the House may report to the House that the Committee has not been able to complete its work. Any preliminary report, memorandum or note that the Committee may have prepared or any evidence that the Committee may have taken shall be made available to the new Committee. There is no evidence of this continuity provision being effectively utilized which is vital for accountability and transparency of the successive Governments. As it will be evident from what follows here, the performance of our Parliament lags far behind even in terms of the other two fairly generous provisions mentioned above.

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<sup>12</sup> Bangladesh Parliament, *The Parliamentary Rules of Procedure*, Rule 248.



## Standing Committee on Public Accounts

As regards the Standing Committee on Public Accounts (PAC), which is generally considered to be the most important committee in terms of oversight role the same provisions and limiting factors mentioned above are applicable. One exception, as already mentioned is that the maximum number of Committee members in this case is 15<sup>13</sup>. The functions of the Committee shall be the examination of accounts showing the appropriation of the sums granted by the House for the expenditure of the Government, the annual finance accounts of the Government and such other accounts laid before the House as the Committee may think fit. Upon examination of irregularities and lapses of Institutions, the Committee shall report to Parliament with recommendation of remedial measures.<sup>14</sup>

The PAC is directly responsible and authorized to scrutinize the Appropriation Accounts of the Government and the report of the Comptroller and Auditor-General thereon. The Rules of Procedure provides that in doing so, it shall be the duty of the Committee to satisfy itself<sup>15</sup> -

- a) that the moneys shown in the accounts as having been disbursed were legally available for, and applicable to, the service or purpose to which they have been applied or charged;
- b) that the expenditure conforms to the authority which governs it; and
- c) that every re-appropriation has been made in accordance with the provisions made in this behalf under rules framed by competent authority.

It shall also be the duty of the Committee -

- a) to examine the statement of accounts showing the income and expenditure of state corporations, trading and manufacturing schemes, concerns and projects together with the balance-sheets and statements of profit and loss accounts which the President may have required to be prepared or are prepared under the provisions of the statutory rules regulating the financing of a particular corporation, trading or manufacturing scheme or concern or project and the report of the Comptroller and Auditor-General thereon;
- b) to examine the statement of accounts showing the income and expenditure of autonomous and semi-autonomous bodies, the audit of which may be conducted by the Comptroller and Auditor-General of Bangladesh either under the directions of the President or by a statute of Parliament; and
- c) to consider the report of the Comptroller and Auditor-General in cases where the President may have required him to conduct an audit of any receipts or to examine the accounts of stores and stocks.

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<sup>13</sup> *Rules of Procedure, op.cit*, Rule 234.

<sup>14</sup> *Rules of Procedure, op. cit.*, Rule 233.

<sup>15</sup> *Ibid.*

If any money has been spent on any service during a financial year in excess of the amount granted by the House for that purpose, the Committee shall examine with reference to the facts of each case the circumstances leading to such an excess and make such recommendation as it may deem fit. The performance of the PAC, given the same limitations, remains far from the expected level, as will be evident below.

#### **IV. EXPERIENCE IN OTHER DEMOCRACIES:**

The main source and strength of the Parliamentary Committee in terms of their effectiveness lies in the Constitutional provisions and practices thereof. This is the hallmark of Parliamentary democracy. Even in other types of democracies like the US where state power is seemingly vested in one power centre - the President, the Constitution makes the Committees of the House of Representatives so powerful that they could even impeach the President if required. So the key issue is a healthy balance of power between the executive and the people.<sup>16</sup>

In Indian parliament apart from Standing Committee, there are three financial committees - Public Accounts Committee which examines the appropriation accounts and other accounts laid before the House, Public Estimation Committee that examines the estimates of the various accounts for suggesting alternative policies and examining while all the financial provisions are consistent with policy. Thirdly Public Undertaking Committee to see whether the business is going to take place in accordance with the sound business principles. The committees examine the financial procedures and send report to the House as examination proceeds.

In case of India and UK the chairperson of the PAC is drawn from among the most prominent members of the opposition. For department or ministry-related committees the chairpersons are generally divided between government and opposition by agreement. The selection process of the Chairperson in the UK and Indian parliament is a testimony to the highly important role of the Speaker who nominates them. In UK the members propose a panel of names for consideration of the Speaker who then selects the Chairman from the list. In the US the chairpersons of the committees are elected by the secret ballot.

In India a Committee can make a special reference signed by the Chairperson to the Speaker on any matter if considered important to bring it into the notice of the House. It then becomes

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<sup>16</sup>Suranjit Sengupta, "Committee Systems in Asia", *Bangladesh Institute of Parliamentary Studies*, Bangladesh Parliament Legislative information Centre. <http://www.parliamentofbangladesh.org>

obligatory to fix a time for presentation of the referred subject or report to the House within one month of the date on which reference to the Committee was made.

In the Indian and Australian system disregarding the recommendations of the Committee obliges the Minister to provide explanations for not implementing the Committee's decision. In Australia within three months of placing a report to the floor the concerned Minister has to give the explanations of the procedural steps taken by his/her Ministry on the basis of the report. Disregarding the recommendations of the Committee further obliges the Minister to provide explanations for not implementing the committee's decision. Same is the time-line for ministerial response regarding follow-up actions in many other cases like the Cayman Islands. In some countries such as Papua New Guinea, New Zealand, Uganda and South Africa, the Committees frequently travel around the country with the reports on Committees' work for face-to-face meeting with citizens.

Whether and to what extent proceedings and debates in the Committees should be held in secrecy is a long-drawn debate. There are instances both for and against. The Indian Lok Shobha does not permit media in Committees sessions. In the UK the Select Committees publicize their deliberation but if there is any amendment it is not made public. However if the Chairperson of the Committee prefers debate on any issue, time can be allocated as such. The deliberations in all cases are public but the meeting is usually held in close doors. In the US House of Representatives the public hearings of the committees are telecast live. The Australian House of Representatives conducts the ordinary Committees' meetings in close doors. The Swedish and the Spanish Assembly permit the journalists to be present in the committees' sessions. The Proceedings of the parliamentary standing committees are open in other countries like Canada, South Africa, and Cayman Island.<sup>17</sup>

In Canada, a member of Parliament who is not a member of a committee may participate in the proceedings but may not vote or be counted in the quorum or move motion. All committee meetings except those held in camera are broadcast live over the internet in both official languages. Televised meetings are also broadcast through public and private channel. The minutes are published online as soon as possible after a meeting. The committee may ask the Government to respond to its recommendations within 120 days after the presentation of the report.

The Constitution of South Africa requires the involvement of the public in parliamentary procedures. Thus, South African parliamentary committees are open to the public and the media.

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<sup>17</sup> Barry, Alda, "Role of the Committee System in the United Kingdom", *Bangladesh Institute of Parliamentary Studies*, Bangladesh Parliament Legislative information Centre.  
[http://www.parliamentofbangladesh.org/IPS\\_Committee\\_Conference/ips-17\\_panel2barry.htm](http://www.parliamentofbangladesh.org/IPS_Committee_Conference/ips-17_panel2barry.htm).

Their aim is to consider all legislation carefully, so that executives should be held accountable, and to allow adequate public participation.

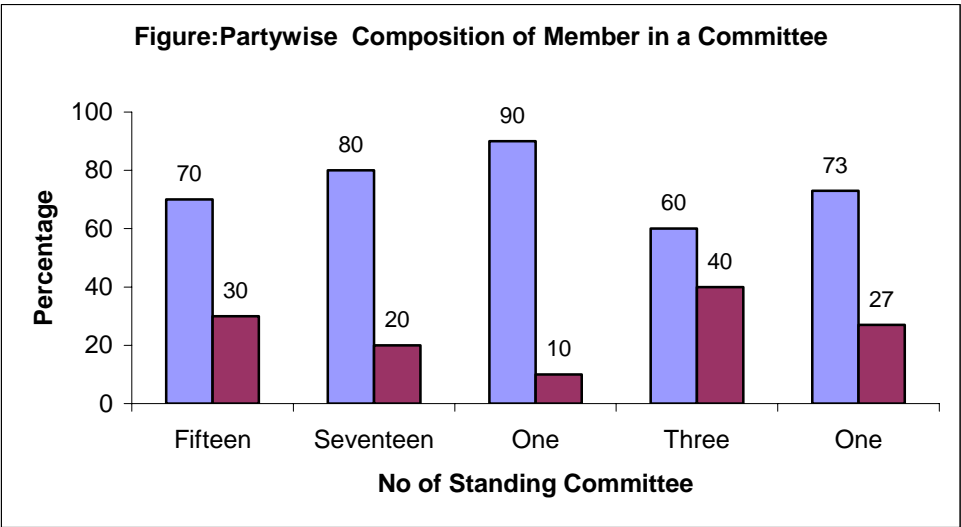
## **V. THE PARLIAMENTARY COMMITTEES IN BANGLADESH: Have they made any difference?**

In view of the above review we proceed in this section to examine if and to what extent the Parliamentary Committees in Bangladesh have made any difference in terms of their lofty goals and commitments.

### ***Formation, composition, procedures and practices:***

As regards priority and urgency about the Committees, the 1972 Constitution was very clear when the Article 76.1 provided that the Committees be formed by the Parliament “At its first meeting in each session”. This provision was later omitted under the Fourth Amendment Act of 1975 Act II of 1975, s.11. Consequently the time-bound nature of the Parliament’s obligation was lost, as a result of which, formation of the Committees have become a matter of goodwill causing long delays, in some cases more than a year and a half.

All Standing Committees are composed of 10 members, except the Standing Committee on Public Accounts which has 15. There is no specific provision with regard to party-wise distribution in the composition, or about representation of the opposition in the Committees which is one of the most important means of making the Committees vibrant and effective. The chart below shows the party-wise composition of the Standing Committees in the 8<sup>th</sup> Parliament, which may be justifiably argued to reflect the composition of the Parliament itself. However, there is no denying that such composition is not consistent with the underlying objective of ensuring lively, balanced and effective debate and investigation into allegations of corruption and other deviations from the rule.



Chairmen of all Standing Committees in the 8<sup>th</sup> Parliament were from the Treasury Bench. Until the amendment of Rules of Procedure no 247 on October 6, 1997, a Minister used to be the ex-officio chairman of the Standing Committee on his/her ministry. The amendment provided that Members including the Chairman shall be appointed by the House, “Provided that a Minister shall not be the Chairman of the Committee. If a member, after being elected as Chairman ... is appointed as Minister, he shall cease to be the chairman of the Committee from the date of such appointment”.<sup>18</sup> This has to be viewed as a positive step. However, other predicaments to effective functioning of the Committees remain. This is particularly important because all committees have a permanent character after formation until the dissolution of the parliament though it can be reconstituted when necessary, like appointment of a member of a committee as a Minister or to accommodate a member who has been elected in a by-election.

Chairpersons of the Committees are selected by the House while the members of the committees are generally selected by the speaker. The Minister-in-Charge or if there is no Minister, the Minister of State, or if there be no Minister of State, Deputy Minister of a Ministry, shall be the ex-officio member of the Committee provided that he is a Member of Parliament and in case he is not a Member of Parliament he may remain present in the meeting of the Committee and take part in the proceedings but shall abstain from voting. This provision is a potential entry point for conflict of interest, and is indeed inconsistent with Rule 188 (2), which provides that “No member shall be appointed to a Committee who has a personal, pecuniary or direct interest in any matter may be considered by that Committee.”

<sup>18</sup> *Rules of Procedure, op.cit.*, paragraph 234.

The *Explanation* provided in the Rule is that “interest of the members should be direct, personal or pecuniary and separately belong to the person whose inclusion in the Committee may be objected to and not in common with the public in general or with any class or section thereof or on a matter of State policy. In view of strong possibility of prevalence of the type of conflict of interest underlying the spirit of this rule, even the provision of the relevant minister’s membership in the standing committee on his/her ministry curtails the space for objectivity, impartiality and effectiveness of the committee’s work.

The rule 248 of Rules of Procedure of Parliament states that each standing committee shall meet at least once in a month and the functions of a committee shall be to examine any Bill or order matter referred to it by parliament, to review the works relating to a Ministry which falls within its jurisdiction, to inquire into any activity or irregularity and serious complaint in respect of the Ministry and to examine, if it deems fit, any such other matter as may fall within its jurisdiction and to make a recommendations. Provided that if for any reason the meeting of a committee is not called in accordance with these rules, the Speaker may direct the Secretary to call a meeting of that committee and the Secretary shall convene a meeting of the committee at a date, time and place fixed by the Speaker<sup>19</sup>.

A TIB monitoring of the working of the 8<sup>th</sup> Bangladesh Parliament shows that<sup>20</sup> most of committees were not able to meet the mandatory meeting requirement, which is a violation of Rules of Procedure. It was further observed that most of the Standing Committees<sup>21</sup> were formed after about 18 months of the first sitting of 8<sup>th</sup> parliament (12<sup>th</sup> May and 15<sup>th</sup> July 2003). The Committees were supposed to meet at least 41 and 39 times respectively according to the rules of procedure. Only about 13 percent or 5 out of 38 Committees met 39 and more times which means nearly 87 percent of the Committees violated the rule. Even, in a meeting, the presence of the member of standing committee was not satisfactory. The rate of attendance in meetings held were also not at par with the importance of the work of the Committees – in the Committees on ministries the average number of members present was 6 person, while in the public accounts committee, the average attendance of member’s were 8.73<sup>22</sup>.

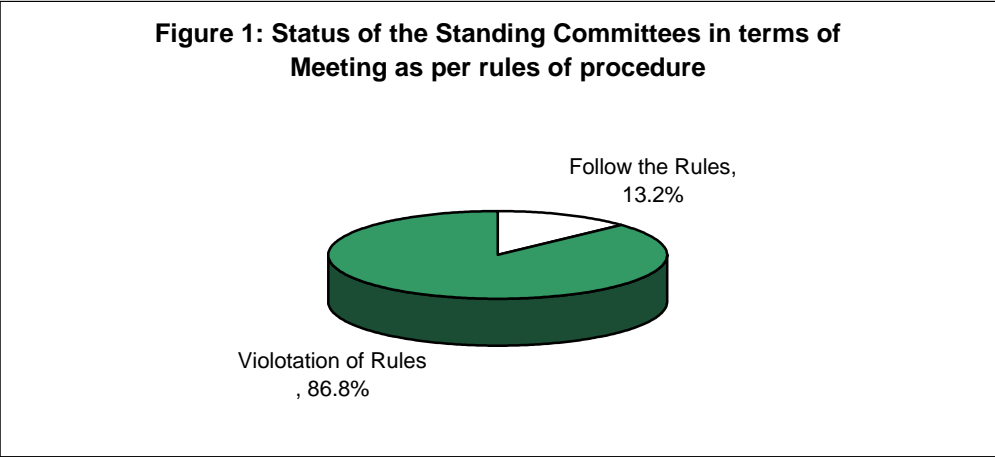
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<sup>19</sup> Rule 248, Rules of Procedure of Parliament of the Republic’s of Bangladesh.

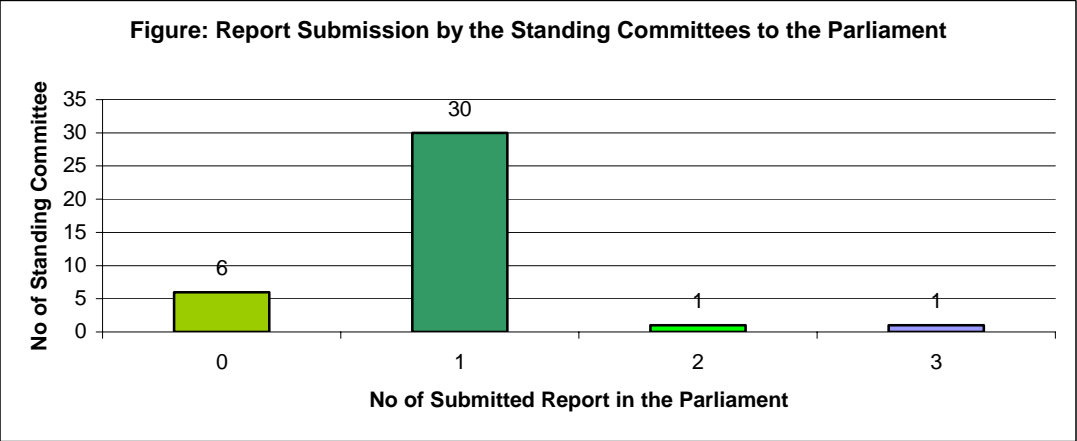
<sup>20</sup> Forthcoming Parliament Watch Report entitled “ 8<sup>th</sup> parliament in Bangladesh”, Transparency International Bangladesh

<sup>21</sup> In this paper, we consider Standing Committee of different Ministries and Public Accounts Committee

<sup>22</sup> Please see Annex 1 for more details



Most of the Committees failed to meet the reporting requirement as per Rules of Procedure. Six out of thirty eight Standing Committees did not submit any report in the 8<sup>th</sup> parliament whereas only one Standing Committee submitted three reports and another Standing Committee submitted two reports. Notably, most of submitted reports – nearly 77 percent – were submitted during towards the closing months of the Parliament – June to October 2006.<sup>23</sup> According to the Rules of Procedure regarding submission of reports by the parliamentary committees as mentioned earlier, these submissions cannot be termed as adequate. On the contrary, it could reflect lack of seriousness and presence of stake in ensuring that no follow-up debate or action can be taken.



**Examples of Specific Investigations**

Available information and evidences on the work of the Committees further reveal that most of the committees could not make any significant contribution in terms of investigation against corruption or other irregularities of different ministries under their jurisdiction. For example, two sub

<sup>23</sup> Please see Annex 1 for more details



committees were formed to investigate irregularities and corruption charges brought against the former Communications Minister in relation to import of CNG three-wheeled scooters and awarding route permits and leasing out government land to businessmen for setting up of CNG refueling station. One was the sub-committee headed by Nadim Mostofa from Treasury Bench to investigate irregularities and corruption in importing CNG three wheelers and awarding route permits and the other committee was headed by Mahamudul Huq Rubell also from Treasury Bench to investigate the allegations relating to the leasing out of government land to businessmen for setting up of CNG refueling station. These two committees were formed in January and February 2004 respectively and they were supposed to submit their reports within one month but these two sub-committees did not submit their report though they were granted five extensions of time-limit for the submission of the report. There are many reasons that the parliamentary committees did not play active role, such as, reluctant attitude of ministers, secretaries and other officials to join parliamentary committee and meetings, to provide the committees with necessary documents<sup>24</sup>.

### **An Overwhelmed Public Accounts Committee**

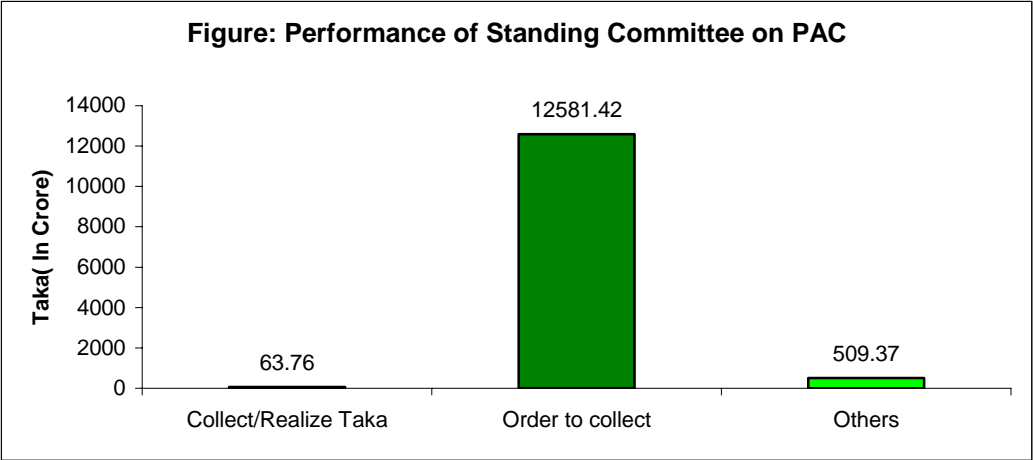
Public Accounts Committee met the rule 248 of the Rules of Procedure, and held 46 meetings during 31<sup>st</sup> July 2003 to 15<sup>th</sup> October 2006. However, they were also able to achieve very little in terms of outcome. In the 8<sup>th</sup> Parliament, during July 2003 to February 2005 the PAC held 25 meetings on 15 ministries, and were able to discuss 149 audit objections. The money involved in these 149 audit objection reports were Taka 13,154 crore 54 lakhs. Out of this, it was possible to collect/realize Taka 63.76 crore only and while unrealized due amount was Taka 12,581 crore 42 lakhs.<sup>25</sup> From the first Parliament to April 2004, Public Accounts Committees were able to discuss only 20.7% audit reports<sup>26</sup>.

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<sup>24</sup> Views of many chairman of standing committees in a open discussion entitled “ Promotion of Better Understanding amongst Parliamentary Committees and Ministers of the Government”, 1<sup>st</sup> March 2005, organized by UNDP under SPD project

<sup>25</sup> Parliament Watch 2005, Transparency International Bangladesh; Bangladesh National parliament, 1<sup>st</sup> Report of the Standing Committee on Public Accounts, November 2005.

<sup>26</sup> Bangladesh National parliament, 1<sup>st</sup> Report of the Standing Committee on Public Accounts, November 2005



**Parliamentary Committees in the 8<sup>th</sup> Parliament: Good for nothing?**

Under UNDP’s “Strengthening Parliamentary Democracy” project, an open discussion was held on 1<sup>st</sup> March 2005 to review the problems faced by the Committees and ways and means of strengthening their role. Nearly half of the chairmen of Standing Committees attended it. The chairman of different standing committee identified a number of reasons that did not allow the Committees to emerge as ‘real’ agents of accountability. Speaking at an open discussion, the Chairmen of different Committees identified non-cooperation of the ministers and high officials of various ministries as the main impediment. The Chairman of the Standing Committee on the communication ministry, for instance, informed that his committee came under pressure from the government high-ups when it began to probe irregularities and corruption of the ministry. Even, some senior ministers met the prime minister to amend the rules of procedure 247, he added. The Chairman of the Standing Committee on Defence told the meeting “Even though the Committee takes decisions and make recommendations in presence of ministers, the recommendation are not implemented.” He termed the parliamentary committees as “good-for-nothing”. The chairman of Public Undertaking Committee informed that they send letters to the ministers at least 15 days before any meeting but the minister declines to attend showing various reasons. He asked the Speaker “If there is no effectiveness of the Standing Committees, then why should we waste public money by arranging meetings?” Some chairmen of the Standing Committees suggested amendment of the rules of procedure and/or Constitution by making it mandatory that Ministries are bound to carry out the Committees’ recommendation within 90 days and be held accountable for not carrying out the recommendations.

Source: *The Daily Star*, March 2, 2005, UNDP, *Strengthening Parliamentary Democracy Newsletter*, Jan-June 2005,

## Practice of Secrecy

Another limiting factor is the practice of secrecy about the proceedings of the Committees. Rule 199 provides that “the sittings of the Committee shall be held in private”. Rule 201 provides that “all *strangers* to withdraw when Committee deliberates”. Accordingly “all persons other than member of the Committee and officers of the Parliament Secretariat shall withdraw whenever the Committee is deliberating”. This provision reflects the culture of secrecy dominating the high echelons of the Government and political leadership. Its debilitating implications for the effectiveness of the committees’ is further compounded by the limitation imposed on the power of the Committee to seek information and document. Rule 203 provides that “Government may decline to produce a document on the ground that its disclosure would be *prejudicial to the safety and interest of the State*”. In the absence of clarity about who will be regarded as *strangers*, and who will determine what is prejudicial and on what basis to the safety and interest of the State, it leaves a huge grey area to limit the scope of objectivity, comprehensiveness and transparency of the proceedings.

The examples of countries like Canada and South Africa as mentioned earlier should provide strong arguments for review of the provisions that limit the scope of transparency. At least some degree of openness to other stakeholders such as media and participation of members of the parliament who are not in the Committee could be a basis to commence reform.

## VI. RECOMMENDATIONS

The above analyses have brought forward the challenges faced by the Parliament of Bangladesh, especially the Parliamentary Committees to play their crucial role of overseeing. It also denotes the embedded weaknesses in the system that largely depends on the priority set by political motivations and overpowering partisanship. Conscious of the very complicated nature of politics and the primacy of political will, the following recommendations are put forward for consideration of all concerned.

- All political parties aspiring to be represented in the parliament must make a firm political pledge to make the Parliamentary Committees effective;
- They must be committed to the formation of all Committees in the first session, at least within three months thereof;
- They should also make a firm political commitment against the practice of boycott, absenteeism and delayed attendance in the sessions of the parliament;
- The office of the Parliamentary Ombudsman as provided in the Constitution must be appointed without delay;
- A Parliamentary Code of ethics should be adopted and enforced with special emphasis on conflict of interest and declaration of assets and interest;

- Members of the Parliament who do not disclose and update their assets and liabilities in a Parliamentary Register of Interests should be barred from becoming members of the Parliamentary Committees.
- Article 70 of the Constitution which prevent floor crossing has outlived its relevance and must be reviewed to ensure objectivity and integrity of the parliamentary practice;
- Chairpersonship of the Standing Committees should rest with the opposition bench to the extent possible, no less than 50 percent of all Committees including the Public Accounts Committee and those of key ministries;
- The proceedings as well as the deliberation of the Committees should be made public; wider participation of other stakeholders especially media;
- In the spirit of balance, vibrancy, objective and effectiveness of the Committees the Treasury Bench should do more than offering a proportional representation of membership as per the composition of the Parliament;
- Rule 188 (2) must be strictly observed to ensure that no member shall be appointed to a Committee who can bring conflict of interest on matters to be addressed by the Committee;
- Members of the Parliament should be committed to take interest in the business of the parliament rather than affairs of administration in their constituencies which is one of the main source of corruption and restricted scope of parliamentary oversight thereof;
- There should be a “Committee of Committees” to undertake periodic evaluation of the performance of the Parliamentary Committees and their oversight functions;
- It needs to be asked whether there are too many Committees, and whether it is necessary to have as many Committees as ministries. Instead the parliament could institute mechanisms for bringing the government to account on selected priority areas and set examples of action taken and best practices which can then be followed by others;
- The process of budget preparation and execution must be made transparent and participatory so as to ensure safeguards against misuse of public funds and resources. The powers of the parliamentary committees, especially public accounts committee must be further enhanced and freed from partisan influence;
- Develop and institutionalize a process of de-politicization of the administration so as to ensure that only the most competent persons with high degree of integrity and morality are appointed to public office. Establish conflict of interest standards for the government employees and effective mechanisms to prevent illicit enrichment including deterrent sanctions against the violators; and
- Finally, the politicians should themselves realize their own stake in fighting corruption, and hence encourage the public to reject and hate corruption, corrupt politicians and corrupt political practices so that the embedded network of corruption is eliminated; and to that effect provide legal and judicial protection to individuals and institutions involved in fighting corruption.

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Annex: Work of Parliamentary Standing Committees in the 8<sup>th</sup> Parliament

Standing Committee on the Ministry of	No. of Meetings	<sup>27</sup> No. of submitted Report	Submission Month of the REport	Average Member's Attendance per meeting <sup>28</sup>	Composition of member in a Committee <sup>29</sup> (%)		No. of Decisions made <sup>30</sup>	Decision Implemented (%) <sup>31</sup>
					Govt.	Opp.		
Agriculture	39	1 (36)	Aug. 06	7	70	30	197	NA
Civil Aviation and Tourism	27	1(25)	Sep. 06	5	80	20	80	NA
Commerce	26	0		6	70	30	78	NA
Communication	17	1(15)	June 06	7	80	20	84	NA
Cultural Affairs	31	1 (29)	Sep. 06	NA	80	20	142	NA
Defense	33	3 (32)	May. 05, Feb. 06, Sep.06	6.36	80	20	125	16
Education	35	1(30)	July 06	6.5	90	10	180	67
Youth and Sports	20	1(18)	Sep. 06	6	70	30	96	53
Women and Children Affairs	22	0		8	80	20	76	NA
Water Resources	22	1(21)	Sep. 06	6	80	20	69	NA
Textile and Jute	15	0		6.08	60	40	56	NA
Social Welfare	26	1(25)	Sep. 06	NA	70	30	95	NA
Shipping	31	1(29)	Sep. 06	8.09	60	40	138	NA
Science and ICT	17	1(15)	Sep. 06	5	70	30	52	NA
Religious Affairs	32	1(27)	NA	7	60	40	237	50
Post and Tele Communication	25	2(23)	Sep. 06	7.88	80	20	95	NA
Primary and Mass Education	39	1(35)	June 06	6.8	70	30	215	37
Power, Energy and Mineral Resources	43	1(43)	Sep. 06	6	80	20	147	NA
Planning	20	1(19)	Sep. 06	6.2	80	20	63	NA
LGRD	23	1(13)	Feb. 05	6.4	70	30	80	NA
Liberation War	16	1(13)	NA	6	70	30	86	NA
Land	25	1(22)	June 06	5.66	70	30	124	NA
Labor and Employment	20	1(17)	Sep. 06	7	80	20	62	NA
Law, Justice and Parliamentary Affairs	48	1(46)	Sep. 06	7	80	20	120	NA
Industry	34	1(31)	NA	5.92	70	30	118	NA
Information	20	1(20)	Sep. 06	5	70	30	78	NA
Housing and Public Works	28	0	NA	7	80	20	113	NA
Home	16	0	NA	6.85	80	20	51	NA
Hill Tracts	27	1(24)	June 06	NA	80	20	NA	NA
Health and Family Planning	38	1(35)	Sep 06	4.68	70	30	217	55
Forest and Environment	28	1(23)	Aug. 06	6.6	60	40	122	NA
Foreign Affairs	23	1(21)	Sep. 06	6.1	80	20	58	NA
Fisheries	27	1(23)	Aug.06	6	70	30	NA	NA

<sup>27</sup> The figures in parenthesis indicate the number of meetings upto October 2006.  
<sup>28</sup> Upto December 2005.  
<sup>29</sup> All committee on ministries consist of 10 member except standing committee on Public Accounts which consists of 15 members.  
<sup>30</sup> Upto December 2005.  
<sup>31</sup> Upto December 2005.

&Livestock								
Finance	21	1(21)	Oct. 06	7.41	70	30	69	NA
Expatriate welfare and Overseas Employment	30	1(28)	Sep. 06	7.3	70	30	139	43
Establishment	21	0	NA	NA	80	20	NA	NA
Food and Disaster Management	17	1(15)	Sep. 06	6.8	80	20	55	36
Public Accounts	46	1(25)	Nov. 05	8.73	73	27	NA	NA

Note: All Standing Committees on ministries were formed on 15<sup>th</sup> July 2003 except that on Ministry of Defence; Women & Children Affairs; Textile and Jute; Religious Affairs; Law, Justice and Parliamentary Affairs and Standing Committee on Public Accounts, which were formed on 12<sup>th</sup> May 2003.