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## **BANGLADESH (Section 7.3, pp. 181-6)**

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Corruption Perception Index 2007: 2.0 (162<sup>nd</sup> out of 180 countries)

### **Conventions**

ADB-OECD Anti-Corruption Action Plan for Asia-Pacific (endorsed November 2001)

UN Convention against Corruption (accession February 2007)

### **Legal and institutional changes**

- The Public Procurement Act, passed on 6 July 2006, provided comprehensive legal provisions to prevent corruption and promote competition on a level playing field. The Manual of Office Procedure (Purchase), inherited from the colonial era and last revised in 1977, previously laid down methods for procurement in the public sector. The caretaker government engaged various stakeholders, including TI Bangladesh, to review the new procurement rules.<sup>1</sup> A public-private review committee on public procurement was formed on 28 May 2007 to assess the impact of the new law, but had yet to start functioning at the time of writing.

- In February 2007 the government amended the Criminal Procedure Code Ordinance, the final step towards re-establishing the independence of the judiciary (see *Global Corruption Report 2007*).<sup>2</sup> The legislation had been postponed more than 20 times since 1999, when the Supreme Court first ruled in favour of greater separation between the judiciary and the executive branch of government. According to the judgment, the separation of the judiciary would only be complete

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<sup>1</sup> TI Bangladesh recommendations were aimed at strengthening the new rules' conflict of interest dimension, stricter compliance with anti-corruption policy, and the introduction of social accountability by engaging citizens in various processes and levels. TI Bangladesh also argued for instituting a code of conduct for the public procurement authority, with clear delineation of enforcement indicators.

<sup>2</sup> *Daily Ittefaq* (Bangladesh), 8 February 2007.

when four rules came into effect.<sup>3</sup> On 7 May the Supreme Court accepted an amendment to the Judicial Service Pay Commission Order and directed the government to complete the process of the separation of the judiciary by 19 July. This was also the deadline for the government to create a number of courts, courtrooms and chambers for judges and magistrates.

- In a related move, the government established a financial intelligence unit (FIU) in March 2007 to combat financial crimes, and retrieve assets and money laundered overseas.<sup>4</sup> Established within the framework of the amended Money Laundering Prevention Ordinance of 2007, the FIU will operate as part of the central bank's anti-money laundering department. Government sources said the FIU will play a key role in recovering the large sums of money siphoned off through political corruption.<sup>5</sup>

- The Anti-Corruption Commission (ACC), set up in February 2004 (see *Global Corruption Report 2006*), remained ineffectual for several reasons, including political bias and lack of commitment by its three government-appointed commissioners. Its jurisdiction was seriously limited by rules that prevented access to banking, finance, money laundering, foreign exchange records and the activities of multinational corporations. In the Anti-Corruption Act 2004 these items were not included in the schedule and the Commission's freedom was further curtailed by government control of its budget and administrative powers. On 22 February 2007 the caretaker government appointed three individuals of integrity to replace the original commissioners. With the support of a joint task force of military officers, the new ACC embarked on a high-profile, anti-corruption drive, publishing on 18 February a list of 50 individuals suspected of corruption, including ministers, lawmakers, politicians and businessmen (see below).<sup>6</sup> On 7 March Tarique Rahman, son of former Prime Minister Begum Khaleda Zia, was arrested.<sup>6</sup> The most common allegations were disproportionate wealth, extortion, abuse of power and the plunder of relief goods. Twelve former ministers and MPs were allegedly involved in an extortion worth over Tk320 million (US \$4.7 million) from various companies and construction projects.<sup>7</sup> On 29 March, the ACC filed a case against former housing and public works minister, Mirza Abbas, and 11 engineers for selling 18 abandoned houses at lower than market prices, costing the government

<sup>3</sup> These rules are the Judicial Service Commission Rule 2002; Bangladesh Judicial Service Pay Commission Rule 2002; the Bangladesh Judicial Service (Service Constitution, Composition, Recruitment, Suspension, Dismissal and Removal) Rule 2002; and Bangladesh Judicial Service (Posting, Promotion, Leave, Control, Discipline and other Service Condition) Rule 2001.

<sup>4</sup> *Daily Star* (Bangladesh), 23 March 2007. See also [www.thedailystar.net/2007/03/23/d7032301033.htm](http://www.thedailystar.net/2007/03/23/d7032301033.htm).

<sup>5</sup> Insert reference here.

<sup>6</sup> *BBC News*, (UK) 8 March 2007.

<sup>7</sup> *New Nation* (Bangladesh), 31 May 2007.

about Tk1.3 billion (about US \$18 million).<sup>8</sup> On 4 July a tribunal sentenced former state minister for civil aviation, Mir Mohammad Nasiruddin, to 10 years imprisonment for illegally accumulating wealth and three more years for hiding assets worth Tk6.7 million (almost US \$100,000) in his wealth declaration to the ACC.<sup>9</sup>

- The Election Commission was reconstituted on 5 February 2007 after the replacement of controversial commissioners with a reputation for eroding public trust.<sup>10</sup> It subsequently embarked on a series of consultations for the reform of election rules, aimed at creating a more equal playing field free from corruption and the influence of black money. The proposals being discussed include: mandatory registration of political parties; transparency of party funding; holding local and national elections for party leadership; reservation of one-third of leadership positions for women; disbarment of those found guilty of corruption; de-linking professional and student bodies from partisan politics; computerised voter lists; provision of ‘no votes’<sup>11</sup>; and barring of candidacy for election for government officials for three years.

- The Micro-Credit Regulatory Authority Act was passed in July 2006 and will facilitate the establishment of an institutional mechanism to ensure transparency and accountability in the operation of organisations offering micro-credit. Despite a large scale growth in micro-financing in Bangladesh, there had previously been no regulatory framework for this sector. The Act requires all micro-financing institutions, including non-profit organisations, cooperatives, societies and profit-making companies, to obtain a licence from the authority established by the Act. The authority is an independent legal entity managed by a board of directors comprised of the governor of the Bank of Bangladesh and six government officials.

### **Taking care of corruption**

Bangladesh is exploring a unique opportunity to reverse the acute failure of governance and pervasive corruption that has bedevilled it for many years. The loss to bribery in five public service delivery sectors was estimated at 7.9 percent of household income in 2005.<sup>12</sup>

<sup>8</sup> *New Nation* (Bangladesh), 28 March 2007; *Daily Star* (Bangladesh), 29 March 2007.

<sup>9</sup> *Daily Star* (Bangladesh), 5 July 2007.

<sup>10</sup> See *Daily Star* (Bangladesh), 22 January 2007, 1 February 2007 and 5 February 2007.

<sup>11</sup> ‘No vote’ is a provision for negative voting so a voter can express an unwillingness to accept any of the proposed candidates as a representative if he/she feels that none is eligible. In the event that the number of ‘no votes’ cast is a majority, fresh elections shall be held with a new set of candidates. The provision is a useful deterrent against parties nominating corrupt and unwanted candidates.

<sup>12</sup> The sectors were education, health, justice, police and land administration. See, Iftekharuzzaman, ‘Corruption and Human Insecurity in Bangladesh,’ paper presented at a seminar in Dhaka on International Anti-Corruption Day 2005.

Amid the pre-election violence that brought the capital, Dhaka, to a standstill, President Iajuddin Ahmed appointed Fakhruddin Ahmed, a well-respected former central bank governor and World Bank economist, as ‘chief adviser’ of the caretaker government on 11 January 2007.

The concept of a caretaker government dates back to 1990 when, with the support of political leaders and most of the population, Chief Justice Shahabuddin Ahmed was appointed head of an interim government. The aim was to stem the growing violence between Bangladesh’s two largest political alliances led by the Awami League (AL) and the Bangladesh Nationalist Party (BNP). Though assembled without constitutional endorsement, the 1990 caretaker government was ratified by parliament a year later and since 1996 has constituted a legitimate, non-partisan alternative to what has often proven a chaotic and corrupt manifestation of democracy.<sup>13</sup>

The current caretaker government<sup>14</sup> differs from its forbearers by enjoying explicit support from the armed forces. The issue of military intervention in day-to-day politics came into focus when the army chief, Lieutenant General Moeen U. Ahmed, told a public seminar in Dhaka that Bangladesh needs its own ‘brand of democracy’.<sup>15</sup> However, on a number of other occasions he has said the army had no specific interest in politics. In spite of such assurances, there remains concern as to whether the army will withdraw from the political environment. Elections are currently due in late 2008.

In his opening address on 21 January 2007, Fakhruddin Ahmed made a commitment to fighting corruption and purging politics from the influence of black money.<sup>16</sup> The speech was followed by a series of arrests of former ministers, MPs and members of their families, allegedly involved in corruption. On 26 July a tribunal sentenced Mohiuddin Khan Alamgir, a former state minister and Awami League member, to 13 years imprisonment and fined him Tk10 lakh (US \$14,850) for amassing Tk3.27 crore (US \$485,525) through misuse of power and concealing it in his declaration of assets.<sup>17</sup> On the same day, a Natore court sentenced former deputy minister for land and BNP leader, Ruhul Kuddus Talukdar Dulu, to five years in prison for arson; one year for causing damage and looting; one year for rioting with deadly weapons; and one year for abetting

<sup>13</sup> See [banglapedia.search.com.bd/HT/C\\_0041.htm](http://banglapedia.search.com.bd/HT/C_0041.htm).

<sup>14</sup> The current caretaker government is composed of 10 members called ‘advisers’ but with the rank of ministers, headed by Dr. Fakhruddin Ahmed who, as chief adviser, holds the status of prime minister. Like Dr Ahmed, most if not all advisers are non-partisan technocrats, representing various professional branches such as business, law, economics and retired army officers.

<sup>15</sup> *The Economist* (UK), 6 April 2007.

<sup>16</sup> See [www.cao.gov.bd/](http://www.cao.gov.bd/).

<sup>17</sup> Insert reference here.

crimes. On 27 August a court in Dhaka sentenced former communications minister, Nazmul Huda, and his wife Sigma to seven and three years in prison, respectively, for involvement in a Tk2.5 crore (US \$356,350) embezzlement.<sup>18</sup>

Reversing Bangladesh's corruption trends will prove long and hard. The institutional reforms mentioned above are only the beginning of the process. Much depends on the extent to which anti-corruption can be mainstreamed into public service as a whole, a process that could be beset by inertia and resistance to change. The successful prosecution of those charged by the ACC is also open to question. Although the Commission has enlisted well known attorneys, those charged can afford the very best lawyers in a country that has rarely seen the monopoly of power and influence broken in a court of law.

Sceptics will look for historical examples in which military-led anti-corruption drives have simply led to the entrenchment of the military in power. The war on corruption was greeted by unprecedented popular support, but like any other war it has brought collateral costs in terms of the erosion of human rights, public harassment and insecurity. Tens of thousands of people have reportedly been arrested since the drive started, with human rights groups alleging widespread torture and deaths in custody.<sup>19</sup> Political activity is banned under the state of emergency, but elections are due by the end of 2008. It is widely hoped that anti-corruption reforms will have taken root by then, though whether the new government that emerges from that ballot will adhere to them remains equally open to question. All transitions are fraught with risk. Nevertheless, considering the changes already witnessed under the caretaker government, there are reasons for guarded optimism.

### **Judicial independence nearly restored**

According to a recent survey, two-thirds of all people who interacted with the lower judiciary said they were forced to pay bribes amounting to one-quarter of their annual income.<sup>20</sup> A series of constitutional amendments by military and quasi-military regimes from 1975–91 gave the chief executive authority to appoint, promote and transfer judges and magistrates, bypassing the chief justice altogether and mortally injuring the independence of the judiciary. Though democratic rule

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<sup>18</sup> Insert reference here.

<sup>19</sup> See [www.abc.net.au/news/newsitems/200706/s1945599.htm](http://www.abc.net.au/news/newsitems/200706/s1945599.htm); and *The Economist* (UK), 6 April 2007.

<sup>20</sup> TI Bangladesh, 'National Household Survey on Corruption 2005'. Available at [www.ti-bangladesh.org](http://www.ti-bangladesh.org).

was restored in 1991, three successive governments found it convenient to retain control over the judiciary and to politicise it further.

In the historic Masdar Hossain ruling in 1999 (see *Global Corruption Report 2007*), the Supreme Court ordered the government to re-establish an independent judiciary and amend criminal procedure to meet the objective of separating it from the control of the executive branch. The government in power at the time, and the one that followed from 2001 to September 2006, made piecemeal reforms while obtaining nearly two dozen separate court extensions to legitimise their foot-dragging with regard to implementing the Supreme Court decision.

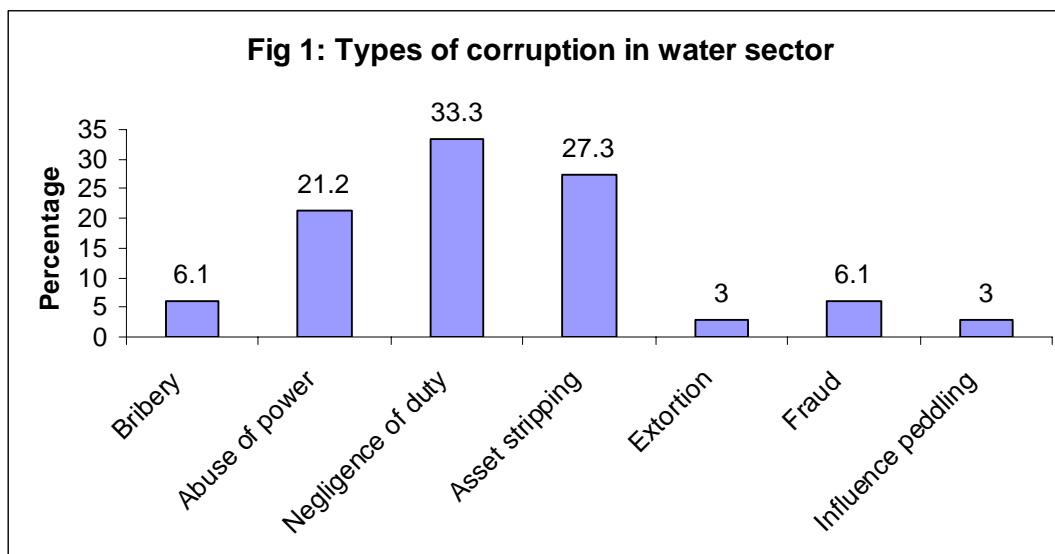
Against this backdrop the caretaker government approved the amended criminal procedure code ordinance on 7 February 2007, one of four legal steps toward restoring the independence of the judiciary.<sup>21</sup> On 7 May the Supreme Court approved further amendments to the judicial service pay commission order and three other orders regarding judicial service and civil procedure amendments (previously, judges and magistrates had been treated as just another branch of the civil service), and directed the government to complete the separation of judiciary by 19 July. As significant as these developments were, the judiciary's absolute independence will only be realized when article 116 of the constitution is amended, and this will only be after the election of a democratic government at the end of 2008.

### **Water corruption and land grabbing in Dhaka**

Like other sectors of the Bangladeshi economy, water is plagued by corruption and failures of integrity. An analysis of episodes of corruption reported in the print media from January–December 2006 shows the following picture.

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<sup>21</sup> *Daily Ittefaq* (Bangladesh), 8 February 2007.



Source: TI Bangladesh, 'Corruption Database 2006', (unpublished).

The data show that public service officials were key actors in corruption in 84.8 percent of revealed cases, while powerful individuals, including contractors and politicians, were key actors in the remainder.

Reports indicate that public service officials have flouted financial rules in tender processes, while in many cases they have been inefficient or negligent of the public interests. Engineers and other officials have been involved in corruption in major development projects, such as irrigation, river dredging and flood prevention. In March 2007 the ACC was investigating cases of corruption in different projects run by the Ministry of Water Resources, estimated to have cost up to Tk444 crore (approximately US \$ 1.5 billion) during 2001–06.<sup>22</sup>

One report<sup>23</sup> in 2006 concerned the illegal dredging of sand from the Monu riverbed, threatening the protective embankment of the nearby town of Moulvibazar. An influential person with local political links had removed the sand to landfill his plot in the town.

Another category of rampant corruption in urban areas involves encroachment onto the lakes and rivers flowing through cities, especially in Dhaka. Illegal occupation of the shoreline in Dhaka's Gulshan-Banani-Baridhara Lake threatens the lake's very existence. In one case of de-requisition, 31 acres of the lakeshore were due to be reclaimed from private land grabbers.<sup>24</sup> However,

<sup>22</sup> *Daily Inquilab* (Bangladesh), 17 March 2007.

<sup>23</sup> *Daily Star* (Bangladesh), 6 May 2006.

<sup>24</sup> *Daily Star* (Bangladesh), 10 June 2007.

powerful individuals with political links easily obtained court injunctions against reclamation of their squatted land. In connivance with government officials, a well-organised syndicate of land grabbers has long been active in the business of securing prime sites in the city by filling the lakeshore with earth and building structures overnight.<sup>25</sup>

Officials in the Capital Development Authority (CDA) are most often discovered working in tandem with land grabbers, which is the main reason for the failure to demarcate, develop and conserve water bodies crucial for Dhaka's environment, water supply and drainage. At the time of writing, the caretaker government had launched a demolition drive against illegal structures encroachments.

#### **Further reading**

BRAC University, Centre for Governance Studies, 'The State of Governance in Bangladesh 2006', Dhaka, December 2006. [www.cgs-bu.com](http://www.cgs-bu.com).

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World Bank, 'Corruption in Bangladesh: Costs and Cures', Dhaka, April 2000.

TI Bangladesh: [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

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<sup>25</sup> *Daily Star* (Bangladesh), 4 July 2004. See [www.thedailystar.net/2004/07/04/d4070401011.htm](http://www.thedailystar.net/2004/07/04/d4070401011.htm).