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Social movement against corruption

ANTI-CORRUPTION AGENCY STRENGTHENING INITIATIVE ASSESSMENT OF THE BANGLADESH ANTI-CORRUPTION COMMISSION 2016

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Abbreviations

| | |
|-------|--|
| ACA | Anti-Corruption Agency |
| ACC | Anti-Corruption Commission |
| ADB | Asian Development Bank |
| ADP | Annual Development Programme |
| AG | Attorney General |
| BAC | Bureau of Anti-corruption |
| BBS | Bangladesh Bureau of Statistics |
| BEI | Bangladesh Enterprise Institute |
| BFIU | Bangladesh Financial Intelligence Unit |
| BIGD | Bangladesh Institute of Governance and Development |
| BNP | Bangladesh Nationalist Party |
| BTRC | Bangladesh Telecommunication Regulatory Commission |
| CAG | Office of the Comptroller and Auditor General |
| CCC | Committee of Concerned Citizens |
| CPC | Corruption Prevention Committee |
| CPI | Corruption Perceptions Index |
| CSO | Civil Society Organisation |
| DFID | Department for International Development |
| GCB | Global Corruption Barometer |
| GDP | Gross Domestic Product |
| GIZ | German International Cooperation Agency |
| IDO | Integrated District Office |
| IO | Investigation Officer |
| JICA | Japan International Cooperation Agency |
| MDG | Millennium Development Goal |
| MIC | Middle-income country |
| MLPA | Money Laundering Prevention Act |
| MoU | Memorandum of Understanding |
| MP | Member of the Parliament |
| MRDI | Management and Resources Development Initiative |
| NBR | National Board of Revenue |
| NGO | Non-government Organisation |
| TIB | Transparency International Bangladesh |
| UNCAC | UN Convention against Corruption |
| UNDP | United Nations Development Program |
| UNODC | UN Office on Drug and Crime |
| WB | World Bank |

Executive Summary

The UN Convention Against Corruption (UNCAC) prescribes the existence of independent bodies established through national legal systems to enforce, implement and promote anti-corruption policies and principles. A well-functioning oversight mechanism with a focus on anti-corruption is absolutely vital for good governance in any country context. Meanwhile, the 2012 Jakarta Principles, developed in consultation with Anti-Corruption Agency (ACA) heads, practitioners and experts from around the world, represent a widely accepted standard to which ACAs can be held accountable. Transparency International has responded to this opportunity by developing an initiative aimed at strengthening ACAs in the Asia Pacific Region. The 'Anti-Corruption Agencies Strengthening Initiative' combines biennial assessments of ACAs with sustained engagement, dialogue and advocacy at both national and regional levels. Under this initiative, Transparency International has developed a practical and comprehensive benchmarking tool aimed at highlighting the strengths and weaknesses of ACAs. The assessment tool was developed between 2013 and 2015 through a collaborative dialogue between TI, interested staff from ACAs in the Asia Pacific region and a group of experts convened by Transparency International.

Transparency International Bangladesh (TIB) carried out an assessment of the ACA of Bangladesh, i.e., the Anti-Corruption Commission (ACC). The objectives of this assessment were:

1. To provide the ACC with up-to-date information regarding its performance and opportunities for improvement; and
2. To provide all stakeholders committed to tackling corruption in the country a better understanding of the enabling and disabling factors which affect the ACC's performance and efficacy.

Methodology

The following methods were followed for conducting this study.

1. **Document analysis** – This included review of laws, existing literature and media pieces, and websites.
2. **Semi-structured interviews** – Interviews with present and former ACC commissioners, ACC officials, legal experts, civil society members, journalists were conducted.
3. **Focus Group Discussions** – Two FGDs with journalists, members of Corruption Prevention Committees (CPC) and Committee of Concerned Citizens (CCC) were organised in February and March 2016.
4. **Validation meeting** – A validation meeting was held in June 2016 with the Chairperson, Commissioners and other high officials of the ACC.

The reference period for all assessments on the ACC was three years (2013-2015). The data was collected during November 2015 – April 2016.

Table: Dimensions of Assessment

| DIMENSIONS OF ASSESSMENT | NUMBER OF INDICATORS |
|---|----------------------|
| 1. ACA's Legal Independence and Status | 7 |
| 2. ACA's Financial and Human Resources | 9 |
| 3. ACA's Detection and Investigation Function | 9 |
| 4. ACA's Prevention, Education and Outreach Functions | 9 |
| 5. ACA's Cooperation with other Organizations | 5 |
| 6. ACA's Accountability and Oversight | 4 |
| 7. Public Perceptions of the ACA's Performance | 7 |
| Total | 50 |

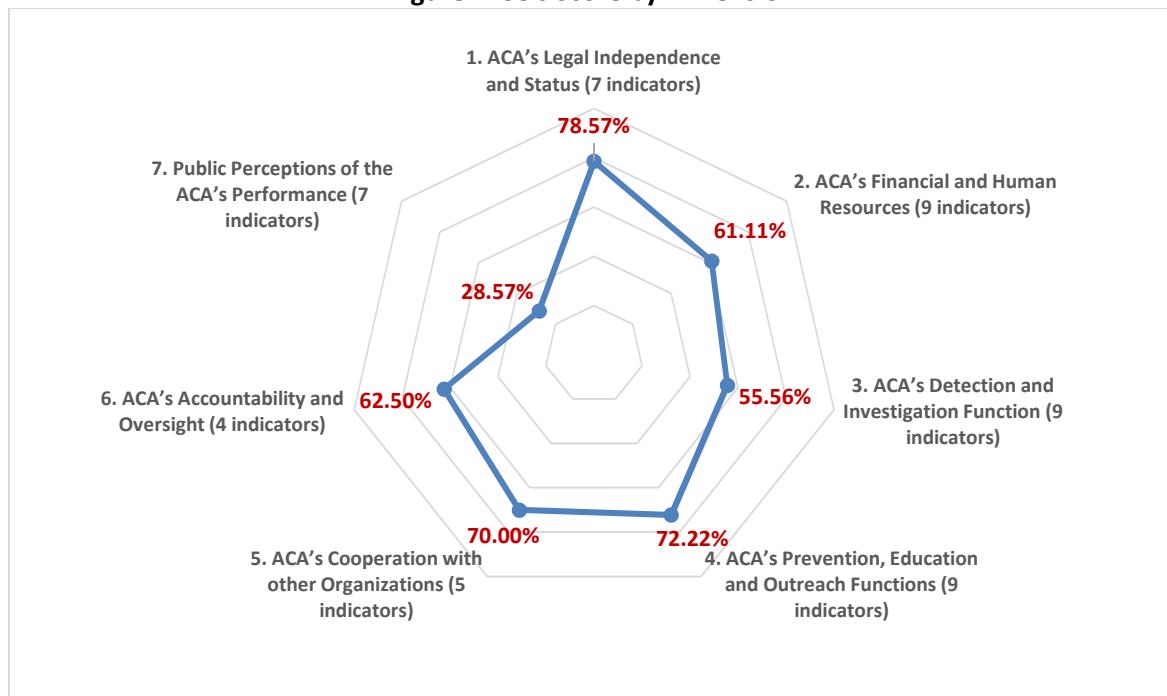
Scoring Method

The main findings of the assessment are based on a set of 50 indicators divided into seven different dimensions (see above Table). These indicators are designed to assess the capacity and effectiveness of the ACC, and to identify gaps and areas of opportunity. Each indicator has been assigned one of three possible scores – **high (3)**, **moderate (2)** and **low (1)**, based on the level of standards set for each of the indicators. In order to arrive at the aggregate score for each dimension, the scores were converted from the 1-3 scale to a 0-2 scale. Thus, all (1) scores become (0), all (2) scores become (1) and all (3) scores become (2). For a clear understanding of the dimensions as well as the overall score, it has been classified into three categories – ‘high’ for an overall score between 67% and 100%, ‘moderate’ for an overall score between 34% – 66%, and ‘low’ for an overall score between 0% - 33%.

KEY FINDINGS

According to the assessment of this study, the **overall score for Bangladesh ACC is 61.22%**, which falls in Moderate category. It is noteworthy that the score is 5.78 points short of the ‘High’ category, which indicates that the institution needs to improve only a few indicators to be elevated to the high category. Among the 50 indicators, 21 indicators (42.86%) scored ‘high’, 19 (38.78%) scored ‘moderate’ and nine (18.37%) scored ‘low’.

Figure: ACC’s Score by Dimension



We observe that the dimension on the ACC’s Legal Independence and Status scored the highest (78.57%), of which four got high and three got moderate scores. The second highest (72.22%) score has been received for the dimension on ACC’s Prevention, Education and Outreach Functions, of which five indicators got high, three got moderate and one got low scores. ACC’s cooperation with other organisations (70%) is another dimension falling to the ‘high’ category. The two dimensions of ACC’s Financial and Human Resources (61.11%) and ACC’s Accountability and Oversight (62.5%) are slightly better than the overall score. These indicate that the resource allocation and oversight mechanism need to be enhanced. ACC’s Detection and Investigation Function (55.56%) got below the overall score, indicating attention required in the fields of accessibility to corruption complainants, low conviction rate and the absence of gender identified in compiling corruption information. The lowest score (28.57%) is for the dimension on the Public Perceptions of the ACC’s Performance, where among seven indicators two got low and four got moderate scores, indicating that ACC’s performance for developing a positive public perception needs immediate attention.

Table: Assessment Summary: Indicators by Dimension

| DIMENSION | | INDICATORS | | | | | | | | |
|---|--|---|--|---|--|--|--|---|--|--|
| ACC's Legal Independence and Status (7) | Legal independence | Mandate | Legal powers | Appointment of ACC Commissioner(s) | ACC Commissioner(s)' term of office and removal | ACC's operational autonomy and impartiality | Government's reliance on ACC to use corruption as a weapon against political opponents | | | |
| ACC's Financial and Human Resources (9) | Average proportion of ACC's budget | Sufficiency of budget | Security and stability of ACC's budget | ACC personnel's salary and benefits | Selection criteria for ACC Personnel | Expertise of ACC's personnel in corruption investigation | Expertise of ACC's personnel in corruption prevention and education | Training of personnel | Stability of personnel | |
| ACC's Detection and Investigation Function (9) | Accessibility to corruption complainants / informants, including public and whistleblowers | Responsiveness to corruption complaints | Willingness to initiate corruption investigations | Average number of cases investigated per year | Efficiency and professionalism of corruption investigations | Average conviction rate of corruption cases | Willingness to investigate influential persons for corruption | Role in restitution, asset recovery, freezing and confiscation | Does the ACC identify gender in compiling corruption complaints | |
| ACC's Prevention, Education and Outreach Functions (9) | Average proportion of operating expenditure allocated to public outreach and prevention | Corruption prevention initiatives | Number of reviews of organizational procedures, systems & capabilities | Frequency of including corruption prevention recommendations in investigation reports | Plan for prevention, education and outreach and implementation | Collaboration with other stakeholders in prevention, education and outreach activities | Research and exploration of corruption risks, context and conditions | Dissemination of corruption prevention information and use of campaigns | Use of website and social media for disseminating information on corruption prevention | |
| ACA's Cooperation with other Organizations (5) | Government support to ACC for prosecution of corruption cases | Cooperation between ACC and other integrity agencies | Cooperation between ACC and non-government organizations | Participation in international networks | Cooperation with ACAs in other countries | | | | | |
| ACA's Accountability and Oversight (4) | Information provided in and accessibility of ACC's annual report and website | Oversight mechanisms | Procedure for dealing with complaints against ACC or its personnel | Outcomes of complaints against ACC or its personnel | | | | | | |
| Public Perceptions of the ACA's Performance (7) | Public confidence that government has given ACC the required powers and resources for curbing corruption | Public confidence in ACC's adherence to due process, impartiality, and fairness in using its powers | Confidence in ACC's adherence to due process, impartiality, and fairness among persons who had direct contact with ACC | Confidence in ACC's dignified and respectful treatment of persons under investigation | Public perception of ACC's effectiveness in corruption control | Perception of ACC's effectiveness in corruption control among persons with direct contact with ACC | Perception of ACC's effectiveness in dealing with complaints among female citizens who had direct contact with ACC | | | |

In sum, the strengths of the ACC includes legal independence and status with adequate legal powers and mandate; stability of budget which is gradually increased over years; staff stability with low turnover; willingness to investigate complaints, as it is responsive to complaints, willing to and has capacity to investigate influential persons, and high number of cases; corruption prevention initiatives with organizational reviews, engagement of stakeholders in prevention; collaboration with other stakeholders such as civil society, development partners; and participation in international networks.

The summary of dimension-wise findings is given below emphasising the weak areas of the ACC.

LEGAL INDEPENDENCE AND STATUS

The law provides ACC with substantial formal legal independence with little dependency on the government for its budget. The law also describes the mandate of ACC elaborately. Among 11 functions of ACC, five (5) are of punitive and six (6) are of preventive nature. These functions include investigation and filing cases, prevention, education, research and integrity advice for mainstreaming good practices in the work of government agencies. The Chairman and Commissioners of the ACC are appointed for five years, and they are well protected from any forceful and undue removal.

However, ACC's full independence and impartiality have been questioned due to its (in)effectiveness and autonomous exercise of power. The experts expressed that ACC's independence is more dependent on the personal capacity of the office bearers rather than the authority provided by the law. This is also reflected in the way the Chairman and the Commissioners are appointed. It has been argued by the experts that although the Chairman and Commissioners are appointed through an apparently fair process, the process could have been more transparent. The names and profiles of the selected people are not made public before their appointments. Concern was also raised that ACC's operational autonomy is somewhat limited and its activities are not 'completely' impartial.

It is also perceived that ACC is not politically neutral as it has not been able to show impartial behaviour in handling corruption cases. Experts alleged that it played a partisan role and did not take action against all accused equally. There is a common perception among informants that the government has been using the ACC and the issue of corruption as a weapon against political opponents or people with different views. It is observed that most of the people with partisan affiliation against whom investigation is going on belong to the political opposition, while only a few belong to the party in power.

FINANCIAL AND HUMAN RESOURCES

It is observed that the average proportion of ACC's budget to total government budget has been about 0.025% on average in the last three years. However, the actual monetary allocation for the ACC demonstrates an increasing trend. The main challenge is that the allocation is given according to the existing human resource, which is inadequate. Key informants from both within and outside ACC mentioned that the absence of ACC offices with necessary human and other resources in most of the districts jeopardizes the anti-corruption activities on many fronts.

Skills and expertise of ACC's personnel is another concern. There is lack of understanding of investigation processes among the new staff, while the older staff are not always updated with the latest forms and techniques of corruption such as money laundering and use of cyber technology. Similarly the relevant personnel engaged in corruption prevention and education are also not adequately skilled, and mostly rely on the local committees (CPCs and Integrity Units). Training is another area that needs adequate attention. In the last three years 47 training programs were organized for the ACC staff where 53% of the total staff took part, and where only the trainings (25) were on issues pertinent for ACC activities.

DETECTION AND INVESTIGATION

With regard to ACC's detection and investigation, three areas demand immediate attention, while two other areas raise moderate concern.

Firstly, the accessibility to ACC by complainants is quite low considering the country's population. Given the low proportion of corruption complaints received relative to population and high perceived level of corruption, and low proportion of complainants confident to identify themselves, the ACC cannot be termed as accessible to corruption complaints. The conviction rate of ACC's cases of corruption in the last few years has been below 40% on an average. For an effective ACC, this rate has to be much higher. Besides, ACC does not identify gender in compiling corruption complaints and monitoring corruption trends.

Efficiency and professionalism in corruption investigations is a moderate concern. Usually it takes more than the stipulated time mentioned in the law to complete an investigation of a corruption case. Another area of moderate concern for the ACC is the minimal amount (a total amount equivalent to BDT 728.12 million) of assets recovered, confiscated or frozen compared to the volume of capital flight from Bangladesh and estimated loss due to corruption.

PREVENTION, EDUCATION AND OUTREACH

The major concern here is the dearth of research exploring corruption risks, context and conditions prevailing in the country. Around 2.65% of the ACC budget is allocated for prevention, education and outreach activities. The ACC does not have any budget allocation for research. While the ACC initiated a number of activities during the past three years – both at the central level as well as local level through the CPCs and Integrity Units, it lacks a comprehensive plan for its outreach and prevention activities. Moreover, by reviewing the prevention and outreach activities of the local level CPCs and Integrity Units it is observed that these are largely occasion-based (such as observing International Anti-corruption Day and Anti-corruption Week) and rather ceremonial in nature. Weaknesses in the ACC's dissemination of corruption prevention information and use of website and social media for such dissemination are other concerns. The website requires modernization and be made user friendly with updated information and a repository of literature and research/scholarly papers.

COOPERATION WITH OTHER ORGANIZATIONS

Cooperation of the ACC with ACAs in other countries is virtually non-existent. Although ACC actively participates in the international network such as the Conferences of State Parties regarding UNCAC, the Asia Pacific Group on Money Laundering, and ADB/OECD Anti-Corruption Initiative for Asia-Pacific, it is yet to develop active cooperation with the ACAs of other countries. Cooperation with other integrity agencies of the country is another moderate concern for the ACC. ACC's coordination with other government organisations such as NBR, banking institutions, CAG, and AG office is not adequate and effective.

ACCOUNTABILITY AND OVERSIGHT

The major concern with regard to ACC's accountability and oversight is the lack of any external oversight mechanism. Although ACC has a Monitoring and Evaluation (M&E) Branch for evaluating inspection reports regularly, there is no public representation in the structure. Although the annual report of ACC is submitted to the President, no discussion has taken place in the Parliament on this report. Another area of concern is that other public agencies are not regularly involved in investigation of ACC personnel to avoid conflict of interest.

PUBLIC PERCEPTIONS OF ACC'S EFFECTIVENESS

The most critical role of the ACC is to create a positive impression of its effectiveness among the common people. According to many, the ACC is not effective till now. According to a cross country survey conducted by Transparency International, 16.7% are aware of activities of the ACC and only 9.1% of the respondents (of those who know about the ACC) stated that the ACC is doing well in fighting corruption in Bangladesh (unpublished data, the GCB survey 2015). People have no idea and information on different laws and mechanisms that are important for preventing corruption. People's perception on ACC's impartiality in handling similar kinds of cases is also not very positive. According to ACC officials, there is lack of trust on the ACC. According to experts, CSO leaders and journalists, the ACC is entrusted with the required powers for curbing corruption, but the resources are not adequate.

RECOMMENDATIONS

Financial and Human Resources

- Enhanced budget for ACC:** The budget of the ACC should be enhanced for:
 - Logistical support for enquiry and investigation (such as transportation, equipment, restoration of confiscated goods etc.);
 - Prevention activities (such as public hearing, research etc.);
 - Recruitment of highly skilled and efficient lawyers; and
 - Training of ACC staff.
- Review of ACC's organogram and increase staff strength:** ACC should have its offices in all 64 districts with necessary staff and logistical support. The number of staff engaged in enquiry and investigation and prevention should be increased.
- Increased transparency in appointment of Commissioners:** The appointment process of the Chairman and Commissioners should be made more transparent. It should publicly disclose the names and profiles of the selected candidates before appointing the Commissioners. Participation from the political opponents and civil society in the process should be considered.

Detection and Investigation Function

- Digitalization of the complaint system:** The system of handling corruption complaints, investigation and case management should be digitalised. The system should be easy and user-friendly, and ensure anonymity. The ACC should also develop a proper structure for protecting whistle blowers.
- Measures to increase the conviction rate:** In order to increase the conviction rate of corruption cases the ACC should take measures such as consulting with lawyers before filing corruption cases and pursuing with the panel lawyers.
- Enhanced drive for asset recovery:** The ACC should take measures to recover, confiscate and freeze more assets out of corruption cases.

Prevention, Education and Outreach Functions

- Long-term comprehensive strategic plan:** The ACC should develop a long-term comprehensive strategic plan for preventing corruption through education and outreach programmes. It should also develop a mechanism to evaluate its activities.
- Improved website:** The ACC should have an improved website with the following features:
 - Should be more interactive;
 - Social media should be introduced;
 - Should be made user friendly with a repository of literature and research scholarly papers [Anti-Corruption Commission Act 2004, Section 17 (f)];
 - Information should be regularly updated, and information on ACC's budget, public hearing and other activities, activity plan, investigation and prosecution statistics should be provided; and
 - Amended Acts and Rules should be uploaded.

Cooperation with other Organizations

- Increased cooperation with other integrity agencies:** The ACC should take measures to increase collaboration and cooperation with other integrity agencies, particularly in terms of avoiding potential 'Conflict of Interest' while conducting investigation into alleged corruption of its personnel.

Accountability and Oversight

- Independent oversight mechanism:** An independent committee consisting of public representatives, present/ former bureaucrats and civil society members of high integrity,

credibility and acceptability should be formed to advise, monitor and evaluate key aspects of ACC's work.

Public Perceptions of the ACC's Performance

11. Enhance public confidence: The following measures should be taken to enhance public confidence.

- Publicise its activities on a larger scale, so that common people are aware of its achievements;
- Publish and regularly update detailed statements on income, assets and liabilities of Commissioners and senior officials;
- Take steps against corrupt public representatives & high officials, and people from other groups of the society; and
- Ensure effective and timely investigation and quick disposal of corruption cases.

INTRODUCTION

The UN Convention against Corruption prescribes the existence of independent bodies established through national legal systems to enforce, implement and promote anti-corruption policies and principles. A well-functioning oversight mechanism with a focus on anti-corruption is absolutely vital for good governance in any country context. Meanwhile, the 2012 Jakarta Principles¹, developed in consultation with Anti-Corruption Agency (ACA) heads, practitioners and experts from around the world, represent a widely accepted standard for an accountable ACA.

In practice, assessment against these standards is sporadic, due in part to the lack of political will by governments to scrutinise their own oversight mechanisms. Another reason is the absence of a coherent and practicable way in which to measure performance. Transparency International (TI) has responded to this opportunity by developing an initiative aimed at strengthening ACAs in the Asia Pacific Region. The proposed 'Anti-Corruption Agencies Strengthening Initiative' combines biennial assessments of ACAs with sustained engagement, dialogue and advocacy at both national and regional levels.

Under this initiative, TI has developed a practical and comprehensive benchmarking tool aimed at highlighting the strengths and weaknesses of ACAs. The assessment tool was developed between 2013 and 2015 through a collaborative dialogue between Transparency International, interested staff from ACAs in the Asia Pacific region and a group of experts convened by Transparency International.

Transparency International Bangladesh (TIB) carried out an assessment of the Anti-Corruption Commission (ACC) of Bangladesh. The assessment was aimed at providing the Bangladesh ACC with up-to-date information regarding its current performances and opportunities for future improvement and to provide a better understanding of the enabling and disabling factors which affect the ACA's efficacy to all stakeholders committed to tackling corruption in the country. With this in mind, TIB conducted an independent assessment of the ACC and has produced this report as a result. In addition to a comprehensive evaluation of performance in relation to a set of comprehensive indicators, the report provides some suggested approaches to address the key challenges. This report therefore serves as a guide for both the ACC as well as other interested stakeholders to strengthen and expand the impact of anti-corruption efforts in Bangladesh.

ABOUT THE ASSESSMENT

TIB carried out an assessment of the ACC between November 2015 and April 2016. The research was led by independent consultant, Professor Salahuddin M Aminuzzaman and TIB's research team, in collaboration with TI's Asia Pacific Department.

The assessment process comprised a document analysis, including review of laws and media reports, followed by semi-structured interviews and focus group discussions with key stakeholders -primarily within the government but also with non-state actors. Fieldwork took place from December 2015 to March 2016 in Dhaka. A draft report outlining key findings and recommendations have been reviewed by the ACC for accuracy and completeness. The draft report has been presented to relevant stakeholders for feedback, and to initiate dialogue on key issues. A number of consultations and validation meetings took place from December 2015 to March 2016 in Dhaka (see Annexes 2 and 3 for a list of people interviewed and consulted).

¹ The principles can be found in UN Office on Drug and Crime, *Jakarta Statement on Principles for Anti-Corruption Agencies*, 26–27 November 2012, available at https://www.unodc.org/documents/corruption/WG-Prevention/Art_6_Preventive_anti-corruption_bodies/JAKARTA_STATEMENT_en.pdf.

The assessment tool is designed to capture internal and external factors affecting the ACC as well as getting a sense of the ACC's reputation and actual performance. With this in mind a comprehensive indicator framework, made up of a total of 50 indicators (see Table 10), has been developed in consultation with experts (see Annex 1 for more information). These indicators were formulated to develop a broad platform to assess the capacity and effectiveness of the ACC, and to identify gaps and areas of opportunity.

The indicators inquire into seven different dimensions:

| DIMENSIONS OF ASSESSMENT | NUMBER OF INDICATORS |
|---|----------------------|
| 1. ACA's Legal Independence and Status | 7 |
| 2. ACA's Financial and Human Resources | 9 |
| 3. ACA's Detection and Investigation Function | 9 |
| 4. ACA's Prevention, Education and Outreach Functions | 9 |
| 5. ACA's Cooperation with other Organizations | 5 |
| 6. ACA's Accountability and Oversight | 4 |
| 7. Public Perceptions of the ACA's Performance | 7 |
| Total | 50 |

Each indicator has three possible scores – high, moderate and low – and three defined levels of value for each indicator, depending on the condition assessed. To score each indicator the research team identified the specific source of information, where necessary, from the ACC's legal basis of support and reports, and further substantiated each score with in-depth interviews with the ACC's staff and management, as well as interviews with other government agencies, branches of government, media and civil society organisations.

This report is divided into four sections. Section 1 presents Bangladesh's basic economic, social and political characteristics, in addition to its perceived level of corruption. Section 2 explores the legal and institutional conditions in which the ACC operates. Section 3 presents key findings and a detailed assessment of each indicator, with comments on key issues and specific gaps have also been identified. Section 4 presents a brief set of conclusions, and TIB's recommendations for strengthening the ACC.

1. BANGLADESH'S POLICY CONTEXT AND PERCEPTIONS OF CORRUPTION

ECONOMY

Bangladesh is a lower middle-income country with a promising and stable economy. Bangladesh has been listed in the 'Next 11' economies by Goldman Sachs, with high potential to become one of the world's largest economies in the 21st century.² The Government of Bangladesh has taken up multifarious initiatives to elevate Bangladesh to a knowledge-based and technology-driven middle-income country by 2021.³

In spite of the challenges emerging from the slow pace of global economic recovery and the destabilizing factors prevalent in the domestic front, the Bangladesh economy continues to maintain its sustainable growth momentum with a healthy 6%-plus growth rate in recent years.⁴ According to the Bangladesh Bureau of Statistics (BBS), the GDP at constant price grew by 6.51 percent in Fiscal Year 2015 which was reasonably higher than 6.06 percent growth in Fiscal Year 2014. The per capita national income reached US\$ 1,314, an increase of US\$ 130 from the previous year. Headcount poverty based on PPP US\$ 1.25 per day is projected to have declined from 43.5 percent in 2010 to 38.4 percent in 2015.⁵ Inflation gradually came down to 6.32 percent in April 2015 from 7.04 percent in July 2014. The inflow of remittances increased 7.05% compared to the previous year—the flow of remittance was US\$ 12,552.04 million during July – April 2015.⁶ The foreign exchange reserve shows a steady increase and the exchange rate of US dollar remains stable.⁷ Although the growth momentum is largely concentrated in the industry and service sectors, other sectors show positive growth as well. It is expected that the progress of transforming the economy from a rural-based agrarian economy towards a more modern urban-based manufacturing and services based economy provides a sound basis for further transformation.⁸

The country's remarkably steady growth was possible due to a number of factors including population control, macroeconomic stability, and openness in the economy. Building on its social-economic progress so far, Bangladesh now aims at becoming a middle-income country (MIC) by 2021.⁹

However, despite economic progress, economic inequalities still persist, poverty remains quite high, and the number of people living below the poverty line remains at about 63 million.¹⁰ The most startling consequence of widespread poverty is that a quarter of the country's population cannot afford an adequate diet. The unemployment rate, traditionally defined, has increased modestly up to about 5 percent of the total labour force.¹¹ Moreover, the implementation of the Annual Development

² DFID, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/389036/Bangladesh.pdf (accessed on 2 December 2015).

³ Planning Commission, *Seventh Five Year Plan: 2016-2020 - Accelerating Growth and empowering citizens*, Government of Bangladesh, 11 November 2015. http://www.plancomm.gov.bd/wp-content/uploads/2015/11/7FYP_after-NEC_11_11_2015.pdf (accessed on 9 December 2015).

⁴ Finance Division, *Bangladesh Economic Review 2015*, Ministry of Finance, Govt. of People's Republic of Bangladesh, [http://www.mof.gov.bd/en/budget/15_16/ber/bn/Chapter-1%20\(Bangla-2015\)%20final.pdf](http://www.mof.gov.bd/en/budget/15_16/ber/bn/Chapter-1%20(Bangla-2015)%20final.pdf) (accessed on 24 December 2015).

⁵ World Bank, *Bangladesh Development Update: Growth stable but external competitiveness eroding*, October 2015 <http://www.worldbank.org/en/news/feature/2015/10/20/bangladesh-development-update-growth-stable-but-eroding-external-competitiveness> (accessed on 2 December 2015).

⁶ Finance Division, *op. cit.*

⁷ World Bank, *op. cit.*

⁸ Planning Commission, *op. cit.*

⁹ World Bank, *Towards Accelerated, Inclusive and Sustainable Growth in Bangladesh*, Dhaka, 2012.

¹⁰ UNDP, <http://www.bd.undp.org/content/bangladesh/en/home/countryinfo/> (accessed on 6 December 2015).

¹¹ <https://www.cia.gov/library/publications/the-world-factbook/geos/bg.html> (accessed on 2 December 2015).

Programme (ADP) is poor, partly due to implementation failure, which is related to some extent with governance failures, among other reasons. The institutional challenges result in corruption and poor quality of public service delivery such as education, health, and infrastructure.¹²

A major concern for Bangladesh's economy is the issue of illegal capital flight from the country. According to a recent study by the Global Financial Integrity, in 2013 an amount of US\$ 9.66 billion was channeled out of the country through trade misinvoicing and other means. Political instability, corruption and a weak domestic investment climate are identified as main contributory factors.¹³ Moreover, different aspects of the economic sector and its performance, according to analyses done by Bangladesh Institute of Governance and Development, are mixed for keys sectors, such as infrastructure (including roads and electricity), macroeconomic stability, external sector management, tax collection, deficit management, and ADP utilisation.¹⁴

Table 1: Policy Context of Bangladesh

| DIMENSION | DATA | DATA SOURCE(S) |
|--------------------------|--|---|
| Land area (in sq km) | 147,570 sq. km. (land: 133,910 sq km, water: 10,090 sq km) | National Web Portal ¹⁵ |
| Size of population | 159,731,037 | Bangladesh Bureau of Statistics ¹⁶ |
| GDP per capita (US\$) | \$1,314 (per capita in 2015) | National Web Portal |
| Type of government | Parliamentary Democracy | |
| Voice &accountability | 32.5 (Percentile rank 2014) | |
| Political stability | 18.0 (Percentile rank 2014) | |
| Government effectiveness | 21.6 (Percentile rank 2014) | World Bank ¹⁷ |
| Rule of law | 26.0 (Percentile rank 2014) 0.42 (Global rank 93 out of 102 countries)¹⁸ | |
| Regulatory quality | 18.3 (Percentile rank 2014) | |

POLITICS

The People's Republic of Bangladesh was founded as a constitutional, secular, democratic, multiparty, parliamentary republic. After independence, Bangladesh endured periods of poverty and famine, as well as political turmoil and military coups.¹⁹ Democracy was restored in 1991 that was followed by economic progress and relative political calm up to 2006.²⁰ Following a two-year military backed

¹² TI and TIB, *National Integrity System Assessment: Bangladesh*, 2013.

¹³ Rejaul Karim Byron and Md Fazlur Rahman, 'Illegal capital flight hits decade high', *The Daily Star*, 10 December 2015.

¹⁴ BIGD, 2015, *The State of Governance Bangladesh 2014-2015: Institutions, Outcomes, Accountability*, Dhaka, p. 84.

¹⁵ <http://www.bangladesh.gov.bd/site/page/812d94a8-0376-4579-a8f1-a1f66fa5df5d/%E0%A6%AC%E0%A6%BE%E0%A6%82%E0%A6%B2%E0%A6%BE%E0%A6%A6%E0%A7%87%E0%A6%B6%E0%A6%95%E0%A7%87-%E0%A6%9C%E0%A6%BE%E0%A6%A8%E0%A7%81%E0%A6%A8> (Accessed on 7 December, 2015).

¹⁶ <http://www.bbs.gov.bd/Census.aspx?MenuKey=89> (Accessed on 7 December, 2015).

¹⁷ World Bank, *Worldwide Governance Indicators: Bangladesh, 1996-2014*, <http://info.worldbank.org/governance/wgi/index.aspx#countryReports> (accessed on 2 December 2015).

¹⁸ World Justice Project, *Rule of Law Index 2015*, <http://worldjusticeproject.org/rule-law-around-world> (accessed on 27 December 2015).

¹⁹ <http://www.bd.undp.org/content/bangladesh/en/home/countryinfo/> (accessed on 6 December 2015).

²⁰ UNDP, <http://www.bd.undp.org/content/bangladesh/en/home/countryinfo/> (accessed on 6 December 2015).

“caretaker regime” from 2007-2008 the most recent democratic era began in 2009.²¹ Tensions in the country again escalated in the wake of the 2014 parliamentary elections, beginning with the amendment of the Constitution in July 2011 by the government stating that general elections were no longer required to be managed by a non-party caretaker government, a system that had been effective since 1996.²² In accordance with the amended constitution Parliamentary elections were held in January 2014 where the 18-Party Alliance led by BNP did not participate and in which over half of the constituencies went uncontested.²³ This resulted in the formation of government with more than 83% of the Members of the Parliament (MPs) belonging to the 14-party alliance led by Awami League. Members from the main opposition were also included in the cabinet.²⁴

Although the Constitution of Bangladesh guarantees civil and political rights of citizens and also sets out fundamental principles of state policy that are fundamental to the governance of the country, the rule of law is often undermined by the executive branch of the government and political forces.²⁵ This is reflected in the gross abuse of human rights through, *inter alia*, political violence, enforced disappearances, extra-judicial killings by the law enforcement agencies seemingly in police encounters and cross-fires.²⁶

The political scenario in Bangladesh has largely been dominated by a two party polity, which, while introducing some measure of stability in that the elected party has a fixed tenure of five years, has in effect, instigated the practice of confrontational politics that is an antithesis to sustained democracy.²⁷

A culture of confrontational politics between the country’s two main parties has weakened the rule of law and led to the politicisation of state institutions, including the judiciary and bureaucracy. At the same time, political parties and parliament are increasingly being taken over by powerful business interests. Politicisation affects key institutions of governance, weakening trust in the very institutions that are meant to protect and promote the interests of the general public.²⁸ The existing system, however, has eroded the pluralism within the political system resulting in the weakening of the parties as well as reducing the choices of the electorate.²⁹

Despite the restoration of parliamentary democracy, there is still a considerable degree of centralised executive power. Article 55 of the constitution vests all executive authority in the prime minister

²¹ <https://www.cia.gov/library/publications/the-world-factbook/geos/bg.html> (accessed on 2 December 2015).

²² Human Rights Watch, *Democracy in the Crossfire: Opposition Violence and Government Abuses in the 2014 Pre- and Post-Election Period in Bangladesh*, 2014. http://www.hrw.org/sites/default/files/reports/bangladesh0414_ForUpload.pdf (accessed on 13 December 2015).

²³ DFID Bangladesh, *Operational Plan 2011-2016*, Updated December 2014, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/389036/Bangladesh.pdf (accessed on 2 December 2015). It may be noted that Freedom House rated the status of freedom in Bangladesh as “partly free” in 2015 as national elections were marred by an opposition boycott, as well as widespread violence and intimidation by a range of political parties. For details see Freedom House, *Freedom in the Worlds 2015*, https://freedomhouse.org/sites/default/files/01152015_FIW_2015_final.pdf. (accessed on 14 December 2015).

²⁴ TIB, *Parliament Watch: 10th Parliament (1st Session)*, July 2014, http://www.ti-bangladesh.org/beta3/images/2014/fr_pw_nis_10_parliament_s1_14.bn.pdf (accessed on 24 December 2015).

²⁵ Md. Rajib Hasnat Shakil and Kaniz Marzia, “Political Parties and Good Governance: Bangladesh Perspective”, *IOSR Journal of Humanities and Social Science (IOSR-JHSS)*, Volume 8, Issue 5 (Mar. - Apr. 2013), pp. 37-45, at p. 41, cited in TI and TIB, *National Integrity System Assessment: Bangladesh*, 2013, p. 17.

²⁶ International Crisis Group, *Mapping Bangladesh’s Political Crisis*, Asia Report N°264 | 9 February 2015, <http://www.crisisgroup.org/~/media/Files/asia/south-asia/bangladesh/264-mapping-bangladesh-s-political-crisis.pdf> (accessed on 2 December 2015).

²⁷ Sumaiya Khair, “Challenges to Democratization: perspectives of structural malgovernnace in Bangladesh” in Panandiker, V.A. Pai and Tripathi, Rahul (eds.), *Towards Freedom in South Asia. Democratization, Peace and Regional Cooperation*, Konark Publishers, New Delhi, 2008, pp. 47-64, at p. 49, cited in TI and TIB, *National Integrity System Assessment: Bangladesh*, 2013, p. 17.

²⁸ The Asia Foundation, *op.cit.* p. 9.

²⁹ Rehman Sobhan, “Structural Dimensions in of Malgovernnace in Bangladesh”, *Economic and Political Weekly*, 4 September 2004, pp. 4101-08, at p. 4103, cited in TI and TIB, *National Integrity System Assessment: Bangladesh*, 2013, p. 17-18.

rather than the cabinet; many legal experts consequently describe the form of government as “prime ministerial” rather than parliamentary.³⁰

Bangladesh is increasingly moving away from what is considered a ‘minimalist democracy’ (transfer of power through regular, free and contested elections, fundamental freedoms, civilian control over policy and institutions) to an ‘illiberal democracy’, characterised by misuse of state power for partisan and personal gain and politicisation of key state institutions.³¹ Political parties are known to be self-serving and rarely articulate broader public interests, except during pre-election campaigns³² when party manifestos bulge with rich promises for the common people, only to be forgotten once the elections are over.³³ Political parties in Bangladesh are also known for having party leadership in the hands of single leaders for decades, non-functioning internal democracy, dominance of money and muscle power, lacking proper representation, and lack of transparency (in party funding).³⁴

SOCIETY

Bangladesh, with about 160 million inhabitants on a landmass of 147,570 square kilometers, is among the most densely-populated countries in the world.³⁵ Bangladesh is religiously, ethnically and linguistically homogenous as Muslims account for 89.1% of the total population and 98% are Bengalis who speak in *Bangla*.³⁶ It has been estimated that there are about 75 ethnic groups having diverse identities, cultures and languages.³⁷ Bangladesh is portrayed as a moderate Muslim country where people of different religions have lived in peaceful co-existence for generations, each respecting the religious and cultural beliefs of the other and very often partaking in the same.³⁸ Notwithstanding, isolated incidents of hate campaign and violence against religious and ethnic minorities have time to time challenged the “moderate” image of Bangladesh.³⁹ The relationship between ethnic minority groups and the dominant Bengali communities is characterised by tension and conflict mostly over land ownership and use of natural resources.⁴⁰

In the past two decades, Bangladesh has experienced profound social transformation with the increased participation of women in economy, administration and politics. There has been widespread entry of girls into the education system and women into the labour force. Women consist of 80% of workforce of Bangladesh’s garment industry.⁴¹ Despite this progress, women in Bangladesh continue to face legal, social, and economic challenges.⁴²

³⁰ International Crisis Group, *op. cit.*

³¹ Institute of Governance Studies (IGS), *The State of Governance in Bangladesh 2008*, Dhaka, 2009, p. xv.

³² Khair, *op.cit*, p. 48.

³³ *Ibid*, p. 63.

³⁴ Rounaq Jahan, *Political Parties in Bangladesh: Challenges of Democratization*, 2015, Prothoma Prokashan, Dhaka.

³⁵ <http://www.bd.undp.org/content/bangladesh/en/home/countryinfo/> (accessed on 6 December 2015).

³⁶ Hindus are the largest minority religion, accounting for 10% while other minority groups comprising Christians, Buddhists and animists constitute less than 1% of the total population. For details see <https://www.cia.gov/library/publications/the-world-factbook/geos/bg.html> (accessed on 2 December 2015).

³⁷ However, the Government under the Cultural Institution for Small Anthropological Groups Act 2010 recognises 27 ethnic groups.<https://www.cia.gov/library/publications/the-world-factbook/geos/bg.html> (accessed on 2 December 2015).

³⁸ Taiabur Rahman, *Problems of Democratic Consolidation in Bangladesh: A Cultural Explanation*, paper presented at the Network of Asia-Pacific Schools and Institutes of Public Administration and Governance (NAPSIPAG) Annual Conference, Beijing, PRC, 5-7 December, 2005, p. 5.

³⁹ TI and TIB, *National Integrity System Assessment: Bangladesh*, 2013, p. 20-21.

⁴⁰ Ain o Salish Kendra (ASK), *Bangladesh: Failing to Fulfill Its Commitments*, http://www.askbd.org/ask/wp-content/uploads/2015/08/ANNI_Report_2015-Bangladesh.pdf (accessed on 27 December 2015).

⁴¹ World Bank, ‘Bangladesh Development Update: Growth Stable, but External Competitiveness Eroding’, October 20, 2015, <http://www.worldbank.org/en/news/feature/2015/10/20/bangladesh-development-update-growth-stable-but-eroding-external-competitiveness> (accessed on 2 December 2015).

⁴² The Asia Foundation, *Strengthening Democracy in Bangladesh*, Occasional Paper No. 13, June 2012, p. 10.

Bangladesh has a vibrant civil society that comprises both organised professional groups at the national level as well as unorganised citizen's groups at the local level. Broadly comprising of NGOs, CSOs, media, research think tanks, and various pressure groups (for example, women, human rights, minorities), the civil society has historically played a critical role in the democratisation process of the country since its independence.⁴³ Despite reservations on issues of power, the government has generally been receptive to demands of the civil society in respect of human rights protection and democratic governance.⁴⁴ Likewise, it is the civil society that today exerts pressure on political parties to conform to democratic norms and practice and more importantly, ethics of fair play.⁴⁵

Bangladesh is ranked 142nd of 187 countries in the 2014 UNDP Human Development Index.⁴⁶ Significant progress has been made on rights to health and education: child mortality fell by half between 1998 and 2011 and primary school enrolment has reached 98%. Bangladesh remains off-track on indicators for nutrition, water and sanitation under the MDGs.⁴⁷ Challenges also remain in relation to the quality of healthcare and education.⁴⁸

In spite of significant progress on different aspects, the state of human rights is still a concern. Violations of human rights are still taking place in the form of harassment, killings and extra-judicial killings, enforced disappearances and kidnapping, torture, sexual violence against women and children, violence against minorities, land dispossession and so on.⁴⁹ Furthermore, impunity of law enforcement forces, oppression of the political opponents by using state apparatus, and poor work conditions continues to be a serious problem.⁵⁰

LEVELS OF CORRUPTION

The Bangladesh Constitution affirms that the State will create conditions in which individuals will not be able to enjoy 'unearned incomes'.⁵¹ By acceding to the United Nations Convention Against Corruption (UNCAC) the State enters into an international commitment to resist corruption effectively. The Convention envisages both taking preventive measures against corruption and creating an enabling environment for ensuring integrity in conducting public affairs and managing public property in the member-countries. The National Integrity Strategy paper also emphasizes the importance of preventing corruption and promoting integrity. In the election manifesto of the present ruling party (Bangladesh Awami League) and other political parties that participated in the national election of 2014, commitments were expressed for taking all possible steps to stop corruption and to ensure the highest integrity in all affairs of the state and society.⁵² Numerous initiatives have been

⁴³ Md Mostafizur Rahaman, 'Towards democracy: role of civil society', *New Age*, September 14, 2014; Harry Blair, "Civil Society, Democratic Development and International Donors" in Rounaq Jahan (ed.), *Bangladesh. Promise and Performance*, The University Press Limited, Dhaka, 2002 (second impression), pp. 181-217, and pp. 192-193, cited in TI and TIB, *National Integrity System Assessment: Bangladesh*, 2013, p. 22.

⁴⁴ ADB, 'Overview of NGOs and civil society: Bangladesh', August 2008, <http://www.adb.org/sites/default/files/publication/28964/csb-ban.pdf> (accessed on 5 May 2016); Hossain Zillur Rahman, "Bangladesh 2015: Crossing miles", *The Daily Star*, 6 March, 2006.

⁴⁵ ATM Shamsul Huda, (undated), 'Role of Civil Society in strengthening Electoral Democracy' http://eci.nic.in/eci_main/dj/internationalconf/Bangladesh.pdf (accessed on 5 May 2016).

⁴⁶ <http://hdr.undp.org/en/countries/profiles/BGD> (accessed on 19 September 2016).

⁴⁷ *Ibid.*

⁴⁸ DFID Bangladesh, *Operational Plan 2011-2016*, Updated December 2014, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/389036/Bangladesh.pdf (accessed on 2 December 2015).

⁴⁹ Ain o Salish Kendra (ASK), *Bangladesh: Failing to Fulfill Its Commitments*, http://www.askbd.org/ask/wp-content/uploads/2015/08/ANNI_Report_2015-Bangladesh.pdf (accessed on 27 December 2015).

⁵⁰ Human Rights Watch, 2014, *op cit.*

⁵¹ *Bangladesh Constitution*, Article 20 (2).

⁵² Cabinet Division, *Commitment for Golden Bengal: National Integrity Strategy of Bangladesh*, Government of Bangladesh, October 2012.

undertaken by the government so far including legal and policy reforms, the strengthening of the Anti-Corruption Commission etc. for preventing corruption.

In Bangladesh issues around corruption are central to everyday discussions and concerns of general people, and occupy much of the spaces in mass media.⁵³ It is widely recognised that corruption and its negative impacts are a major obstacle to poverty reduction and national development in Bangladesh.⁵⁴ Corruption stands as a barrier to economic development, poverty alleviation, infrastructural development, and employment growth of the country.⁵⁵

However, in spite of lots of efforts, corruption exists extensively in the country.⁵⁶ In Bangladesh corruption occurs at various levels of national and socio-economic activities in the form of illegal transactions of money, and abuse of power through the network of the influential.⁵⁷ According to the Corruption Perceptions Index (CPI) 2015, Bangladesh scored 25 out of 100 points and ranked 139th from the top among 168 countries.⁵⁸ Bangladesh's score remained well below global average of 43, and was ranked as the second worst performer in South Asia. In the Global Corruption Barometer Survey 2013 the maximum percentage (34%) of people opined that the level of corruption has increased a lot.⁵⁹

Two other indicators, the World Bank's Control of Corruption and the World Economic Forum's assessment of Irregular Payments and Bribes, paint a similar picture. The World Bank scores Bangladesh 18.8 for Control of Corruption.⁶⁰ According to the Global Competitiveness Ranking, irregular payments and bribes indicator scores Bangladesh 2.3, and ranks it 140 out of 144 countries for 2014.⁶¹ According to a report by the US Department of State corruption still remains a serious impediment to investment and economic growth in Bangladesh.⁶² According to an estimate made by Finance Minister, Bangladesh loses as much as 2-3 percent of the GDP every year, while on the other hand the World Economic Forum estimates show that the costs of corruption equal 5 per cent of the GDP.⁶³

⁵³ Mahfuz Anam, 2002, 'The Media and Development in Bangladesh', in The World Bank Institute, *The Right to Tell: The Role of Mass Media in Economic Development*, Washington, pp. 268-269.

⁵⁴ DFID, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/389036/Bangladesh.pdf (accessed on 2 December 2015); TIB, *Corruption in Service Sectors: National Household Survey 2012*, http://www.ti-bangladesh.org/beta3/images/max_file/HHSurvey-ExecSum-Eng-fin.pdf (accessed on 17 December 2015).

⁵⁵ Anti-corruption Commission (ACC), *Annual Report 2014*. http://acc.org.bd/assets/acc_annual_report - 2014.pdf (accessed on 14 December 2015).

⁵⁶ International Republican Institute (IRI), *Bangladesh Survey: Support for Government Growing; Corruption a Dominant Concern*, 2 September 2015, <http://www.iri.org/resource/iri-bangladesh-survey-support-government-growing-corruption-dominant-concern> (accessed on 7 December 2015).

⁵⁷ TIB, *Corruption in Service Sectors*, *op. cit.*

⁵⁸ TIB, <https://www.ti-bangladesh.org/beta3/index.php/en/activities/4870-bangladesh-retains-last-year-s-score-slips-one-position-from-bottom-tib-calls-for-challenging-impunity-and-bring-the-corrupt-to-justice> (accessed on 19 September 2016).

⁵⁹ TI, *Global Corruption Barometer 2013*, TI, <http://www.transparency.org/gcb2013/country/?country=bangladesh>

⁶⁰ World Bank, *Worldwide Governance Indicators: Bangladesh*, 1996-2014, <http://info.worldbank.org/governance/wgi/index.aspx#countryReports> (accessed on 2 December 2015).

⁶¹ World Economic Forum, *The Global Competitiveness Report 2015-2016*, <http://reports.weforum.org/global-competitiveness-report-2015-2016/economies/#indexId=GCI&economy=BGD> (accessed on 2 December 2015).

⁶² US Department of State, *Investment Climate Statement 2015*.

<http://www.state.gov/documents/organization/241687.pdf> (accessed on 28 December 2015).

⁶³ *The Daily Star*, 'Graft takes 2-3 pc off the economy: Muhith says punitive measures are not enough to deal with the problem', 10 July 2015.

The National Household Survey 2015 by TIB showed that 67.8% households in Bangladesh experienced corruption while receiving services from different public and private sectors or institutions.⁶⁴ According to the estimate the households paid BDT 88.218 billion, which is 0.6% of 2014-15's GDP and 3.7% of the national (supplementary) budget.⁶⁵ It was also observed that although the rate of becoming victims of corruption is relatively lower among poorer households, the burden of corruption on them is relatively higher. The ratio of the unauthorized money paid to household income/expenditure is higher for the poor households; hence they bear greater burden of corruption.⁶⁶

The impact of corruption is often manifested through political intolerance, lack of accountability and transparency, low level of democratic culture, absence of consultation, dialogue and participation, rent seeking and patronage.⁶⁷ There are many factors that instigate corruption in the country. The partisan political considerations often seem to influence the anti-corruption agenda, which appears to target political opponents, and in turn sustains corruption and promotes a culture of impunity. Political and electoral commitments to fight corruption are not always followed up with enforcement without fear or favour. In many instances, laws apparently have been used against political opponents. The judicial process is often bypassed in corruption cases. All of these undermine the effectiveness of domestic law.⁶⁸

Table 2: Corruption Status of Bangladesh in Three Global Indicators

| INDICATOR | RANK AND SCORE |
|--|---------------------------|
| CPI (Transparency International) | 139 and 25 ⁶⁹ |
| Control of Corruption (World Bank) | 18.8 ⁷⁰ |
| Irregular Payments & Bribes (World Economic Forum) | 139 and 2.1 ⁷¹ |

⁶⁴ TIB, *Corruption in Service Sectors: National Household Survey 2015*, <https://www.ti-bangladesh.org/beta3/index.php/en/media-release/4985-corruption-in-service-sectors-national-household-survey-2015-68-households-are-victims-of-corruption-six-percentage-point-rise-in-bribery-compared-to-2012-english>

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ TI and TIB, *National Integrity System Assessment: Bangladesh*, 2013.

⁶⁸ TIB, *Implementation Review Mechanism of the UNCAC: Civil Society Organisation Report, Bangladesh*, UNCAC Review Process 1st Year Review of UNCAC Chapters III & IV, 2012.

⁶⁹ TI, *Corruption Perception Index 2015*, <https://www.transparency.org/cpi2015/results> (accessed on 11 July 2016).

⁷⁰ World Bank, *Worldwide Governance Indicators: Bangladesh, 1996-2014*,

<http://info.worldbank.org/governance/wgi/index.aspx#countryReports> (accessed on 2 December 2015).

⁷¹ World Economic Forum, *Global Competitiveness Report 2015-16, op. cit.* (accessed on 2 December 2015).

2. INSTITUTIONAL BACKGROUND AND PROFILE OF THE ACC

The Anti Corruption Commission (ACC) is a statutory independent corruption prevention and corruption detecting body of the state, operating under the Anti Corruption Commission Act 2004. Previously there was the Bureau of Anti-corruption (BAC) which was formed in 1957 under the Anti Corruption Act, 1957 to conduct anti corruption activities. Though initially it started as a temporary office, the BAC started its operation on permanent basis in 1967. The BAC did not have legal scope to enquire and investigate into allegations of corruption independently, and thus could not meet the expectation for preventing corruption effectively.⁷² With an aim for establishing an independent and effective anti-corruption body, the ACC was established on November 21, 2004 by abolishing the BAC.⁷³

The ACC's vision is to create a strong anti-corruption culture that permeates throughout the whole society and its mission is to relentlessly combat and prevent corruption.⁷⁴ The ACC's strategic objectives include combating corruption through punitive actions, pre-empting corruption through system review, and preventing corruption through education and advocacy.⁷⁵

According to ACC Act, 2004, the Commission is responsible for several important functions such as:⁷⁶

1. Conducting enquiry and investigation into the scheduled offences of the Anti-Corruption Commission Act on any allegations of corruption on own initiative or upon an aggrieved person;
2. Approval to lodge cases (FIR) and sanction to submit Charge Sheets/ Final Report on the basis of enquiry and investigation;
3. Conducting enquiry/ investigation and cases according to the Money Laundering Prevention Act (MLPA), 2012 on money laundering issues;
4. Recommending to the President about the following topics:
 - reviewing recognized systems under any Act for prevention of corruption;
 - preparing research plan for effective implementation of corruption prevention;
 - determine a 'to do list' on the basis of research findings; and
 - identifying the sources of corruption existing in Bangladesh in the context of socio-economic conditions and taking necessary measures accordingly.
5. Creating honesty and integrity to prevent corruption, building mass awareness against corruption and organizing seminars, symposium, workshops etc. on issues within the jurisdiction of Commission's functions;
6. Performing any other duties imposed upon Commission under the law to combat corruption.

RESOURCES

The ACC has its annual budget. The ACC proposes its own budget to the government. The budget proposal of ACC is subject to normal scrutiny of the Finance Ministry and in general approved by the

⁷² Iftekharuzzaman, 'The Anti-Corruption Commission: How Can It Be Made Effective?', paper presented at the Roundtable Discussion organized jointly by TIB and Reporters Against Corruption, Dhaka, September 17, 2006; See also Syeda Naushin Parnini, 2011, 'Governance Reforms and Anti-Corruption Commission in Bangladesh', *Romanian Journal of Political Sciences*, issue: 01 / 2011, pp 50-70 on www.ceeol.com (10 April 2016).

⁷³ ACC Annual report 2014, p. 19. Also see Institute of Governance Studies (IGS) and BRAC University, 2007, 'Institutions of Accountability: Anti-Corruption Commission'.

⁷⁴ ACC Annual report 2014, p. 19.

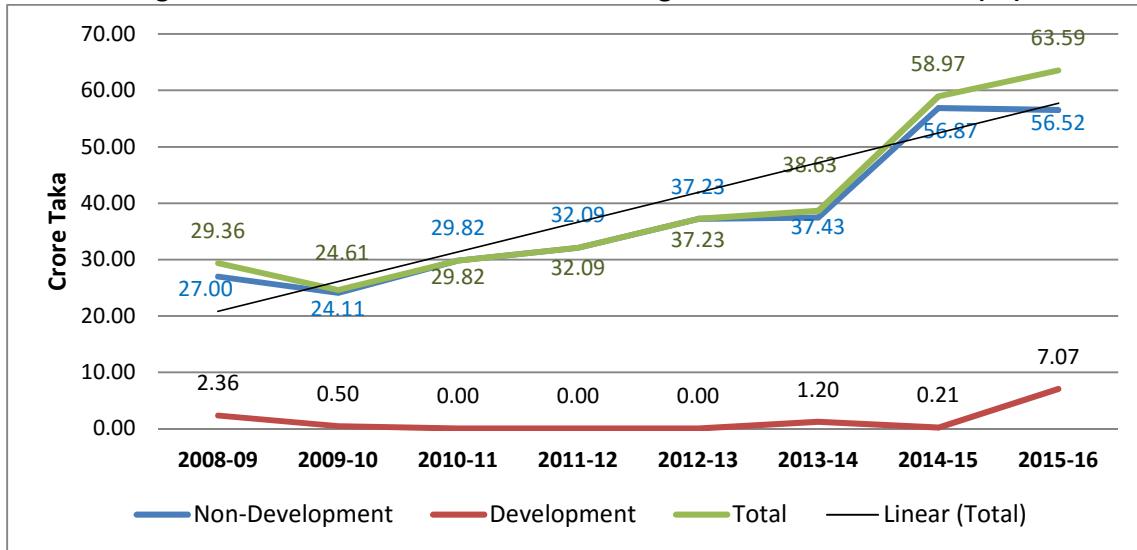
⁷⁵ *Ibid*, p. 21.

⁷⁶ Anti-Corruption Commission Act, 2004, Section 17.

Ministry of Finance unless any demand under a head is considered on the high side or too exaggerated. In such a situation the Finance Ministry holds meetings with the ACC. The agreed budget estimate is placed in the Parliament as part of the national budget.⁷⁷ The Government allocates a certain sum in favor of the Commission for its expenditure, which is increasing every year (see Figure 1).⁷⁸

Once the budget is approved, the Commission does not need to obtain any permission in advance from the government in order to spend the allocated money without prejudice to the rights of the Controller and Auditor General to audit the accounts of the ACC.⁷⁹ The Finance & Accounts Branch of the Administration, Establishment and Finance Wing supervise the functions relating to finance and internal audits; and conduct purchase of the Commission as per public procurement regulations.⁸⁰

Figure 1: Trend in Allocations for ACC during FY 2008-09 to 2013-14⁸¹ (Tk)



The budget of the ACC has so far been found to be sufficient and the Commission has not faced any impediment for want of budgetary resources.⁸² The financial resources are enhanced regularly accommodating the increase in operational costs of the Commission. From the budget allocation of the last seven years (from 2008-09 to 2015-16), it is observed that the allocation has been increasing over the years in consideration of increase in expenditure.⁸³ Moreover, it may be noted that the total budget was significantly increased since FY 2014-15, while the development budget has only recently been increased to a higher proportion.

There is no formal guarantee of fiscal stability over time but by and large the Commission enjoys the stability in practice as much of its budget is fixed by the Ministry of Finance in consultation with the ACC as part of the national budget. Once the budget is tabled in the Parliament, very rarely the budget estimate is reduced or refused by the Parliament.

HUMAN RESOURCE

The ACC has a government approved organogram for 1,264 staff including 191 supernumerary posts. In Dhaka office the number of all level staff is 638 whereas the number in the divisional and district

⁷⁷ TI and TIB, *National Integrity System Assessment: Bangladesh*, 2013.

⁷⁸ ACC Annual report 2014, p. 99.

⁷⁹ Anti-Corruption Commission Act, 2004, Section 25.

⁸⁰ ACC Annual report 2014, p. 99.

⁸¹ Prepared from the data collected from ACC Annual Report 2013, 2014.

⁸² Interviews with present and former Commissioners of ACC, and DG, Administration, Establishment and Finance, ACC (16 March 2016).

⁸³ TI and TIB, *National Integrity System Assessment: Bangladesh*, 2013.

level offices outside Dhaka stands at 626.⁸⁴ However, at present the existing human resource is 960 (895 males and 65 females).⁸⁵

The Commission is empowered by the ACC Act, 2004 to appoint the necessary number of officers and personnel to carry out its work efficiently.⁸⁶ Necessary rules have been formulated to address the issue of determining the appointment and terms and conditions of the Secretary and other personnel of the Commission by administrative order until the formulation of such rules. By applying this statutory authority, the Commission pronounced Anti Corruption Commission (Personnel) Employment Rules, 2008 in order to determine the appointment and terms and conditions of its personnel. The Rules provides four methods of recruitment to fill ACC's vacant posts – (1) direct recruitment, (2) recruitment through promotion, (3) recruitment through transfer on deputation, and (4) contract-based recruitment. Rule 4 stipulates the Commission to form a recruitment and promotion committee for making recommendations on direct recruitment or recruitment through promotion. 60% of the recruitment for the positions of Deputy Assistant Director takes place through direct recruitment and 40% through promotion.⁸⁷ In the last three years, 147 staff were recruited directly to the vacant posts.⁸⁸ At the time of data collection, there were a few high level officials on deputation from other government functionaries – four (out of six) Director Generals and two (out of 13) Directors. Such deputation takes place following the Anti-Corruption Commission (Personnel) Employment Rules, 2008 (Rule 8).

The ACC follows merit-based recruitment procedures. Before appointment police verification is conducted on the selected candidates to ascertain their antecedents, particularly whether they were involved in any political or criminal activities. The recruitment is based on competitive examinations, subject to various regional, gender and ethnic quotas prescribed by the government which is applicable to all recruitments in the country. The new staff members are provided with theoretical and practical training after joining the service.⁸⁹ The Commission has emphasis on the enhancement of competence of its officers and staff and has taken several measures to enhance the efficiency of its officials and employees by arranging necessary training, seminar, symposium, etc. In the last three years 47 training programs were organized for the ACC staff in which 956 officials/ staff took part.⁹⁰

Table 3: Staff recruitment, retirement, resignation and termination (2013 – 2015)

| Year | Recruitment | Retirement | Resignation | Termination |
|--------------|-------------|------------|-------------|-------------|
| 2013 | 73 | 7 | 9 | 1 |
| 2014 | 73 | 22 | 10 | 3 |
| 2015 | 1 | 21 | 2 | 3 |
| Total | 147 | 50 | 21 | 7 |

Source: ACC, 7 April 2016.

The turnover rate of ACC is low (2.71% per year during the last three years). Such turnover has been due to retirement, resignation and termination of the concerned staff.⁹¹ Termination took place in the wake of departmental prosecution based on allegation raised against them and duly investigated and proven. Moreover, around 14% of the staff recruited in the last three years left ACC in the last few years for better career opportunities.

Table 4 shows that according to law the ACC has jurisdiction over all public (legislators, judiciary, law enforcing agencies and other public services) and non-government (government owned corporations,

⁸⁴ ACC Annual report 2014, p. 93.

⁸⁵ Data collected from Finance and Accounts wing of ACC (March 2016).

⁸⁶ Anti-Corruption Commission Act, 2004, Section 16 (3).

⁸⁷ Anti Corruption Commission (Personnel) Employment Rules, 2008.

⁸⁸ Data collected from ACC, 7 April 2016.

⁸⁹ TI and TIB, *National Integrity System Assessment: Bangladesh*, 2013.

⁹⁰ DG, Administration, Establishment and Finance, ACC (7 April 2016).

⁹¹ Moreover, another 5-6 died of natural death while in service during this period. *Source:* Interview with Md. Rafiqul Islam, Deputy Director, ACC (7 April 2016).

public contractors, charities/ NGOs and business) sectors,⁹² which potentially equips it with a strong leverage to effectively prevent corruption in the country.

Table 4: ACC Profile

| Jurisdiction Functions/ mandate/ powers | Public sector | | | | Non-government | | | |
|---|---------------|-----------|--------------------------|----------------------------|----------------------------|-----------------------|---------------------|------------------------------------|
| | Legislators | Judiciary | Police, military etc. | Other public service | Govt-owned corporations | Public contractors | Charities / NGOs | All business / some business |
| 1. Research, intelligence, risk assessment & detection | Y | Y | Y | Y | Y | Y | Y | Y |
| 2. Corruption investigation – in response to complaints | Y | Y | Y | Y | Y | Y | Y | Y |
| 3. Corruption investigation – own motion powers | Y | Y | Y | Y | Y | Y | Y | Y |
| 4. Prosecution powers | Y | Y | Y | Y | Y | Y | Y | Y |
| 5. Asset recovery / confiscation / restitution powers | Y | Y | Y | Y | Y | Y | Y | Y |
| 6. Prevention powers | Y | Y | Y | Y | Y | Y | Y | Y |
| 7. Education and outreach powers | Y | Y | Y | Y | Y | Y | Y | Y |

Note: Y = Yes, N = No.

STRUCTURE

The Anti-Corruption Commission comprises three Commissioners of whom one is the Chairman.⁹³ All are appointed by the President on the recommendation of the Selection Committee⁹⁴ on a full-time basis for a period of five years⁹⁵ from the date of their appointment. The Chairman serves as the chief executive of the Commission.⁹⁶ The Commissioners are not eligible for appointment in any profitable post of the Republic after completion of their tenure. No Commissioner shall be removed from office except on similar causes and manners as apply to the removal of a judge of the Supreme Court.⁹⁷

Operational activities of the ACC are carried out by six Director Generals with the rank and status of Joint Secretary, overseeing six units: (1) Legal and Prosecution, (2) Administration and Finance, (3) Investigation and Inquiry, (4) Special Investigation, (5) Research, Prevention and Public Awareness, and (6) Incomplete Cases and Inspection. All these units are run by both deputed staff of the Government as well as internal staff members of the ACC. All DGs report to the Secretary of the ACC, who is a deputed staff from the government with the rank and status of a Secretary. There is also a Director for Monitoring and Evaluation, who directly reports to the Chairman of the ACC.⁹⁸ Apart from the head office in Dhaka, the ACC has six divisional offices and 22 integrated district offices (IDOs) all over the country.

⁹² *Anti-Corruption Commission Act, 2004*, Section 1 (2).

⁹³ *Anti-Corruption Commission Act, 2004*, Section 5(1).

⁹⁴ *Anti-Corruption Commission Act, 2004*, Section 7.

⁹⁵ *Anti-Corruption Commission Act, 2004*, Section 6.

⁹⁶ *Anti-Corruption Commission Act, 2004*, Section (1).

⁹⁷ *Anti-Corruption Commission Act, 2004*, Section 10.

⁹⁸ TI and TIB, *National Integrity System Assessment: Bangladesh, 2013*.

Figure 2: Organizational Structure of Anti Corruption Commission⁹⁹

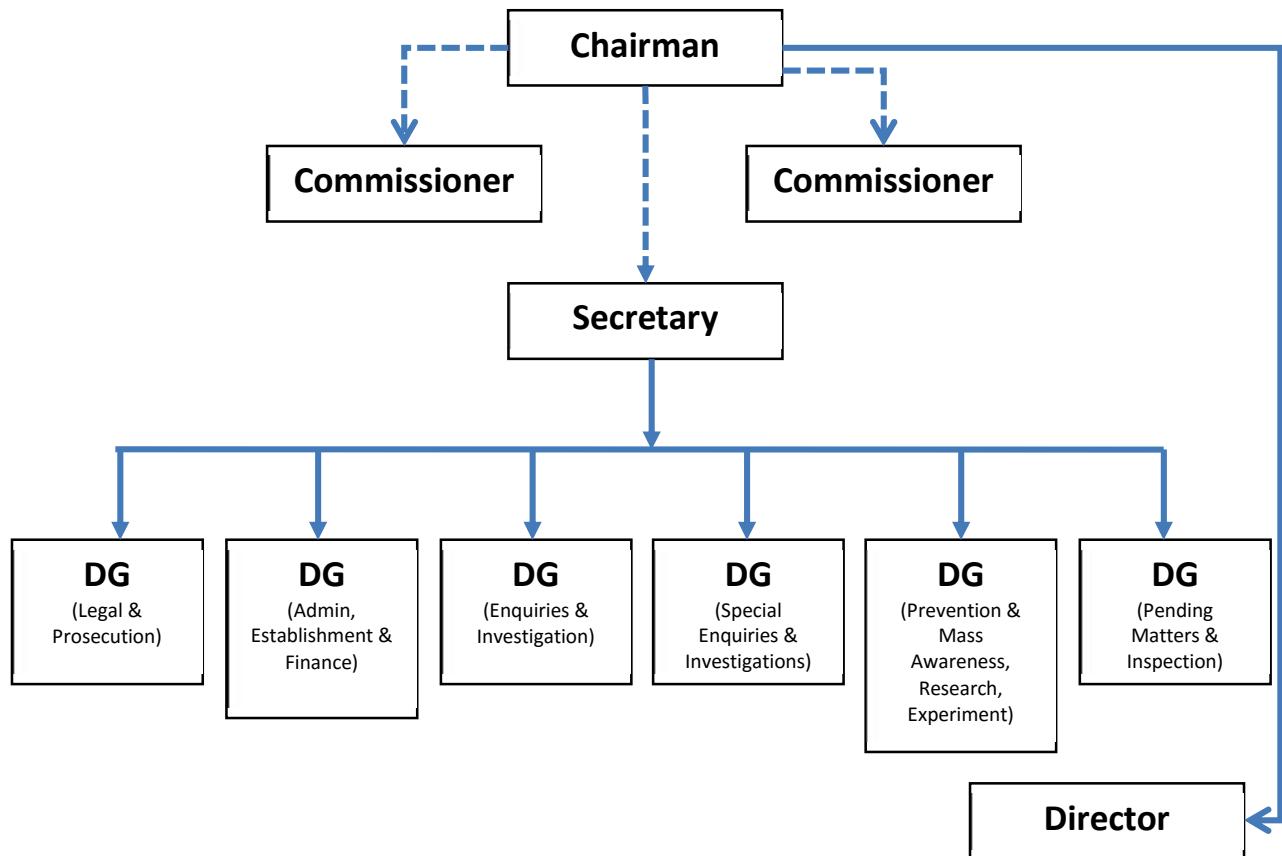
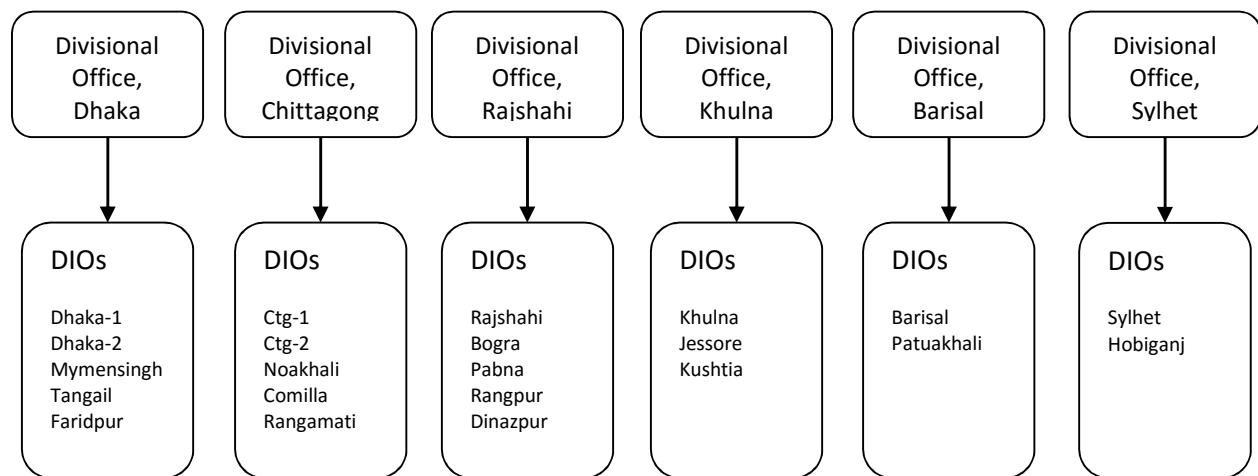


Figure 3: Organizational Structure of Anti Corruption Commission's Field offices¹⁰⁰



ENQUIRY, INVESTIGATION AND PROSECUTION

The principal statutory functions of the Commission are to conduct enquiries into and investigate corruption offences.¹⁰¹ Enquiries and investigations become the bases of prosecuting corruption offences. The Anti-Corruption Commission Act, 2004 confers special powers on the Commission in respect of enquiry or investigation.¹⁰² The Commission takes legal measures only against specific

⁹⁹ ACC Annual report 2014, p. 23.

¹⁰⁰ *Ibid*, p. 25.

¹⁰¹ The Anti-Corruption Commission Act, 2004, Section 17(a).

¹⁰² The Anti-Corruption Commission Act, 2004, Section 19 and 20.

allegations under the scheduled offences of The Anti-Corruption Commission Act, 2004. ACC's prioritized issues for conducting enquiry are money laundering; land, land revenue and lease; bribes (finance, assets and services); illegal attainment of movable or immovable assets; corruption in construction works and communication sector; implementation of development projects and corruption in private sector; duty and tax, revenue, businessmen/ business organizations; public procurement, issuance of license; criminal breach of trust and misuse of power; and other offences mentioned in the schedule of The Anti-Corruption Commission Act, 2004.¹⁰³

The Enquiry and Investigation Wing and Special Enquiry and Investigation Wing look after the enquiry and investigation issues. Branches and Sections of these Wings oversee enquiries and investigations carried out by the divisional and integrated district offices at the field level.

The Anti-Corruption Commission Act, 2004 allows the Commission to have its own prosecution unit consisting of the required number of prosecutors in order to conduct the cases before the Special Judge.¹⁰⁴ At present, the Commission appoints separate panel of lawyers¹⁰⁵ on contractual basis to conduct corruption cases on behalf of the Commission in the Special Judge Courts and the Supreme Court of Bangladesh. The appointment is, however, revoked in accordance to the decision of the Commission, if questions are raised about the performance.

There have been backlogs of corruption cases lodged by the abolished BAC (for details see Table 9). The total number of cases filed by the Commission in 2015 which were under trial was 3,097, among which ongoing cases were 2,660, and the number of cases stayed by the higher court was 437. On the other hand, the total number of pending cases filed by the Bureau was 1,080 in 2015, among which the number of ongoing cases was 697, and the number of cases that had been stayed was 389.

PREVENTION, EDUCATION AND OUTREACH

Promotion of values of honesty and integrity to prevent corruption and taking measures to build mass awareness against corruption in the country are key mandates of the Commission. ACC adopted corruption prevention initiatives in order to expedite a national social movement to prevent corruption with spontaneous participation of people from all walks of social life. As a part of these initiatives Corruption Prevention Committees (CPCs) have been formed at the upazila, district and metropolitan levels with an aim to create mass awareness about corruption prevention. There are a total of 493 CPCs all over the country. Moreover, in order to engage the future generation of the nation in creating mass awareness against corruption and to help them take a stand against corruption on the basis of ideology, ethics and values, ACC has formed 21,744 'Integrity Units' across the country.¹⁰⁶ Events organized by the CPCs and Integrity Units include discussions, debates, essay competitions, human chains and rallies, seminars, drama, and speech by distinguished persons (see Table 5 and 6).

Table 5: Events Organized by CPCs (2012-2014)

| Year | Discussions | Debate | Essay competitions | Human Chain | Rally | Seminar | Drama | Speech by distinguished persons | Others |
|------|-------------|--------|--------------------|-------------|-------|---------|-------|---------------------------------|--------|
| 2014 | 2,171 | 509 | 432 | 939 | 1,008 | 87 | 187 | 1,013 | 1,837 |

¹⁰³ ACC Annual report 2014, p. 27.

¹⁰⁴ Anti-Corruption Commission Act, 2004, Section 33 (a).

¹⁰⁵ A thirteen-member lawyers' panel called as 'Public Prosecutors' is working in the thirteen Special Judge Courts of Dhaka. Besides, 59 lawyers are working in Dhaka Division, 34 lawyers in Chittagong, 49 lawyers in Rajshahi, 26 lawyers in Khulna, 19 lawyers in Barisal, and 19 lawyers in Sylhet. Source: ACC Annual Report 2014, p. 71.

¹⁰⁶ For the mandate and formation of the CPCs and Integrity Units please see the *District/ Upazila/ City Corporation Corruption Prevention Committee and Supporting Organizations: Constitution and Working Guideline* (May 2010), and *Integrity Unit Constitution and Working Guideline* 2015 by ACC.

| Year | Discussions | Debate | Essay competitions | Human Chain | Rally | Seminar | Drama | Speech by distinguished persons | Others |
|--------------|--------------|--------------|--------------------|--------------|--------------|------------|------------|---------------------------------|--------------|
| 2013 | 2,519 | 429 | 386 | 672 | 705 | 184 | 172 | 756 | 808 |
| 2012 | 2,069 | 400 | 422 | 648 | 684 | 214 | 185 | 576 | 761 |
| Total | 6,759 | 1,338 | 1,240 | 2,259 | 2,397 | 485 | 544 | 2,345 | 3,406 |

Source: Prepared from ACC Annual Reports 2014, 2013.

Table 6: Events Organized by Integrity Units (2014)

| Year | Discussions | Debate | Essay competitions | Human Chain | Rally | Seminar | Drama | Speech by distinguished persons | Others |
|------|-------------|--------|--------------------|-------------|-------|---------|-------|---------------------------------|--------|
| 2014 | 1378 | 398 | 347 | 644 | 744 | 20 | 122 | 413 | 681 |

Source: ACC Annual Report 2014.

ACC observes Corruption Prevention Week, International Anti Corruption Day and its foundation anniversary through human chain, meeting, rally, and information fair every year. Apart from these, the ACC has initiated new activities such as public hearings in government and semi-government offices, with a view to raising awareness about preventing corruption.¹⁰⁷

The ACC has a quarterly newsletter titled *Dudok Darpan*. It republished a booklet of religious sermons in 2014 titled *Dire Consequences of Corruption* for the Imams and religious leaders. The ACC also publishes advertisements against corruption in the leading national dailies. With the help of Bangladesh Telecommunication Regulatory Commission (BTRC), the mobile phone users are sent text messages to refrain from corruption. On the occasion of Corruption Prevention Week and International Anti-Corruption Day, T-shirts inscribed with slogans against corruption were distributed among participants.

ACC has joint collaboration with different stakeholders including other government organizations, NGOs and development partners as well. A Memorandum of Understanding (MoU) between ACC and Bangladesh Bank on mutual assistance was signed in May 2014. ACC collaborates with other stakeholders such as the World Bank (WB), Asian Development Bank (ADB), Japan International Cooperation Agency (JICA), German International Cooperation Agency (GIZ), Management and Resources Development Initiative (MRDI), Bangladesh Enterprise Institute (BEI), and TIB in different prevention, education and outreach activities. Such collaborations have been project-based and short-term need-based, and most of them were initiated by the ACC. The ACC is implementing a project with the WB on the implementation of the National Strategy, which started in July 2015 and will continue up to 2018. ACC has implemented four projects with ADB under which the CPCs and Integrity Units have been formed. One pilot project is being implemented by GIZ under the JRCP project in five districts. This started in 2014 and will continue up to 2019. The ACC worked with MRDI on implementation of the Right to Information Act in 2012, and with BEI on the capacity building of stakeholders. The ACC signed Memorandum of Understandings (MoU) with TIB in May 2015 for a year for collaborative campaign and research, and with the BFIU of Bangladesh Bank for capacity building.¹⁰⁸

The ACC has developed a draft 'Anti Corruption Commission Communication Strategy' for five years, from 2015 to 2019, with the financial and technical help of the World Bank, Dhaka Office in 2014. It is an outline of activities of the commitment made by various development partners and for implementing those in anticorruption campaigns. Efforts are underway to prepare an 'Anti-Corruption Strategic Plan of the ACC' with the technical assistance of GIZ. The draft report will be disseminated through workshop with key stakeholders, and will officially be launched when the report is finalized.

¹⁰⁷ ACC Annual report 2014, p. 81.

¹⁰⁸ Interview with Director, Prevention, Education and Outreach, ACC (10 March 2016); ACC Annual Report 2014; MoU signed between ACC and TIB (<http://www.ti-bangladesh.org/beta3/index.php/en/media-release/4625-acc-and-tib-join-hands-to-augment-corruption-prevention-activities-bangla>).

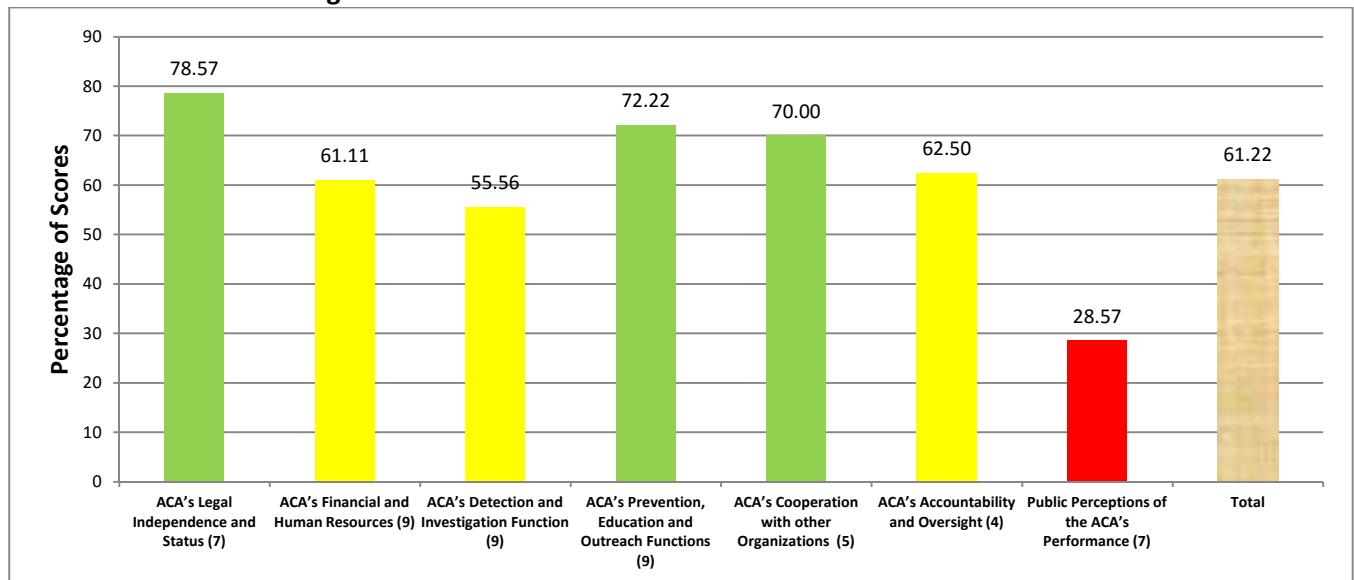
3. KEY FINDINGS

The main findings of the assessment are based on a set of 50 indicators divided into seven different dimensions. These indicators are designed to assess the capacity and effectiveness of the ACC, and to identify gaps and areas of opportunity. Each indicator has been assigned one of three possible scores – **high (3), moderate (2) and low (1)**, based on the level of standards set for each of the indicators.¹⁰⁹ For a clear understanding of the dimensions as well as the overall score, it has been classified into three categories – ‘high’ for an overall score between 67% and 100%, ‘moderate’ for an overall score between 34% – 66%, and ‘low’ for an overall score between 0% - 33%.

In order to arrive at the aggregate score for each dimension, the scores were first converted from the 1-3 scale to a 0-2 scale. Thus, all (1) scores become (0), all (2) scores become (1) and all (3) scores become (2). This was done because when aggregating the scores and converting them to percentages the bottom of the scale must always be 0. If we were to use the 1-3 scale then the lowest possible score for any dimension would be 33% (i.e. 1/3). Once the scores were converted from the 1-3 scale to the 0-2 scale, scores obtained by each of the indicators of a dimension were added up and then divided by total of maximum possible scores for all indicators under that dimension and then multiplied by 100. For example, the sum of the indicators under the first dimension (legal basis, independence and mandate) was 11 (4 indicators received the maximum score of 2 and 3 indicators received a score of 1). The maximum total possible score for that dimension is 14 (i.e. 7 indicators X the maximum possible score of 2 for each). Thus the final aggregate score (percentage) for that dimension was: $11/14 \times 100 = 78.57\%$.

According to this assessment, Bangladesh ACC has achieved a ‘moderate’ score. The ACC has an overall score of 61% (Figure 3.1). Moreover, 42.86% of the indicators scored ‘high’ (21), 38.78% indicators scored ‘moderate’ (19) and 18.37% indicators scored ‘low’ (9) (Figure 4).

Figure 4: Scores for Dimensions and Overall Score



As evident from Figure 4, ACC scored the highest (78.57%) under the Legal Independence and Status dimension under which four indicators got high while three indicators got moderate scores. The second highest (72.22%) score has been received on ACC's Prevention, Education and Outreach Functions dimension under which five indicators got high, three got moderate and one got low scores.

¹⁰⁹ See Table 7 on details of the standards.

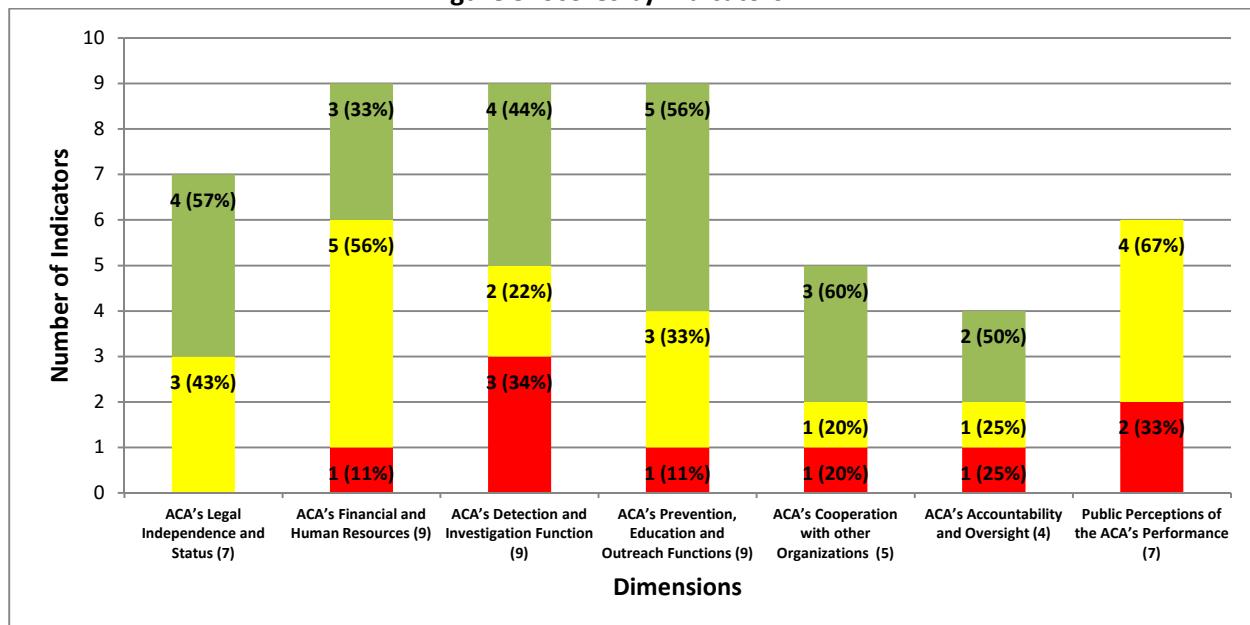
ACC's Cooperation with Other Organisations (70%) is another dimension that falls in the 'high' category.

Scores for Financial and Human Resources (61.11%) and Accountability and Oversight (62.5%) dimensions are slightly better than the overall score. These indicate that the resource allocation and oversight mechanism need to be enhanced.

ACC's Detection and Investigation Function (55.56%) dimension has received a score that is lower than the the overall score, indicating that serious attention required in the fields of budget allocation compared to the national budget, accessibility to corruption complainants, low conviction rate and the absence of gender segregated corruption information.

The lowest score (28.57%) has been attributed to the Public Perceptions of the ACC's Performance dimension, where two indicators got low and four got moderate scores among seven indicators, indicating that ACC's performance with regard to this field needs special and immediate attention.

Figure 5: Scores by Indicators



Scoring Key: Indicators rated high are coloured green, indicators rated medium are coloured yellow, and indicators rated low are coloured red. Un-scored indicators have been coloured grey.

| | |
|-----------------------------|--------|
| HIGH SCORE | Green |
| MODERATE SCORE | Yellow |
| LOW SCORE | Red |
| Scoring Not Possible | Grey |

Table 7: Assessment Summary: Indicators by Dimension (more detail provided in section 3)

| DIMENSION | | | | INDICATORS | | | | | |
|---|---|---|---|---|--|--|--|--|---|
| ACC's Legal Independence and Status (7) | ACC's legal independence | ACC's mandate | ACC's legal powers | Appointment of ACC Commissioner(s) | ACC Commissioner(s)' term of office and removal | ACC's operational autonomy and impartiality | Government's reliance on ACC to use corruption as a weapon against political opponents | | |
| ACC's Financial and Human Resources (9) | Average proportion of ACC's budget to total government budget for past 3 years | Sufficiency of ACC's budget for performing its functions | Security and stability of ACC's budget during past 3 years | ACC personnel's salary and benefits | ACC's selection criteria for Personnel | Expertise of ACC's personnel in corruption investigation | Expertise of ACC's personnel in corruption prevention and education | Training of ACC's personnel | Stability of ACC's personnel |
| ACC's Detection and Investigation Function (9) | ACC's accessibility to corruption complainants/ informants, including public and whistle-blowers during past 3 years | ACC's responsiveness to corruption complaints during past 3 years | ACC's willingness to initiate corruption investigations during past 3 years | Average number of cases investigated by the ACC per year during past 3 years | Efficiency and professionalism of corruption investigations by ACC during past 3 years | Average conviction rate of corruption cases investigated by ACC in past 3 years | ACC's willingness to investigate influential persons for corruption without fear or favour during past 3 years | ACC's role in restitution, asset recovery, freezing and confiscation during past 3 years | Does the ACC identify gender in compiling corruption complaints and monitoring corruption trends? |
| ACC's Prevention, Education and Outreach Functions (9) | Average proportion of ACC's operating expenditure allocated to public outreach and prevention during past 3 years | ACC's corruption prevention initiatives during past 3 years | Number of reviews of organizational procedures, systems & capabilities conducted by ACC to prevent corruption during past 3 years | Frequency of including corruption prevention recommendations in ACC's investigation reports during past 3 years | ACC's plan for prevention, education and outreach and its implementation | ACC's collaboration with other stakeholders in prevention, education and outreach activities | ACC's research and exploration of corruption risks, context and conditions | ACC's dissemination of corruption prevention information and use of campaigns | ACC's use of its website and social media for disseminating information on corruption prevention |
| ACC's Cooperation with other Organizations (5) | Government support (e.g. Attorney-General's Office, Director of Public Prosecutions) to ACC for prosecution of corruption cases | Cooperation between ACC and other integrity agencies (including other ACAs if there are multiple ACAs in country) | Cooperation between ACC and non-government organizations including CSOs and private companies | ACC's participation in international networks | ACC's cooperation with ACAs in other countries | | | | |

| DIMENSION | | | | | INDICATORS | | |
|--|--|---|--|---|--|--|--|
| ACC's Accountability and Oversight (4) | Information provided in and accessibility of ACC's annual report and website | ACC's oversight mechanisms | ACC's procedure for dealing with complaints against ACC personnel | Outcomes of complaints against ACC or its personnel in past 3 years | | | |
| Public Perceptions of the ACC's Performance (7) | Public confidence that government has given ACC the required powers and resources for curbing corruption | Public confidence in ACC's adherence to due process, impartiality, and fairness in using its powers | Confidence in ACC's adherence to due process, impartiality, and fairness in using its powers among persons who had direct contact with ACC | Confidence in ACC's dignified and respectful treatment of persons under investigation | Public perception of ACC's effectiveness in corruption control | Perception of ACC's effectiveness in corruption control among persons with direct contact with ACC | Perception of ACC's effectiveness in dealing with complaints among female citizens who had direct contact with ACC |

The key findings on the indicators have been broken down by dimensions in the following section.

LEGAL INDEPENDENCE AND STATUS

The Legal Independence and Status dimension of ACC scored the highest (78.57%), of which four indicators got high and three got moderate scores. Legal independence, mandate, legal powers and ACC Commissioners' terms of office and removal are the indicators that got high scores.

The law provides ACC with substantial legal independence with dependency on the government for its budget.¹¹⁰ The law also describes the mandate of ACC elaborately. Among 11 functions of ACC, five (5) are of punitive and six (6) are of preventive nature. These functions include investigation, prevention, education, research and integrity advice for mainstreaming good practices in the work of government agencies.¹¹¹ Moreover, the ACC is entrusted with a wide range of legal authority to undertake inquiry or investigation, arrest, hear the accused, ask for declaration of properties, confiscate property in excess of known sources of income, prosecution, formulate rules etc.¹¹² It is not accountable to any other authority except the Office of the Comptroller and Auditor General for reviewing its financial operations. The Chairman and Commissioners of the ACC are appointed for five years,¹¹³ and they are well protected from any forceful and undue removal.¹¹⁴

However, ACC's full independence and impartiality have been questioned due to its (in) effectiveness and exercise of power. The experts expressed that ACC's independence is more dependent on the personal capacity of the office bearers rather than the authority provided by the law. Questions have been raised to what extent the Chairman and Commissioners are willing to enjoy their independence. This is also related to the way the Chairman and the Commissioners are appointed. Experts maintained that although the Chairman and Commissioners are appointed through an apparently fair and transparent process, the very formation of the selection committee is not above question, and there is ample scope for selection on political grounds. There is an allegation that political consideration and loyalty often get priority in case of these appointments. Moreover, the list and credentials of the selected candidates are not made public.

Experts also expressed that ACC cannot exercise its full legal power. Like independence, the exercise of legal power depends on the strong and independent mentality of the commissioners. It is alleged that ACC lodged very few cases against powerful persons of current ruling party out of fear. ACC takes action against staff at lower tiers whereas the main culprits remain untouched or go scot free. There is also allegation of political interference and influence in exercising its authority.

Another concern with regard to ACC's independence and status revolves around its limited operational autonomy and impartiality. The ACC has to depend on Finance Ministry for its budget and has to be accountable for the additional expenses. It needs approval from the government before increasing the number of its human resource and district offices. The ACC faces many bureaucratic procedures. In some cases they confront hassles in getting necessary documents or cooperation from other institutions like banks, NBR etc.

¹¹⁰ Section 3(2)&(3) of *Ant-Corruption Commission Act 2004* state that the Commission will be a independent, impartial and self governed commission. According to Section 24 of Ant-Corruption Commission Act 2004, "The commissioners shall be free to discharge their duties under this Act subject to its terms". Section 25(1) of Ant-Corruption Commission Act 2004 says that the government shall allocate a certain sum in favor of the commission for expenditure. It shall not be necessary for the Commission to obtain any permission in advance from the government in order spend the allocated money.

¹¹¹ *Ant-Corruption Commission Act 2004*, Section 17.

¹¹² *Anti Corruption Commission Act 2004*, Sections 18, 19, 20, 21, 22, 26, 27, 34 & 36.

¹¹³ *Anti Corruption Commission Act 2004*, Section 6(3).

¹¹⁴ Section 10(3) of *Anti-Corruption Commission Act, 2004*, provides that no Commissioner shall be removed from office except on similar grounds and in accordance with the similar procedures as applied to the removal of a Judge of the Supreme Court.

In 2013, ACC's operational autonomy was endangered by the government initiative to amend the Anti-Corruption Commission Act 2004. The amendment, passed in the Parliament on November 10, among other things,¹¹⁵ made it mandatory for the ACC to secure prior government permission before filing any case against public officials including judges, magistrates or public servants for alleged corruption.¹¹⁶ This was termed a clear violation of the constitution, and aimed to curtail the power of the ACC. The then Chairman (in charge) questioned the process, and said that the move to give government officials impunity and protection would not see the light of the day. He also said that "An unholy alliance has been instrumental in making the bill into a law".¹¹⁷ However, on 30 January 2014, the High Court declared this provision unconstitutional and void.¹¹⁸

Case Study 1: Basic Bank Scam

Basic Bank Limited, a state-owned scheduled bank of Bangladesh, was one of the best-run banks until a former MP from the Jatiya Party was made the Chairman of the bank in 2009, who was re-appointed in 2012. The audit reports from Bangladesh Bank and the external audit firms hired by BASIC Bank found the Chairman involved in abnormalities around the granting of loan, appointment of jobs and promotions.

In 2012-13, Bangladesh Bank found his complicity in the embezzlement. The irregularities included no verification of loan-seekers' creditworthiness, absence of the KYC (Know Your Customer) procedures and approving loans to defaulters. On 14 July 2014 Bangladesh Bank sent a report on the BASIC Bank scam to the ACC, detailing how borrowers embezzled money from the bank through fake companies and suspected accounts. The report mentioned that the Dilkhusha Branch doled out Tk 683 crore in loans to 16 borrowers, all of whom took the money through illegal means. In Gulshan branch, 12 clients took out Tk 297 crore through pay orders or in cash. The report also contained a list of 40 pay orders that were transferred from a number of loan accounts at Shantinagar Branch to suspected accounts in the same branch in 2012. Each pay order transferred funds between Tk 50 lakh and Tk 1 crore. The ACC began investigating massive loans granted between 2009 and 2012 by the state-owned bank's Gulshan, Dilkhusha, and Shantinagar branches. However, most of the loans remained unpaid because many of the borrowers were untraceable.

After long investigations of four years, in September 2015, the ACC filed a total of 18 cases against several BASIC officials. Former MD of the bank was accused in most of the cases filed for swindling of over Tk 650 crores. Besides, the Chairmen and MDs of 18 companies and several officials of the bank were accused in the cases. However, ACC filed 56 cases last year accusing a total of 110 people and organisations for gross loan irregularities worth over Tk 4,500 crore but neither the former Chairman of the bank, who is believed to be at the centre of the scam, nor any of the then board members responsible for the scam were accused in any of the cases.

In November 2015, in response to a writ petition, the High Court issued a rule asking the authorities concerned to explain within four weeks why the ACC chief should not be directed to implicate BASIC Bank's former Chairman and its former board members in a Tk 154 crore loan scam case. The ACC and the central bank have been ordered to submit their findings about BASIC Bank to High Court on 9 February 2016. Besides, being unsatisfied by the ACC's investigation, the Parliamentary Committee on the Finance Ministry launched its own investigation.

In August 2016, at least three investigators out of seven completed their investigations and found direct involvement of the former Chairman.

¹¹⁵ A few provisions were made in the amended version of the law that was termed positive. These include mandatory disclosure of corruption related information by such bodies as NBR, law enforcement agencies, CAG and Bangladesh Bank upon ACC's request; retaining the appointment of the secretary in ACC's jurisdiction; and confidentiality of information provider.

¹¹⁶ 'ACC's authority curtailed', *Prothom Alo*, 11 November 2013. The bill was originally raised in February 2011, but was halted due to large scale protest from different sections of the society especially the watchdog NGOs and civil society. The concerned Parliamentary Standing Committee also recommended for not including such provision in the amendment. Only three MPs discussed on the amendments of the bill.

¹¹⁷ 'ACC law to spark mass protests', *The Daily Star*, 22 November 2013; Iftekharuzzaman, 'Anti-corruption Commission (Amendment) Bill: Unconstitutional, discriminatory, self-defeating', *The Daily Star*, 14 November 2013.

¹¹⁸ 'Provision for prior permission illegal: HC observes change to law undermines ACC's independence', *The Daily Star*, 31 January 2014.

Source: 'Evidence of scam found against BASIC Bank ex-chairman Bacchu, says Muhith', bdnews24.com, <http://bdnews24.com/bangladesh/2016/02/23/evidence-of-scam-found-against-basic-bank-ex-chairman-bacchu-says-muhith>; '27 individuals involved in BASIC bank loan scam: Muhith', *Daily Samakal*, <http://www.samakal.net/2016/02/23/3557> (accessed on 17 November 2016).

It is also alleged that ACC is not politically neutral as it has not been able to demonstrate impartiality in handling corruption cases. In some cases, as alleged by some experts, ACC played a partisan role and did not take action against all accused equally indicating selective treatment of the accused. For instance, in spite of having sufficient evidence from Bangladesh Bank, the MD of Basic Bank was not included in the charge sheet, which raised questions (see case study 1). The Chairman of the Parliamentary Committee on Finance Ministry, stated with regard to irregularities at the BASIC Bank, "Huge corruption and irregularities took place in BASIC Bank between 2010 and 2014. But we are very surprised to see that the ACC is yet to find the involvement of the then chairman of the bank [Bacchu] in those incidents".¹¹⁹ He further said, "The committee has all the evidence about the irregularities committed by Abdul Hye Bacchu, but the ACC failed to take any action against him". ACC commissioners have the power of approval to decide against whom the corruption cases would be filed, and thus there are chances of influence or partiality. For instance, in Petro Bangla case an Investigation Officer (IO) submitted the investigation report where there was the name of the Chairman (see case study 2). The commission shifted this case to another IO who also included Chairman's name in the report. However, finally ACC approved the case without the name of the chairman. Thus the effort of IOs went in vain. Sometimes panel lawyers are asked to go slow in progressing with some cases.¹²⁰

Case Study 2: Petrobangla Scam

Bangladesh Oil, Gas and Mineral Corporation (Petrobangla) is the flagship organisation in the country's primary energy sector with the responsibilities of exploring, developing, producing and marketing natural gas as well as extracting the country's coal resources. In 2014 the ACC launched an enquiry against the Chairman of Petrobangla and 13 Managing Directors (MD) of its associate companies. The Chairman was alleged to acquiring wealth through irregular appointments and corruption. It was also alleged that the Chairman and 13 MDs of Petrobangla's associate companies swindled over Tk 2 billion (US\$ 25.9 million) over the last four years. Moreover, allegations of ignoring rules and regulations in recruitment and taking bribes from job seekers were also raised against the Chairman and his 'associates'. The Parliamentary Standing Committee on Power and Energy also found irregularities in appointing officials to the 13 companies.

However, it was alleged that the ACC was dilly-dallying over inquiring into the afore-mentioned allegations. The move to file cases against the top officials was thwarted, despite proofs of corruption against them. The ACC was disrupting the inquiry by changing officials concerned repeatedly, and the ACC official recommending registration of lawsuits was also relieved of his duties as an investigation officer.

In March 2014, although a Deputy Director of the ACC presented concrete proofs against the accused and recommended that they should be sued, he was removed from his position and the commission appointed his successor to begin a fresh inquiry into the crime. He was sent on forced retirement on charges of indiscipline in the wake of disagreement with the commission over a number of issues, including the Petrobangla inquiry. The commission also did not approve the move to file cases against the accused. In April 2014, an Assistant Director took charge of the inquiry and submitted a report on the appointment irregularities after six months. Based on evidence of accepting bribes for appointing 42 employees at Karnaphuli Gas Distribution Company in the report, he recommended 11 officials, including the Petrobangla Chairman and former MD of Karnaphuli Gas Distribution Company be sued. It was said in the report that the accused officials engaged in the corrupt act by abusing power in compliance with the Petrobangla Chairman's directive. The commission, however, did not accept the recommendation and directed the inquiry officer on September 24, 2014 to review the report. On 30 September 2014 the commission removed the AD and appointed another Deputy Director to carry out the inquiry, thus changing three officials in the inquiry phase in less than six months.

¹¹⁹ For details see Rashidul Hasan, 'ACC slated for failure to find Bacchu's role', *The Daily Star*, 29 January 2016.

¹²⁰ Interview with a panel lawyer (9 February 2016).

Finally, the ACC acquitted the then Chairman from the allegations, and approved lodging cases against six officials of Petrobangla on 2 June 2015.

Source: <http://www.petrobangla.org.bd/> (accessed on 17 November 2016);
<https://bangladeshcorruption.wordpress.com/tag/petrobangla-recruitment-scam/> (accessed on 17 November 2016).

There is a common perception among key informants of this study that the government has been using the issue of corruption as a weapon against political opponents or people with different views, and for which it relies on the ACC. According to newspaper analyses, there is a trend to give 'final reports' after investigation against people (leaders and political workers) belonging to the ruling party, stating that sufficient evidence of corruption had not been found, while the political opponents are given charge sheets.¹²¹ In the last three years it is alleged that some cases were withdrawn under political consideration. ACC filed very few corruption cases against leaders of the ruling party in spite of information of amassing huge wealth as disclosed in the affidavits during the 2014 election.¹²² For instance, an analysis of the data on ongoing investigations against 36 influential persons, it was found that among them 16 were against the persons belonging to the opponent political parties, whereas only three belonged to the ruling party.¹²³ This has seriously raised questions regarding ACC's credibility in objectively trying corruption cases. Notwithstanding such instances, ACC officials claim that they are not in any way exploited or influenced by the government.

There are evidences of filing corruption cases, investigations and convictions of top level political leaders of the ruling party in the past three years. For instance, recently in a corruption case against the Minister for Food, Relief and Disaster Management, the Appellate Division repealed the High Court judgment of acquittal, and sustained the punishment awarded by the lower court.¹²⁴

FINANCIAL AND HUMAN RESOURCES

ACC received 61.11% score for the dimension on ACC's Financial and Human Resources, with three indicators getting high, six indicators at the moderate level, while one scored low. The indicators that received high scores are in respect of sufficiency of budget, security and stability of budget, and stability of ACC's personnel.

It is observed that the average proportion of ACC's budget has not been more than 0.025% of the total government budget in the last three years, and is consistently decreasing over the years, despite the fact that the monetary allocation for the ACC is increasing (Table 8). This is due to the fact that the national budget has increased exponentially. Although ACC receives the budget it asks from the government, the amount allocated for the ACC is not sufficient, as higher allocation is required to effectively undertake a number of activities (for instance, investigation, prevention, and development). The development budget is required for the construction of a new building for training institute, ACC's own office buildings in different districts and for automation. In order to cater to the needs (such as training, capacity building, events) ACC seeks the financial support from other agencies (national and international bilateral development partners). However, there is a big leap with regard to allocating development budget for the ACC in the fiscal year 2015-16.

¹²¹ See for instance, 'The ACC does not find corruption information against pro-government people', *Prothom Alo*, 9 December 2015; 'ACC sets record in giving clean chits', *The Daily Star*, 1 January 2016.

¹²² 'The ACC does not find corruption information against pro-government people', *Prothom Alo*, 9 December 2015.

¹²³ Based on the data collected from the ACC (March 2016).

¹²⁴ Daily AmaderShomoy.com: http://www.amadershomoy.com/newsite/2016/04/10/566748.htm#.VxxqzDFq_IV (accessed on 24 April 2016).

Table 8: Average proportion of ACC's budget to total government budget for past 3 years

| Fiscal Year | Non-development Budget (million Tk) | Development Budget (million Tk) | Total (million Tk) | Total Government Budget (million Tk) | Proportion of government budget (%) |
|-------------|-------------------------------------|---------------------------------|--------------------|--------------------------------------|-------------------------------------|
| 2015-16 | 565.2 | 70.7 | 635.9 | 2,951,000 | 0.022 |
| 2014-15 | 568.7 | 21 | 589.7 | 2,396,680 | 0.025 |
| 2013-14 | 471.48 | 12 | 483.48 | 1,882,080 | 0.025 |

Source: Ministry of Finance website: http://www.mof.gov.bd/en/budget/15_16/brief/en/at_a_glance.pdf (accessed on 21 March 2016); ACC Annual report 2014.

The main challenge is that the allocation is given according to the existing human resource, which is inadequate. Key informants from both within and outside ACC mentioned that the absence of ACC offices with necessary human and other resources in most of the districts jeopardizes the anti-corruption activities on many fronts. For instance, the staff of the investigation wing faces huge workload, which eventually decreases their efficiency and effectiveness.¹²⁵ A new organogram was proposed to the Ministry of Public Administration in September 2015, and is awaiting approval from the government. In this new organogram 2,569 staff have been proposed for offices in 64 districts.¹²⁶

ACC also faces some bottlenecks with regard to the allocation from the Ministry of Finance. Although according to the law, the ACC is financially independent, it has to take prior permission from the Ministry to shift head-wise budget according to the needs, with detailed clarification. The ACC is not allowed to use unspent money of one head under another without such permission.¹²⁷ Clarifications are also sought by the Ministry on development budgets.¹²⁸

Inadequacy in the skills and expertise of ACC's personnel is another major concern. The level of skill of ACC staff in corruption investigation is particularly criticised, which is also evident in the low rate of conviction in the ACC cases. There is a lack of understanding of investigation processes and techniques among the new staff, while the older staff are not always abreast with the latest developments in corruption investigation, for example, investigating money laundering or using cyber technology. Similarly the relevant personnel engaged in corruption prevention and education are also not adequately skilled, as they mostly rely on the local committees ('Corruption Prevention Committee' and 'Integrity Unit') created for preventing corruption and promoting integrity at the grassroots. The research wing is also under-staffed.¹²⁹

Training is another area that needs more attention. The ACC officials are sent to short training courses sponsored by government departments, non-government organizations and development partners. In the last three years 47 training programs were organized for the ACC staff in which 956 staff took part. Twenty-five (25) of these trainings covered technical aspects such as anti-money laundering and counter-financing of terrorism and asset recovery, Public Procurement Act 2006 and Public Procurement Rules 2008, land management; some 510 staff took part in these trainings. Other trainings focused on non-technical issues, such as basic training on computer, English language, orientation on ACC and related laws including The Right to Information Act, and other relevant issues.¹³⁰

¹²⁵ Interview with DG, Detection and Investigation, ACC (3 March 2016).

¹²⁶ Interview with DG, Administration, Establishment and Finance, ACC (16 March 2016).

¹²⁷ Interview with a former Commissioner, ACC (22 March 2016).

¹²⁸ Interview with DG, Administration, Establishment and Finance, ACC (16 March 2016).

¹²⁹ Interview with DG, Administration, Establishment and Finance, ACC (16 March 2016); DG, Detection and Investigation, ACC (3 March 2016), DG, Legal and Prosecution, ACC (2 March 2016); former Commissioner, ACC (22 March 2016).

¹³⁰ Interview with DG, Administration, Establishment and Finance, ACC (16 March, 7 April 2016); ACC Annual Report 2014.

DETECTION AND INVESTIGATION

ACC's Detection and Investigation Function got below the overall score (55.56%), with four indicators receiving high scores, while three areas demand immediate attention (low score), and two areas obtained moderate score. The indicators that received high scores are ACC's responsiveness to corruption complaints, its willingness to initiate corruption investigations, average number of cases investigated, and willingness to investigate influential persons.

The accessibility of complainants to the ACC is quite low considering the country's population. In the last three years, a total 29,430 complaints (9,810 complaints on average per year which accounts for about 0.006% of the country's population) were received by the ACC. Complaints are received in all district and divisional offices of ACC along with the head office located in Dhaka. However, almost all the complaints were anonymous and thus the profile or gender of the complainants could not be revealed. The ACC does not have any mechanism for protecting the whistle-blowers, although protection was provided to 5-6 persons during the last three years. They helped in identifying corrupt officials through 'trap cases'.¹³¹ The low proportion of corruption complaints received relative to the population and high perceived level of corruption (according to TIB's Household Survey of 2015, 67.8% of the service recipient households experienced corruption while receiving services),¹³² and low proportion of complainants who are confident to identify themselves raise questions regarding accessibility of the ACC in terms of lodging corruption complaints.

The conviction rate of ACC's cases of corruption during 2012-2015 have been below 40% on an average (In 2014 the conviction rate was the highest in four years – 46%) (for details see Table 9). For an effective ACC, this rate has to be much higher. According to the key informants (including experts, concerned ACC officials, panel lawyers and journalists) the reasons of such a low conviction rate are manifold. First, this is an indication of lack of capacity and skill of the investigation officials. Second, procedures are not properly followed while filing a case in the court. Third, due to the lengthy process of disposal of cases, there is a low turnout of witnesses.

One of the reasons behind the problem of lengthy trial is lack of commitment from panel lawyers. It has been alleged that they are poorly paid by the ACC, and thus they do not actively pursue cases.¹³³ Their presence is also not visible in the court. Moreover, there are procedural flaws in filing cases. For instance, the court notice is sent but the concerned party is not aware of it. Moreover, in many cases the defendants/ accused file a writ petition in the higher court and get stay order against legal action.

Table 9: Total number of cases under trial, ongoing trial, cases pending due to writ/ petition, convictions, acquittal (2012 – 2015)

| Commission/ Bureau | Year | Number of cases under trial | Number of ongoing trial | Cases pending in the higher courts due to writ/ revision | Convictions | Acquittal | Total disposal of case | Percentage of conviction to total cases disposed |
|--------------------|--------------|-----------------------------|-------------------------|--|-------------|------------|------------------------|--|
| Commission | 2012 | 2016 | 1,605 | 411 | 42 | 90 | 132 | 32 |
| | 2013 | 2380 | 2,030 | 350 | 67 | 116 | 183 | 37 |
| | 2014 | 2724 | 2,310 | 414 | 73 | 86 | 159 | 46 |
| | 2015 | 3097 | 2660 | 437 | 69 | 119 | 188 | 37 |
| | Total | | | | 251 | 411 | 662 | 38 |
| Bureau | 2012 | 1364 | 971 | 393 | 15 | 71 | 86 | 17 |
| | 2013 | 1292 | 888 | 404 | 24 | 48 | 72 | 33 |
| | 2014 | 1223 | 821 | 402 | 28 | 56 | 84 | 33 |
| | 2015 | 1080 | 697 | 389 | 30 | 88 | 118 | 25 |

¹³¹ Interview with DG, Detection and Investigation, ACC (3 March 2016).

¹³² TIB, Household Survey 2015, *op. cit.*

¹³³ FGDs with CPC and CCC members and journalists (10 February and 23 March 2016); interview with a panel lawyer (9 February 2016).

| Commission/ Bureau | Year | Number of cases under trial | Number of ongoing trial | Cases pending in the higher courts due to writ/ revision | Convictions | Acquittal | Total disposal of case | Percentage of conviction to total cases disposed |
|-----------------------|--------------|-----------------------------------|-------------------------------|---|-------------|------------|---------------------------|---|
| | Total | | | | 97 | 263 | 360 | 27 |

Source: DG, Detection and Investigation, ACC; DG, Legal and Prosecution, ACC.

The ACC does not identify gender in compiling corruption complaints and monitoring corruption trends. This is because most of the complaints are lodged anonymously. There has not been any attempt so far by the ACC to identify different needs of the citizens especially women and other marginalized groups.¹³⁴

During the past three years the ACC initiated enquiry and investigation into more than 30 influential persons. They included former Ministers and State Ministers, former MPs, former Mayors, former Government high officials (former secretary, former Director General/ Director of different government agencies), and influential business persons. A number of them were issued charge sheets, some were arrested while others were convicted in the court.¹³⁵ However, newspaper analyses reveals a trend of giving 'final reports' after investigation against people (leaders and workers) belonging to the ruling party, stating that sufficient evidence of corruption had not been found, while the political opponents are given charge sheets.¹³⁶ In the last three years it is alleged that some cases were withdrawn under political considerations. ACC filed very few corruption cases against leaders of the ruling party in spite of information of amassing huge wealth beyond known sources of income as disclosed in the affidavits during the 2014 election.¹³⁷

Efficiency and professionalism in corruption investigations raise moderate concern. Usually it takes not more than three years to complete an investigation but it is not possible to measure the average time taken by the ACC officials to complete the investigation of a corruption case. The duration depends on the nature of the offences, although a guideline has been given with regard to the timeline in the Anti-Corruption Commission Act 2004. According to the high officials of ACC, the officers involved in corruption investigation are by and large efficient and professional but some personnel lack of the necessary expertise in some areas of corruption investigation. For instance, the concerned official of ACC did not go through the relevant documents before filing a corruption case, and later reprimanded by the judge.¹³⁸

Another area of moderate concern for the ACC is the minimal amount of assets recovered, confiscated or frozen compared to the volume of capital flight from Bangladesh and estimated loss due to corruption. During the past three years, the ACC froze and confiscated a total amount equivalent to BDT 728.12 million through court.¹³⁹ Apart from this around BDT 245.3 million was confiscated in money laundering and other cases (excluding immovable property confiscated in 2015). Considering the volume of capital flight from Bangladesh (estimated US\$ 5.6 billion during 2004-2013; US\$ 430

¹³⁴ Interview with DG, Detection and Investigation, ACC (3 March 2016).

¹³⁵ Interview with former Commissioner, ACC (22 March 2016); DG, Detection and Investigation, ACC (3 March 2016); DG, Legal and Prosecution, ACC (2 March 2016).

¹³⁶ See for instance, 'The ACC does not find corruption information against pro-government people', *Prothom Alo*, 9 December 2015; 'ACC sets record in giving clean chits', *The Daily Star*, 1 January 2016.

¹³⁷ 'The ACC does not find corruption information against pro-government people', *Prothom Alo*, 9 December 2015.

¹³⁸ 'ACC case against MP Bodi: case filed without scrutinizing documents, court not satisfied with the plaintiff', *Prothom Alo*, 24 December 2015.

¹³⁹ Interview with DG, Detection and Investigation, ACC (25 April 2016).

million per year)¹⁴⁰, and the estimated loss due to corruption (at least 2-3% of the GDP),¹⁴¹ the amount recovered by the ACC is not significant. Moreover, there are challenges in the recovery and maintenance of the attached assets.

PREVENTION, EDUCATION AND OUTREACH

ACC's Prevention, Education and Outreach Functions dimension received the second highest score of 72.22%. Five indicators got high scores, three got moderate and one got low scores. The indicators that received high scores are the average proportion of ACC's operating expenditure allocated to public outreach and prevention, its corruption prevention initiatives, reviews of organizational procedures, systems & capabilities conducted by ACC, frequency of including corruption prevention recommendations in investigation reports, and collaboration with other stakeholders in prevention, education and outreach activities.

The major concern is the vacuum in research activities for exploring corruption risks, context and conditions prevailing in the country. Despite the fact that around 2.65% of the ACC budget was allocated for prevention, education and outreach activities in the past three years¹⁴², the ACC does not have any budget allocation for research.

Although the ACC has initiated a number of activities during the past three years – both at the central level as well as local level through the CPCs and Integrity Units – it does not have its own comprehensive plan for its outreach and prevention activities.¹⁴³ The CPCs are largely own-financed, and the annual allocation for the CPCs and Integrity Units are quite insufficient (BDT 21,000 per district level CPC per year) to implement year-round programs that are prescribed in a guideline. There is no office or staff for the CPCs. The role of CPCs as watchdogs is also not strong. It is alleged that many integrity units are not active. It is also alleged that cooperation is not always provided to these units from the concerned officials of the ACC.¹⁴⁴

By reviewing ACC's prevention and outreach activities it is observed that these are mainly occasion-based (such as observing International Anti-Corruption Day and Anti-Corruption Week) and rather ceremonial in nature.¹⁴⁵ To what extent these events are communicative and effective in raising awareness among the common people has not been evaluated. Although the ACC has developed a draft Anti Corruption Commission Communication Strategy for five years (from 2015 to 2019) in 2014, the draft has not been finalized.

¹⁴⁰ Dev Kar and Joseph Spanjers, *Illicit Financial Flows from Developing Countries: 2004-2013*. Global Financial Integrity, December 2015; <http://bdnews24.com/economy/2015/07/09/2-3-percent-of-gdp-lost-to-corruption-muhith> (accessed on 25 April 2016).

¹⁴¹ The Bangladesh Bureau of Statistics (BBS) puts Bangladesh's current GDP at around Tk 15.14 trillion, so a 3 percent loss of GDP would be as high as Tk 450 billion. For details, see: <http://bdnews24.com/economy/2015/07/09/2-3-percent-of-gdp-lost-to-corruption-muhith> (accessed on 25 April 2016).

¹⁴² Interview with Director, Prevention, Education and Outreach, ACC (10 March 2016); ACC Annual report 2014: http://www.acc.org.bd/assets/budget_allocation_2015-2016.pdf (accessed on 28 March 2016).

¹⁴³ Interview with Director, Prevention, Education and Outreach, ACC (10 March 2016).

¹⁴⁴ FGD with CPC and CCC members, journalists (23 March 2016).

¹⁴⁵ The CPCs organized discussions (6,759), debates (1,338), essay competitions (1,240), human chains (2,259), rallies (2,397), seminars (485), dramas (544), speech by distinguished persons (2,345), and other events (3,406) throughout the year during 2012 – 2014, while the Integrity Units organized similar events in 2014. Apart from the local events, ACC has been observing Corruption Prevention Week from March 26 to April 1 every year since 2011 and the 'International Anti Corruption Day' on December 9 every year. Programs organized under this week-long events include anti-corruption message circulated through SMS over mobile phone, a weeklong exhibition of satirical cartoons and posters at the ACC Head Office, forming human chain and rally with banners and posters against corruption, anti-corruption posters and art competition, anti-corruption sermons delivered during *Jumma* prayer, and conference of Integrity Units at Dhaka.

The ACC's dissemination of corruption prevention information and use of website and social media for such dissemination are other areas of concerns. According to high officials of ACC, the messages through text sms to mobile phones, short films, posters, and banners, have some impact, although they are not always reader or audience friendly, and to what extent they are effective has not been measured. The ACC has a website, but it has not started to use the social media yet. Moreover, although there is a lot of information on ACC activities, some information including information on budget, public hearing and other activities are not provided, and the activity plan, annual reports, investigation and prosecution statistics are not updated. The website requires modernization and be made user friendly with a repository of literature and research/scholarly papers.¹⁴⁶

COOPERATION WITH OTHER ORGANIZATIONS

ACC's cooperation with other organisations is another dimension that received a 'high' score of 70%, with three indicators receiving high, one moderate and one low score. The indicators that received high scores are government's support to ACC for prosecution of corruption cases, cooperation with non-government organizations, and ACC's participation in international networks.

Lack of cooperation with ACAs in other countries is a major concern under this dimension. Although ACC actively participates in the international network such as the Conferences of State Parties regarding UNCAC, the Asia Pacific Group on Money Laundering, and Initiative for Asia-Pacific, it is yet to develop active and formal cooperation with the ACAs of other countries. ACC's cooperation and network with other ACAs such as Malaysia, India and Bhutan are at a very initial stage. A number of Memorandum of Understandings (MoUs) is expected to be signed with these agencies in the coming days.¹⁴⁷

Cooperation with other integrity agencies of the country raises moderate concern for the ACC. It is singularly mandated for dealing with corruption in the country. While discharging its functions, although it has been noted that the ACC gets necessary cooperation from organizations such as NBR, Banking Institutions, Office of the Comptroller and Auditor General (CAG), and AG office, ACC's coordination with other government organizations is not adequate and effective.¹⁴⁸ According to an independent review done by the Cabinet Division, the ACC still lacks strong initiatives for building institutional partnership with other national integrity agencies and establishing ample links with other commissions.¹⁴⁹

ACC finds it difficult to get appropriate and necessary information like Bank Account details of accused individual. Banks tend to slow down the process by referring to The Banker's Book Evidence Act 1890. It faces similar difficulties when it seeks wealth and related information from National Board of Revenue. Complications arise due to the provisions of The Income Tax Ordinance 1984 which does not allow release of any personal wealth data without the permission of the court. Although the ACC Act clearly states that the Act shall prevail over other laws currently in force when the ACC investigates a corruption case, lack of knowledge and understanding of the laws raises ambiguities.¹⁵⁰

¹⁴⁶ Interview with Director, Prevention, Education and Outreach, ACC (10 March 2016); review of ACC website by the research team.

¹⁴⁷ Interviews with ACC officials.

¹⁴⁸ For details see *The Independent*, '3 independent bodies face lack of coordination', 7 February 2014, http://www.theindependentbd.com/index.php?option=com_content&view=article&id=203640:3-independent-bodies-face-lack-of-coordination&catid=129:frontpage&Itemid=121 (accessed on 30 May 2016).

¹⁴⁹ Cabinet Division, Government of the People's Republic of Bangladesh, *An Independent Review of National Integrity Strategy (NIS)*, May 2013, p. 40.

¹⁵⁰ Interviews with ACC officials, experts and CSO leaders.

ACCOUNTABILITY AND OVERSIGHT

The dimension on ACC's Accountability and Oversight received a moderate score of 62.5%, with two indicators scoring high, one moderate and one low. The indicators on information provided in ACC's annual report, and outcomes of complaints against ACC personnel scored high, while the indicator on external oversight mechanism got low and the indicator of involvement of other public agencies in investigation got moderate score.

The major concern with regard to ACC's accountability and oversight is the lack of any external oversight mechanism. Despite the fact that the ACC has a Monitoring and Evaluation (M&E) Branch for evaluating inspection reports regularly, there is no public representation in the structure. There is no independent committee for oversight as such. The ACC submits the annual report to the President who, in turn, sends it to the Parliament.¹⁵¹ The Parliament has a mandate to look after it and may discuss and debate on this report. However, there are instances when the concerned Parliamentary Committee summoned the ACC, but it refused to attend.¹⁵²

Another area of concern is that other public agencies are not regularly involved in investigation against ACC personnel to avoid conflict of interest. The Commission has constituted a permanent Internal Anti Corruption Committee, headed by its Chairman, to consistently monitor, supervise, enquire, and investigate into any corruption allegations against the ACC officials and to make recommendations for taking legal and departmental actions against the corrupt staff.¹⁵³ Although there are instances where the Commission assigned another government agency to investigate into corruption allegation against one of its officials in 2011, and based on the investigation, charge-sheet against the officer was submitted, it is not a regular practice.¹⁵⁴ However, the internal procedure for dealing with complaints against the ACC personnel is quite strong, and the outcomes are visible, and made public through the annual report.

PUBLIC PERCEPTIONS OF ACC'S EFFECTIVENESS

The lowest score (28.57%) is attributed to the dimension on the Public Perceptions of the ACC's Performance, where two indicators got low and four got moderate scores among seven indicators.

It appears that the ACC has not been able to create a positive impression of its effectiveness on the common people. The ACC has neither conducted nor commissioned any public perception survey on its performance. Many doubt ACC's effectiveness. According to a cross country survey conducted by Transparency International, 16.7% are aware of activities of the ACC and only 9.1% of the respondents (of those who know about the ACC) stated that the ACC is doing well in fighting corruption in Bangladesh.¹⁵⁵ Corrupt people are still out there – mainly in service sectors (health, land). ACC has to reach people, as they are not aware about ACC's activities. People have no idea and information on different laws and mechanisms that are important for preventing corruption.¹⁵⁶

People's perception on ACC's impartiality in handling similar kinds of corruption cases is also not very positive. According to some informants who had direct contact with the ACC stated that some of the ACC officials treat people according to their social status and network. In a few cases the concerned investigating officer treated the accused as if they are already convicted, when taken to ACC on

¹⁵¹ ACC Act 2004, Section 29.

¹⁵² 'ACC did not show up in the meeting: the Standing Committee will call again', *Prothom Alo*, 29 January 2016.

¹⁵³ Under Rule 19 (1) of the Anti Corruption Commission Rules 2007.

¹⁵⁴ Interview with Commissioner, ACC (15 March 2016); ACC website: <http://www.acc.org.bd/about-acc/monitoring-evaluation-cell> (accessed on 27 March 2016).

¹⁵⁵ Transparency International, GCB Survey 2015 (unpublished).

¹⁵⁶ FGDs with CPC and CCC members, journalists (10 February and 23 March 2016); Interviews with key informants.

remand. In some cases, the concerned person is misguided or influenced to give a statement. This is due to lack of information available to the concerned, lengthy procedure of ACC cases, and lack of integrity of some investigation officials. Another perception is that ACC is part and parcel of the government, as it is not beyond government's control.¹⁵⁷

According to ACC officials, the ACC lacks people's trust. The common people have little idea about the activities of ACC or the anti-corruption laws. According to experts, CSO leaders and journalists, the ACC is entrusted with the required powers for curbing corruption, but the resources are not adequate.¹⁵⁸

¹⁵⁷ FGDs with CPC and CCC members, journalists (10 February and 23 March 2016); Interviews with key informants.

¹⁵⁸ Interview with Commissioner, ACC (15 March 2016); FGDs with CPC and CCC members, journalists (10 February and 23 March 2016); Interviews with key informants.

Table 10: Detailed Indicator Scores, with Sources and Comments

| INDICATOR | INDICATOR VALUES | | | JUSTIFICATION OF SCORES AND DATA SOURCES |
|--|--|----------------------------------|--|---|
| | HIGH | MODERATE | LOW | |
| 1. ACA's Legal Independence and Status (7 indicators) | | | | |
| 1. ACA's legal independence | Independent agency | Separate agency outside ministry | Within police or ministry | <p>According to The Anti-Corruption Commission Act 2004, the ACC will be an independent, impartial and self governed Commission [Section 3(2), (3)], and the Commissioners will independently discharge their duties [Section 24]. The Commission is also financially independent as it gets its annual budget from the government and can spend according to their needs without any permission as per law.¹⁵⁹</p> <p>Source: The Anti Corruption Commission Act 2004, Interviews with ACC staff, Former ACC Chairman, Commissioner, CSO leaders, academicians, legal expert, political leaders, former government officials, journalists.</p> |
| 2. ACA's mandate | Focus on investigation, education and prevention (and prosecution if applicable) | Primary focus on investigation | Education and prevention without investigation | <p>The Anti-Corruption Commission Act 2004 describes the mandate of ACC elaborately [Preamble and Section 17]. Among 11 functions of ACC, 5 are of punitive and 6 are of preventive nature. The major functions include enquiry and investigation, prosecution, prevention, education, and research.</p> <p>Source: The Anti Corruption Commission Act 2004; Interviews with ACC staff, CSO leaders, Academicians, Legal expert, Political leaders, Former Govt. Officials, journalists.</p> |
| 3. ACA's legal powers | Extensive powers (e.g., arrest and search of arrested persons; examining suspect's bank accounts, safe-deposit boxes, income tax records and property; search and entry of premises, etc.) | Some powers | Few or none | <p>According to The Anti-Corruption Commission Act 2004, subject to provisions of this law, any commissioner or any officer of the commissioner can exercise such powers as and functions as may be assigned to him/her by the commission [Section 18].</p> <p>According to The Anti-Corruption Commission Act 2004 the Commission has the power of inquiry or investigation (summon witnesses, ensure their appearance and interrogate, discover and present any document, take</p> |

¹⁵⁹ Section 25(1) of Ant-Corruption Commission Act 2004 says that the government shall allocate a certain sum in favour of the commission for expenditure. It shall not be necessary for the Commission to obtain any permission in advance from the government in order spend the allocated money.

| INDICATOR | INDICATOR VALUES | | | JUSTIFICATION OF SCORES AND DATA SOURCES |
|---------------------------------------|---|---|--|--|
| | HIGH | MODERATE | LOW | |
| | | | | <p>evidence, call for public records or its certified copies from any court office, issue warrants for the interrogation of witnesses and the examination of documents, any other matter required for realizing and fulfilling the aims and objectives of this law) [Section 19], power of investigation [Section 20], power of arrest [Section 21], power of hearing the accused [Section 22], power of asking for declaration of properties [Section 26], power of confiscating property in excess of known sources of income [Section 27], power of filing cases [Section 32], and formulate rules [Section 34]. Moreover, the Commission may call for any information from the government or from any authority or organization under the government during any inquiry or investigation into allegations of corruption [Section 23 (1)].</p> <p>Source: The Anti Corruption Commission Act 2004.</p> |
| 4. Appointment of ACA Commissioner(s) | Independent committee using objective criteria and procedure is transparent | Ministerial committee using objective criteria but procedure is not transparent | Prime Minister/ President/ Head of State makes the decision and the procedure is not transparent | <p>The selection process and criteria are specifically spelled out in The Anti-Corruption Commission Act 2004. The Chairman and Commissioners are appointed by the President upon recommendation of a selection committee [Section 6(1)]. The Selection Committee is by law independent in nature, and is comprised of a Judge of the Appellate Division and a Judge of the High Court Division, both nominated by the Chief Justice, the Comptroller and Auditor General of Bangladesh, the Chairman of the Public Service Commission, and the latest retired Cabinet Secretary. By law the selection is made from among any person having “20 years of experiences in law, education, administration, judiciary, or a disciplined force” are the eligible candidates for the post [Section 8].</p> <p>In the process, the selection committee is supposed to assess individual’s perceived integrity, reputation, administrative or experience. The Selection Committee makes a proposal based on their preferences and knowledge through a head hunting process. The Selection Committee on the basis of the decision of at least three members present shall make a list of two names for each vacant post of commissioner and shall send the list to the President for appointment [Section 7 (4)].</p> |

| INDICATOR | INDICATOR VALUES | | | JUSTIFICATION OF SCORES AND DATA SOURCES |
|--|--|---|--|--|
| | HIGH | MODERATE | LOW | |
| | | | | <p>However, the law does not ensure transparency in the process, and thus “confidentiality” is strictly maintained. The names and the profiles of the selected are not disclosed beforehand. Informants noted that political proximity, loyalty, and preferences often subdue other virtues needed for the selection.</p> <p>Source: The Anti Corruption Commission Act 2004; Interviews with ACC staff, former ACC Chairman, Commissioner, CSO leaders, academicians, legal expert, political leaders, former Govt. officials, journalists.</p> |
| 5. ACA Commissioner(s)' term of office and removal | Fixed term with tenure (difficult to remove Commissioners without cause, e.g. incompetence or proven misconduct) | Fixed term without tenure but not difficult to remove Commissioners | No fixed term and Commissioners can be replaced easily | <p>The tenure of the Chairman and Commissioners are fixed by law. According to The Anti-Corruption Commission Act 2004, the commissioners are appointed for 5 years [Section 6(3)]. The Commissioners are well protected from any forceful and undue removal. Section 10(3) of The Anti-Corruption Commission Act, 2004, provides that no Commissioner shall be removed from office except on similar grounds and in accordance with the similar procedures as applied to the removal of a Judge of the Supreme Court.¹⁶⁰</p> <p>However, to what extent these two grounds are tenable in discharge and implementation of ACC's mandate, and how incapacity and misbehavior are defined and addressed and who initiates and investigates, and based on which the President may order removal are not clear.</p> <p>Source: The Anti Corruption Commission Act 2004; Bangladesh Constitution.</p> |
| 6. ACA's operational autonomy and impartiality | High (no political interference) | Limited (some political interference) | Low (high level of political interference) | A mixed (positive and negative) reflection of opinion is found regarding ACC's operational autonomy and impartiality. ACC commissioners and officials claimed that they have sufficient operational autonomy with little exception in terms of dependence on the Ministry of Finance for its budget |

¹⁶⁰ Before 16th Constitutional amendment the procedure of removal of the Judges of the Supreme Court was made through a Supreme Judicial Council. But after 16th Constitutional Amendment the removal of such kind of constitutional and statutory positions are subject to the approval of the parliament. According to the Bangladesh Constitution a Judge shall not be removed from his office except by an order of the President passed pursuant to a resolution of Parliament supported by a majority of not less than two-thirds of the total number of members of Parliament, on the ground of proved misbehavior or incapacity [Article 96(2) & (3)]. Parliament may by law regulate the procedure in relation to a resolution under clause (2) and for investigation and proof of the misbehavior or incapacity of a Judge. The same procedure is applicable to the Commissioners of ACC.

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| | | | | <p>and extra allocation of resources if and when needed. CSOs and experts on the other hand noted that dependence on government for budget and manpower should not impede ACC's functional autonomy though it may have a constraining effect on ACC's performance.</p> <p>ACC ascertained that they maintain full impartiality in their all activities. In case of enquiry, investigation and filing of cases they do not take into account the political and social identity of the accused. There are evidences that the ACC has lodged cases against many high political persons (such as ministers and MPs) and high level government officials. They do not face any kind of pressure or influence. Senior management of the ACC noted that operational autonomy and impartiality essentially depend on the quality and personality/ profile of ACC leadership.</p> <p>Contrary to responses of ACC officials above, other interviewees questioned ACC's operational autonomy and impartiality. Their view is that ACC's operational autonomy is in effect on paper but in practice ACC can hardly exercise its operational autonomy. They also noted that "ACC is not politically neutral". For instance, by analysing the data on ongoing investigations against 36 influential persons, it was found that among them 16 were against the persons belonging to the opposition political parties, whereas only three belonged to the ruling party.¹⁶¹ In spite of having enough evidence from Bangladesh Bank the MD of Basic Bank was not included in charge sheet, which was perceived to have political connection at the high level.</p> <p>ACC commissioners have the power of approval to decide against whom the corruption cases will be filed and there can be chance of influence or partiality. For instance, in the Petrobangla case the Investigation Officer was questionably changed, and in the end the Commission gave the case approval without including the concerned chairman in the accused list. ACC can be accused to "have played partisan role and did not take action against</p> |

¹⁶¹ Based on the data collected from the ACC (March 2016).

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| | | | | <p>all accused equally". It is also alleged that sometimes panel lawyers were asked to go slow.</p> <p>Source: The Anti Corruption Commission Act 2004; interviews with ACC staff, former ACC Chairman, Commissioner, CSO leaders, panel lawyer, academicians, legal expert, political leaders, former government officials, journalists.</p> |
| 7. Government's reliance on ACA to use corruption as a weapon against political opponents | Government has not used ACA as a weapon against political opponents | Evidence of limited use of ACA by government as a weapon against political opponents | Evidence of widespread use of ACA by government as a weapon against political opponents | <p>ACC authority claimed that ACC is not used by the government to exploit political opponents, and there is no government influence. They further claimed that ACC does not see the person but the merit of the case and quality of the investigation when giving charge sheet & FRT. However, they admitted that ACC has image crisis.</p> <p>It is perceived by key informants (experts, academics, anti-corruption activists, political leaders) that the ACC has been used as a tool for political harassment and favoring politicians of the ruling party. For instance, an analysis of the data on ongoing investigations against 36 influential persons, it was found that among them 16 were against persons belonging to the opposition political parties, whereas only three belonged to the ruling party.¹⁶² This raises serious questions regarding ACC's credibility in terms of objective and independent handling of corruption cases.</p> <p>There are also evidences of ACC's filing of corruption cases, investigation and conviction of top level political leaders of the ruling party in the past three years. For instance, recently in a corruption case against the Minister for Food, Relief and Disaster Management the Appellate Division repealed the High Court judgment of acquittal, and upheld the punishment awarded by the lower court.¹⁶³</p> <p>Source: Interviews with ACC staff, former ACC Chairman, Commissioner, CSO leaders, academicians, legal expert, political leaders, former government officials, journalists.</p> |

¹⁶² Based on the data collected from the ACC (March 2016).

¹⁶³ Daily AmaderShomoy.com: http://www.amadershomoy.com/newsite/2016/04/10/566748.htm#.VxxqzDFq_4 (accessed on 24 April 2016).

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| 2. ACA's Financial and Human Resources (9 indicators) | | | | |
| 8. Average proportion of ACA's budget to total government budget for past 3 years | Above 0.20% | Between 0.10% to 0.20% | Below 0.10% | <p>The average proportion of ACC's budget to total government budget has not been more than 0.025% in the last three years.</p> <p>Source: Ministry of Finance website; ACC Annual report 2014.</p> |
| 9. Sufficiency of ACA's budget for performing its functions | More than adequate (80% to 100% of budget request is approved) | Adequate (66% to 79% of budget request is approved) | Inadequate (less than 66% of budget request is approved) and relies on funding by CSOs and donor agencies | <p>Usually the total budget (100%) requested by the ACC is approved and provided by the Ministry of Finance. However, sometimes it requires higher allocation for a number of activities (investigation, prosecution and prevention). In order to cater to the needs (such as training, capacity building, and organizing events) ACC receives financial support from other agencies (CSOs and international bilateral development partners).</p> <p>Source: Interview with DG, Administration, Establishment and Finance, ACC (16 March 2016).</p> |
| 10. Security and stability of ACA's budget during past 3 years | ACA budget is guaranteed based on previous year's allocation and has not been reduced | ACA budget has not been reduced during past 3 years | ACA budget has been reduced during past three years | <p>Over the last three years the allocation for the ACC has been gradually raised, with an increase of development budget.¹⁶⁴</p> <p>Source: Interview with DG, Administration, Establishment and Finance, ACC (16 March 2016); ACC Annual Reports 2013, 2014.</p> |
| 11. ACA personnel's salary and benefits | Competitive salary and benefits | Adequate salary and benefits | Low salary and limited benefits | <p>The ACC personnel receive salaries and benefits according to the government pay scale. Given the new pay scale introduced last year by the government, ACC officials consider it adequate.</p> <p>Source: Interview with DG, Administration, Establishment and Finance, ACC (16 March 2016).</p> |
| 12. ACA's selection criteria for | Meritocratic and transparent | Limited meritocratic or | Patronage and | <p>The recruitment of ACC staff cannot be termed totally meritocratic as 55% of the vacant positions are filled in from different groups under quota¹⁶⁵</p> |

¹⁶⁴ For details please see Chapter 2 of this report.

¹⁶⁵ For details see <http://www.bpsc.gov.bd/platform/node/61.bpsc2012.pml> (accessed on 24 April 2016).

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| personnel | procedures | transparent procedures | non-transparent procedures | <p>and the rest on merit. The ACC follows The Anti Corruption Commission (Personnel) Employment Rules, 2008 for its recruitment. It is based on competitive examinations, subject to various regional, gender and ethnic quotas prescribed by the government which is applicable to all public recruitments in the country. The selection procedure is totally transparent as it is managed by the Institute of Business Administration (IBA) of the University of Dhaka.</p> <p>Source: Interview with DG, Administration, Establishment and Finance, ACC (16 March 2016).</p> |
| 13. Expertise of ACA's personnel in corruption investigation | High level of expertise | Lacking expertise in some areas | Lacking expertise in many areas | <p>ACC personnel lack requisite expertise in some aspects of corruption investigation. According to some of the high officials of ACC and other stakeholders, there is lack of understanding among the new staff on how to investigate corruption, while the older staffs do not keep abreast with the latest forms and techniques of corruption such as, money laundering and use of cyber technology in corruption.</p> <p>Source: Interview with DG, Administration, Establishment and Finance, ACC (16 March 2016), DG, Detection and Investigation, ACC (3 March 2016), DG, Legal and Prosecution, ACC (2 March 2016); Cabinet Division, <i>An Independent Review of National Integrity Strategy (NIS)</i>, 2013, p. 39.</p> |
| 14. Expertise of ACA's personnel in corruption prevention and education | High level of expertise | Lacking expertise in some areas | Lacking expertise in many areas | <p>According to some of the high officials of ACC, the relevant personnel engaged in corruption prevention and education are not adequately skilled in terms of communication. Moreover, they mostly rely on the local committees ('Corruption Prevention Committee' and 'Integrity Unit') created for preventing corruption and promoting integrity.</p> <p>Source: Interview with DG, Administration, Establishment and Finance, ACC (16 March 2016); Director, Prevention, Education and Outreach, ACC (10 March 2016).</p> |
| 15. Training of ACA's personnel | Well-trained personnel with many training opportunities | Some trained personnel with limited training | Training is unimportant and neglected | <p>Training is another area that needs more attention. The ACC officials are sent to short training courses sponsored by government departments, non-government organizations and development partners. In the last three years 47 training programs were organized for the ACC staff in which</p> |

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| | | opportunities | | <p>956 staff took part. Some 25 of these trainings covered technical aspects such as anti-money laundering and counter-financing of terrorism and asset recovery, Public Procurement Act 2006 and Public Procurement Rules 2008, land management; some 510 staff took part in these trainings. Other trainings focused on non-technical issues, such as, basic training on computer, English language, orientation on ACC and related laws including The Right to Information Act, and other relevant issues.</p> <p>Source: Interview with DG, Administration, Establishment and Finance, ACC (16 March, 7 April 2016); ACC Annual Report 2014.</p> |
| 16. Stability of ACA's personnel | Low turnover and resignation rate (0% to 5% per year) | Moderate turnover and resignation rate (more than 5% to 10% per year) | High turnover and resignation rate (more than 10% per year) | <p>The turnover rate of ACC is low (2.71% per year during the last three years). Such turnover was due to retirement, resignation and termination of the concerned staff. Termination took place as departmental prosecution as a result of allegation raised against them and duly investigated and proven. Moreover, around 14% of the staff recruited in the last three years left ACC in the last few years for better career opportunities.</p> <p>Source: Interview with DG, Administration, Establishment and Finance, ACC (16 March 2016); former Commissioner (22 March 2016).</p> |
| 3. ACA's Detection and Investigation Function (9 indicators) | | | | |
| 17. ACA's accessibility to corruption complainants/informants, including public and whistle-blowers during past 3 years | ACA is highly accessible as reflected in the high proportion of corruption complaints received relative to population and perceived level of corruption, and proportion of complainants confident to identify themselves | ACA is accessible as reflected in the moderate proportion of corruption complaints received relative to population and perceived level of corruption, and proportion of complainants confident to identify themselves | ACA is inaccessible as reflected in low proportion of corruption complaints received relative to population and perceived level of corruption, and proportion of complainants confident to identify themselves | <p>Complaints are received in all the ACC offices. In the last three years in total 29,430 complaints (9,810 complaints on average per year and accounts for about 0.006% of the country's population) were received by the ACC. However, almost all the complaints were anonymous and thus the profile of the complainants could not be revealed. Anonymity is therefore a common feature of the complaints which may be resorted to either to harass a person or for fear of being harassed or threatened.</p> <p>ACC does not have any system/ structure for protecting the whistle-blowers. However, protection was provided to 5-6 persons during this period who provided support in identifying corrupt officials through 'trap'</p> |

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| | | | | <p>cases. Such protection was provided by requesting respective police officers.</p> <p>Considering the low proportion of corruption complaints received relative to the population and high perceived level of corruption (according to TIB's Household Survey 2015, 67.8% of the service recipients experienced corruption), and proportion of complainants confident to identify themselves, the ACC cannot be termed as accessible to corruption complainants.</p> <p>Source: Interview with DG, Detection and Investigation, ACC (3 March 2016).</p> |
| 18. ACA's responsiveness to corruption complaints during past 3 years | ACA is highly responsive as reflected in the high proportion of corruption complaints investigated and investigation cases completed during past 3 years | ACA is responsive as reflected in the moderate proportion of corruption complaints investigated and investigation cases completed during past 3 years | ACA is not responsive as reflected in the low proportion of corruption complaints investigated and investigation cases completed during past 3 years | <p>A committee comprised of a Deputy and an Assistant Director is responsible for scrutinizing the complaints received by the ACC. It is observed that most of these complaints do not fall under the scheduled offenses under ACC's mandate. After scrutiny only complaints that are cognizable (on an average 9.63% of the complaints) were taken for further enquiry during the last three years. Among the complaints selected for enquiry, 24.04% were sent to the concerned ministry/ division for further action.</p> <p>Source: Interview with DG, Detection and Investigation, ACC (3 March 2016).</p> |
| 19. ACA's willingness to initiate corruption investigations during past 3 years | High number of corruption investigations initiated by ACA | Moderate number of corruption investigations initiated by ACA | Low number of corruption investigations initiated by ACA | <p>During the past three years a total number of 5,161 corruption investigations were initiated by the ACC. The number has been increasing over the last ten years, and can be considered high given the existing human resource.</p> <p>Source: Interview with DG, Detection and Investigation, ACC (3 March 2016).</p> |
| 20. Average number of cases investigated by the ACA per year during past 3 years | More than 1,000 corruption cases investigated by the ACA per year during the past three years | Between 300 to 999 corruption cases investigated by the ACA per year during the past three years | Less than 300 corruption cases investigated by the ACA per year during the past three years | <p>The total number of corruption cases investigated by the ACC was 3,061 (1,020 per year) during the past three years.</p> <p>Source: Interview with DG, Detection and Investigation, ACC (3 March 2016).</p> |

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| 21. Efficiency and professionalism of corruption investigations by ACA during past 3 years | Highly efficient and professional investigation of corruption cases | Efficient and professional investigation of corruption cases | Inefficient and unprofessional investigation of corruption cases | <p>It has been mentioned earlier that there is lack of expertise among the ACC personnel in some aspects of corruption investigation. Although The Anti-Corruption Commission Act 2004 clearly mentions a timeline for completing corruption investigations, usually it takes more than the prescribed time. According to ACC officials, it is not possible to measure the average time taken by the ACC officials to complete the investigation of a corruption case as the duration varies depending on the nature of the offence. While the high officials of ACC claim that the officers involved in corruption investigation are efficient and professional, experts expressed their concern on the efficiency and professionalism of the ACC investigating officials.</p> <p>Source: Interviews with DG, Detection and Investigation, ACC (3 March 2016); DG, Legal and Prosecution, ACC (2 March 2016); experts, panel lawyers, CSO leaders.</p> |
| 22. Average conviction rate of corruption cases investigated by ACA in past 3 years | Above 75% | Between 50% to 75% | Below 50% | <p>During the past three years (2013 – 2015) there were a total of 209 convictions out of 530 disposed cases (37%) lodged by the ACC, while a total of 82 were convicted out of 274 disposed cases (30%) lodged by the Bureau.</p> <p>Source: Interview with DG, Detection and Investigation, ACC (3 March 2016); DG, Legal and Prosecution, ACC (2 March 2016).</p> |
| 23. ACA's willingness to investigate influential persons for corruption without fear or favour during past 3 years | Considerable evidence of investigation of influential persons for corruption | Some evidence of investigation of influential persons for corruption | No evidence of investigation of influential persons for corruption | <p>During the past three years the ACC initiated enquiry into and investigated more than 30 influential persons including existing and former Ministers and State Ministers, MPs, Mayors, government high officials (former secretary, Director General/ Director of government agencies), and influential business persons. A number of them were issued charge sheets, some were arrested and others were convicted in the court. This suggests ACC's willingness to investigate corruption cases irrespective of power and positions in the society.</p> <p>Source: Interview with former Commissioner, ACC (22 March 2016); DG, Detection and Investigation, ACC (3 March 2016); DG, Legal and Prosecution, ACC (2 March 2016).</p> |

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| 24. ACA's role in restitution, asset recovery, freezing and confiscation during past 3 years | Very active role by ACA | Moderately active role by ACA | Inactive role by ACA | <p>During the past three years, the ACC froze and confiscated a total amount equivalent to BDT 728.12 million through court. Apart from this around BDT 245.3 million was confiscated in money laundering and other cases (excluding immovable property confiscated in 2015).</p> <p>However, considering the volume of capital flight from Bangladesh (estimated US\$ 5.6 billion during 2004-2013; US\$ 430 million per year), and the estimated loss due to corruption (at least 2-3% of the GDP)¹⁶⁶, the amount recovered by the ACC is not significant.</p> <p>Moreover, there are challenges in the recovery and maintenance of the attached assets.</p> <p>Source: Interview with DG, Detection and Investigation, ACC (3 March 2016); "Dev Kar and Joseph Spanjers, <i>Illicit Financial Flows from Developing Countries: 2004-2013</i>. Global Financial Integrity, December 2015; http://bdnews24.com/economy/2015/07/09/2-3-percent-of-gdp-lost-to-corruption-muhith (accessed on 25 April 2016).</p> |
| 25. Does the ACA identify gender in compiling corruption complaints and monitoring corruption trends? | The ACA has gender sensitive demographic information that allows it to monitor how corruption and its services affect women differently | The ACA has gender sensitive demographic information that could allow it to monitor how corruption and its services affect women differently, but it does not actively monitor these differences. | The ACA does not collect gender sensitive demographic information. | <p>Gender segregated data on corruption complaints are not collected mainly because most corruption complaints are lodged anonymously. There has not been any attempt so far by the ACC to identify different needs of the citizens especially women and other marginalized groups.</p> <p>Source: Interview with DG, Detection and Investigation, ACC (3 March 2016).</p> |

4. ACA's Prevention, Education and Outreach Functions (9 indicators)

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| 26. Average proportion of | Above 1% of ACA's operating expenditure | Between 0.5% and 1% of ACA's operating | Below 0.5% of ACA's operating expenditure | An amount of BDT 15 million has been allocated for public outreach and prevention in the fiscal year (2015-16), ¹⁶⁷ which is around 2.65% of the |
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¹⁶⁶ The Bangladesh Bureau of Statistics (BBS) puts Bangladesh's current GDP at around Tk 15.14 trillion, so a 3 percent loss of GDP would be as high as Tk 450 billion. For details see: <http://bdnews24.com/economy/2015/07/09/2-3-percent-of-gdp-lost-to-corruption-muhith> (accessed on 25 April 2016).

¹⁶⁷ http://www.acc.org.bd/assets/budget_allocation_2015-2016.pdf (accessed on 28 March 2016).

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| ACA's operating expenditure allocated to public outreach and prevention during past 3 years | expenditure | | | ACC budget. The total operating budget of ACC in the last three years is BDT 1,605.38 million. <i>Source:</i> Interview with Director, Prevention, Education and Outreach, ACC (10 March 2016); ACC Annual report 2014. |
| 27. ACA's corruption prevention initiatives during past 3 years | Many corruption prevention initiatives (average of 3 or more per year) | Some corruption prevention initiatives (average of 1-2 per year) | ACA initiated few or no corruption prevention initiatives | <p>The ACC implements multiple corruption prevention initiatives both at national and local levels. At the national level the Commission undertakes prevention activities such as campaigns through week and day observations (observing Anti-Corruption Week in March and 'International Anti-Corruption Day' in December every year), organizing events (human chains, meetings, rallies), and other promotional activities (anti-corruption messaging in the leading national dailies, exhibition of short films, sending text messages to mobile phone users to refrain from corruption, distribution of T-shirts inscribed with slogans against corruption among common people, dissemination of anti-corruption sermons by imams of mosques, and dissemination of anti-corruption posters). Moreover, the ACC has started to conduct public hearings in government and semi-government offices, with a view to raising awareness about corruption prevention.</p> <p>At the local level the Commission has been engaged in constituting Corruption Prevention Committees at the upazila, district and metropolitan levels as well as 'Integrity Units' in educational institutions. There are a total of 493 CPCs and 21,744 Integrity Units all over the country. The role of these committees is crucial in carrying out Corruption Prevention Week (26 March to 1 April of every year) and observing International Anti Corruption Day on 9 December across the country. The CPCs organized discussions (6,759), debates (1,338), essay competitions (1,240), human chains (2,259), rallies (2,397), seminars (485), dramas (544), speeches by distinguished persons (2,345), and other events (3,406) throughout the year during 2012 – 2014, while the Integrity Units organized similar events in 2014.</p> |

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| 28. Number of reviews of organizational procedures, systems &capabilities conducted by ACA to prevent corruption during past 3 years | Many reviews were conducted (relative to no. of organisations in jurisdiction) | A substantial number of reviews were conducted (relative to no. of organisations in jurisdiction) | Few or no reviews were conducted (relative to no. of organisations in jurisdiction) | <p>Source: Interview with Director, Prevention, Education and Outreach, ACC (10 March 2016); ACC Annual report 2014.</p> <p>To deal with the institutional corruption in the public sector ACC formed 11 teams.¹⁶⁸ Each team comprised of 3-5 members of the Commission's officials. These teams were deployed to work in the relevant offices/ departments/ functionaries (covered 18 institutions in total) in 2014. These institutions and sectors were selected considering the magnitude of complaints made by the common people, newspaper and media reports and public concerns.</p> |
| 29. Frequency of including corruption prevention recommendations in ACA's investigation reports during past 3 years | Frequently | Sometimes | Not at all | <p>Source: Interview with DG, Detection and Investigation, ACC (3 March 2016).</p> <p>The teams that were deployed in different sectors and institutions of public importance submitted 11 review reports in late 2014 and early 2015. In these reports the nature and process of corruption in the respective institution were briefly described. Among the recommendations were 60 dwelt on how to prevent corruption in the respective institution.</p> |
| 30. ACA's plan for prevention, education and outreach and its implementation | Comprehensive and clear plan which is implemented and accessible | The plan for prevention, education and outreach exists but not implemented fully | There is no or a weak plan for prevention, education and outreach activities | <p>The ACC has a yearly plan of its programs and events to be organized at the national level. Moreover, all the CPCs and Integrity Units submit their yearly plans to the ACC. Around 80% of the annual plan is implemented at the CPC level, while all the central level events are organized by ACC.</p> <p>However, in spite of having an annual plan there is lack of a comprehensive and clear plan for prevention, education and outreach. The ACC is preparing its Communication Strategy for five years (from 2015</p> |

¹⁶⁸ These included *Rajdhani Unnayan Kartripokkho* (RAJUK), Department for Education Engineering which also covered Secondary and Higher Secondary Education Department, and National Textbook and Curriculum Board (NTCB), Department for Roads and Highways, and Bangladesh Road and Transport Authority (BRTA), Electricity and Water resources which covered Power Development Board (PDB), Water Development Board (WDB), Dhaka Electric Supply Company (DESCO), Bangladesh Petroleum Development Corporation (BPDC) and Water and Sewerage Authority (WASA), Dhaka City Corporation (North and South), Office of the Directorate General on Health, Local Government Engineering Department (LGED), Public Works Department (PWD), National Board of Revenue (NBR) (Custom) and Port Authority.

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| 31. ACA's collaboration with other stakeholders in prevention, education and outreach activities | High degree of collaboration with three or more joint projects | Some degree of collaboration with one or two joint projects | Little or no collaboration with other stakeholders | <p>to 2019). Efforts are underway to prepare an 'Anti-Corruption Strategic Plan of the ACC'.</p> <p>Source: Interview with Director, Prevention, Education and Outreach, ACC (10 March 2016).</p> <p>ACC collaborates with other stakeholders such as the World Bank, ADB, JICA, GIZ, MRDI, BEI, and TIB in different prevention, education and outreach activities. Such collaborations have been undertaken on project-basis short-term need-based, and in most cases were initiated by the ACC. The ACC is implementing a project with the World Bank on the implementation of the National Strategy, which started in July 2015 and will continue up to 2018. Four projects have been implemented in partnership with ADB under which the CPCs and Integrity Units have been formed. One pilot project is being implemented by GIZ under the JRCP project in five districts which started in 2014 will continue up to 2019. The ACC worked with MRDI on implementation of the Right to Information Act in 2012, and with BEI on the capacity building of stakeholders. The ACC signed Memorandum of Understandings (MoU) with TIB in May 2015 for a year for collaborative campaign and research, and with the BFIU of Bangladesh Bank for capacity building.</p> |
| 32. ACA's research and exploration of corruption risks, context and conditions | Extensive use of research, to develop risk assessments and sectoral corruption profiles | Some degree of research to develop risk assessments and sectoral corruption profiles | Little or no discernible independent research carried out by the ACA | <p>Source: Interview with Director, Prevention, Education and Outreach, ACC (10 March 2016); ACC Annual Report 2014; MoU signed between ACC and TIB (http://www.ti-bangladesh.org/beta3/index.php/en/media-release/4625-acc-and-tib-join-hands-to-augment-corruption-prevention-activities-bangla).</p> <p>So far no discernible independent research has been carried out by the ACC. The ACC does not have its own budget allocation for research and exploration of corruption risks, contexts and conditions. However, it has developed a draft Anti Corruption Commission Communication Strategy for five years, from 2015 to 2019, with the financial and technical help of the World Bank, Dhaka Office in 2014. It is an outline of activities of the commitment made by various development partners and for implementing those in anticorruption campaigns. Efforts are underway to</p> |

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| | | | | prepare an 'Anti-Corruption Strategic Plan of the ACC' with the technical assistance of GIZ. |
| 33. ACA's dissemination of corruption prevention information and use of campaigns | Extensive dissemination of corruption prevention and reliance on campaigns | Limited dissemination of corruption prevention information and reliance on campaigns | Does not disseminate corruption prevention information or rely on campaigns | <p>Usually messages on awareness against corruption are disseminated by the ACC through text sms to mobile phones, short films, posters, and banners. According to high officials of ACC, the messages have some impact, although they are not always reader or audience friendly, and to what extent they are effective has not been measured. The ACC mainly relies on the activities of CPCs, Integrity Units, and recently organized public hearings to campaign against corruption.</p> <p>Source: Interview with Director, Prevention, Education and Outreach, ACC (10 March 2016); ACC Annual Report 2014.</p> |
| 34. ACA's use of its website and social media for disseminating information on corruption prevention | Extensive use of its website and social media to spread corruption prevention information | Limited use of its website and social media to spread corruption prevention information | ACA does not have a website and does not rely on social media to spread corruption prevention information | <p>Although the ACC has a website, it has not started the use of social media yet. There are a very few awareness raising messages on its website. Although there is a lot of information on ACC activities, not all of them updated and some are excluded altogether. These include information on budget, public hearing and other activities, activity plans, annual reports, investigation and prosecution statistics, updated acts and rules etc. Even the original version of the Anti-Corruption Commission Act 2004 could not be located and retrieved on 10 April 2016.</p> <p>Source: Interview with Director, Prevention, Education and Outreach, ACC (10 March 2016); review of ACC website by the research team.</p> |

5. ACA's Cooperation with other Organizations (5 indicators)

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|---|---|--|---|---|
| | HIGH | MODERATE | LOW | |
| 35. Government support (e.g. Attorney-General's Office, Director of Public Prosecutions) to ACA for prosecution of corruption cases | High level of support as reflected in absence of interference and average prosecution rate of above 75% | Moderate level of support as reflected in some interference and average prosecution rate of 50% to 75% | Low level of support as reflected in substantial interference and average prosecution rate of below 50% | <p>The ACC has very little interface with the Attorney General's (AG) office with regard to prosecution. In the last three years, the AG Office was involved in only a few special cases (3-4). No interference was observed from the government in conducting these cases. The ACC also received necessary support from AG Office.</p> <p>Although according to law there should be a permanent prosecution team of the ACC, this has not happened due to a number of reasons. Now there is a set of panel lawyers of ACC throughout the country including PPs. These panel lawyers conduct the prosecution of ACC's corruption cases.</p> <p>Source: Interviews with ACC officials.</p> |
| 36. Cooperation between ACA and other integrity agencies (including other ACAs if there are multiple ACAs in country) | High degree of cooperation between ACAs or between ACA and other integrity agencies | Limited cooperation between ACAs or between ACA and other integrity agencies | Conflict and/or lack of cooperation between ACAs or between ACA and other integrity agencies | <p>ACC is the singularly mandated for dealing with corruption in the country. While discharging its functions, ACC gets necessary cooperation from organizations such as NBR, Banking Institutions, Office of the CAG, and AG office.</p> <p>However, a number of experts observed that ACC's coordination with other government organizations is not adequate and effective. ACC finds it difficult to get appropriate and necessary information like Bank Account details of accused individual. Banks tend to slow down the process by referring to Banker's Book Evidence Act 1890. The same happens when ACC asks for wealth and related information from NBR. Complications arise due to the provisions of Income Tax Ordinance 1984 which do not allow the release of any personal wealth data without the permission of the court. Although the Anti-Corruption Commission Act 2004 clearly states that the Act shall prevail over other laws currently in force when the ACC investigates a corruption case, lack of knowledge and understanding of the laws raises ambiguities.</p> <p>Source: Interviews with ACC officials, experts and CSO leaders; <i>The Independent</i>, 7 February 2016; Cabinet Division, <i>An Independent Review of National Integrity Strategy (NIS)</i>, 2013.</p> |

| INDICATOR | INDICATOR VALUES | | | JUSTIFICATION OF SCORES AND DATA SOURCES |
|---|--|---|---|--|
| | HIGH | MODERATE | LOW | |
| 37. Cooperation between ACA and non-government organizations including CSOs and private companies | High degree of cooperation between ACA and other organizations including CSOs and private companies | Limited cooperation between ACA and other organizations | Conflict and/or lack of cooperation between ACA and other organizations | According to ACC officials, there is a high level of cooperation between ACC and non-government organisations including JICA, GIZ, TIB, MRDI, and BEI etc. However, according to some CSO leaders, ACC's coordination with NGOs is not up to the desired level. They believe ACC has the potential to engage CSOs at the community level to create public awareness against corruption in many ways. Source: Interviews with ACC officials, experts and CSO leaders. |
| 38. ACA's participation in international networks | Very active with ACA participating in 3 or more networks | Active with ACA participating in 1 or 2 networks | ACA does not participate in any network | ACC's participation in international forums and networks is manifest from its engagement in the Conferences of State Parties in UNCAC, involved with Asia Pacific Group of Anti-Money Laundering, and member of the ADB/OECD Anti-Corruption Initiative for Asia-Pacific. Source: Interviews with ACC and other government officials. |
| 39. ACA's cooperation with ACAs in other countries | High degree of cooperation with joint projects and technical assistance with several ACAs in other countries | Limited cooperation in some areas with one or two ACAs in other countries | No cooperation between ACA and ACAs in other countries | No formal cooperation exists between ACC and ACAs of other countries. ACC's cooperation and network with other ACAs such as Malaysia, India and Bhutan are at a very initial stage. A number of Memorandum of Understandings (MoUs) are expected to be signed with these agencies in the coming days. Source: Interviews with ACC officials. |

6. ACA's Accountability and Oversight (4 indicators)

| | | | | |
|--|--|--|--|--|
| 40. Information provided in and accessibility of ACA's annual report and website | Comprehensive information on ACA is provided in annual report and website; submitted to Parliament and easily accessible to the public | Limited information on ACA is provided in annual report and website; submitted to Parliament but not easily accessible to the public | Submits annual report to government but is not available to the public | ACC publishes its annual report on a regular basis which provides necessary information about its ongoing activities, information on investigations and prosecution, budget and manpower. The soft version of the Annual Report of 2014 is available on the website; however contact point for further information such as collecting a hard copy of the annual report may be provided on the website. The annual report of the ACC is submitted to the President who then submits it to the Parliament. |
|--|--|--|--|--|

| INDICATOR | INDICATOR VALUES | | | JUSTIFICATION OF SCORES AND DATA SOURCES |
|--------------------------------|---|---|--|---|
| | HIGH | MODERATE | LOW | |
| | | | | <p>The website of ACC is accessible to everyone. The ACC website provides information on the mission, vision, functions and structure of ACC, prevention activities (present activities of prevention wing, corruption prevention committees & integrity units, public education programs, promotional activities, public hearing), enquiry and investigation (process, performance, case studies, institutional teams, procedure for lodging a complaint, list of scheduled offences), information on prosecution, public relations (including ACC magazine, press notice/releases, protest notes), and downloadable documents (relevant laws and rules, annual reports of ACC, approval of sanctions of cases).</p> <p>Source: Interview with Commissioner, ACC (15 March 2016); Director, Prevention, Education and Outreach, ACC (10 March 2016); ACC Annual Report 2014; ACC website: http://www.acc.org.bd/.</p> |
| 41. ACA's oversight mechanisms | Oversight committees with active participation by Members of Parliament, senior civil servants and prominent citizens | Oversight committees with Members of Parliament and/or senior civil servants as members | Accountable to Executive without any oversight committee | <p>There is no committee for oversight as such to monitor ACC's performance. According to the Anti-Corruption Commission Act 2004, it has to submit an annual report to the President which is again required to be submitted in the Parliament [section 29]. The Parliament has the mandate to discuss this report. ACC officials are socially accountable to common people through its public hearings.</p> <p>ACC's performance is internally monitored by the Monitoring and Evaluation (M&E) Branch. Short and detailed inspections are the monitoring tools to oversee the performance of ACC's divisional and integrated offices, and these inspections are carried out by Director Generals and Directors of ACC Headquarters. The M&E Branch regularly evaluates these inspection reports and submits the key findings to the ACC Chairman. As this is strictly an internal inspection there is no scope for public representation this level.</p> <p>Source: Interview with Commissioner, ACC (15 March 2016); ACC website: http://www.acc.org.bd/about-acc/monitoring-evaluation-cell (accessed on 28 March 2016).</p> |

| INDICATOR | INDICATOR VALUES | | | JUSTIFICATION OF SCORES AND DATA SOURCES |
|---|---|---|--|--|
| | HIGH | MODERATE | LOW | |
| 42. ACA's procedure for dealing with complaints against ACA personnel | Complaints against ACA personnel are investigated by another public agency to avoid conflict of interest and results of investigation and punishment imposed are publicised | Complaints against ACA personnel are investigated by its internal control unit but results of investigation and punishment are not publicised | Complaints against ACA personnel are ignored or not investigated without any explanation | A permanent Internal Anti Corruption Committee, headed by its Chairman has been constituted to consistently monitor, supervise, enquire, and investigate into any corruption allegations against the ACC officials and to make recommendations for taking legal and departmental actions against the corrupt staff. Source: Interview with Commissioner, ACC (15 March 2016); ACC website: http://www.acc.org.bd/about-acc/monitoring-evaluation-cell (accessed on 27 March 2016) |
| 43. Outcomes of complaints against ACA or its personnel in past 3 years | All valid complaints against ACA personnel result in punishment or other remedies, and outcome is publicized | Some valid complaints against ACA personnel result in punishment or other remedies, and outcome is publicized | Complaints involving ACA personnel are ignored and not investigated at all | In the last three years (2012-2014) a total of 24 complaints were lodged against ACC personnel, all of which were resolved where four staff were acquitted 11 received major punishment (dismissal from service and forced retirement), and nine received minor punishment (placed in other government organizations). These actions are mentioned in the annual report, and also posted on the ACC website. Source: ACC Annual Report 2014; http://www.acc.org.bd/about-acc/statistics-departmental-actions-taken-against-acc-personnel-2011-%E2%80%93-2013 (accessed on 28 March 2016); DG, Administration, Establishment and Finance, ACC (7 April 2016). |

7. Public Perceptions of the ACA's Performance (7 indicators)

| | | | | |
|--|---|---|--|---|
| 44. Public confidence that government has given ACA the required powers and resources for curbing corruption | High level of confidence as reflected in survey finding (above 75%) and views of ACA senior personnel, CSO leaders, anti-corruption experts and journalists | Moderate level of confidence as reflected in survey finding (50%-75%) and views of ACA senior personnel, CSO leaders, anti-corruption experts and journalists | Low level of confidence as reflected in survey finding (below 50%) and views of ACA senior personnel, CSO leaders, anti-corruption experts and journalists | According to experts, CSO leaders and journalists, the ACC is entrusted with the required powers for curbing corruption, but the resources are not adequate (for instance due to lack of adequate financial resources, the ACC cannot hire senior, experienced lawyers). The ACC has neither conducted nor commissioned any public perception survey on ACC. However, according to ACC officials, there is lack of public trust on ACC. The common people have little idea about the activities of ACC or the corruption laws. Generally, people have negative impressions about public offices and officials, as evident in the Global Corruption Barometer 2013 (29% of respondents in Bangladesh felt that public |
|--|---|---|--|---|

| INDICATOR | INDICATOR VALUES | | | JUSTIFICATION OF SCORES AND DATA SOURCES |
|---|--|--|---|--|
| | HIGH | MODERATE | LOW | |
| | | | | officials and civil servants were corrupt/extremely corrupt). According to the GCB Survey 2015 (yet to be published), 82.9% of the respondents stated that they have not heard about the ACC or do not know about their functions. |
| | | | | <p>Source: Interview with Commissioner, ACC (15 March 2016); FGD with CPC and CCC members, journalists (23 March 2016); Interviews with key informants; http://www.transparency.org/gcb2013/country/?country=bangladesh (accessed on 19 April 2016).</p> |
| 45. Public confidence in ACA's adherence to due process, impartiality, and fairness in using its powers | High level of confidence as reflected in survey finding (above 75%) and views of ACA senior personnel, CSO leaders, anti-corruption experts and journalists | Moderate level of confidence as reflected in survey finding (50%-75%) and views of ACA senior personnel, CSO leaders, anti-corruption experts and journalists | Low level of confidence as reflected in survey finding (below 50%) and views of ACA senior personnel, CSO leaders, anti-corruption experts and journalists | <p>The ACC has neither conducted nor commissioned any public perception survey on its work and profile. However, according to the National Trust survey 2015 conducted by TIB(yet to be published), 68.4% of the respondents stated that they have some trust on the ACC. According to experts, journalists and other stakeholders, the ACC is not impartial in handling corruption cases of the same nature. The common perception is that the role of ACC depends on the intention of ACC where an investigation is to be directed and the superior role of the state. It is manifested on whether evidences are collected or not – a case is avoided either intentionally or out of ignorance.</p> <p>Source: Trust Survey 2015, TIB (unpublished).FGDs with CPC and CCC members, journalists (10 February and 23 March 2016); Interviews with key informants.</p> |
| 46. Confidence in ACA's adherence to due process, impartiality, and fairness in using its powers, among persons who had direct contact with ACA | High level of confidence as reflected in survey finding (above 75%) and views of ACA senior personnel, CSO leaders, journalists and, if possible, persons with direct contact with ACA | Moderate level of confidence as reflected in survey finding (50%-75%) and views of ACA senior personnel, CSO leaders, journalists and, if possible, persons with direct contact with ACA | Low level of confidence as reflected in survey finding (below 50%) and views of ACA senior personnel, CSO leaders, journalists and, if possible, persons with direct contact with ACA | <p>No survey has been conducted on experience or perception of persons who had direct contact with ACC. However, a few informants who had direct contact with the ACC stated that some of the ACC officials treat people according to their social status and network. In a few cases the concerned investigation officer treated people who have taken on remand as if they are already convicted.</p> <p>Source: FGDs with CPC and CCC members, journalists (10 February and 23 March 2016); Interviews with key informants.</p> |

| INDICATOR | INDICATOR VALUES | | | JUSTIFICATION OF SCORES AND DATA SOURCES |
|--|---|--|--|---|
| | HIGH | MODERATE | LOW | |
| 47. Confidence in ACA's dignified and respectful treatment of persons under investigation | High level of confidence as reflected in the views of ACA senior personnel, CSO leaders, journalists and persons subject to investigation, if possible | Moderate level of confidence as reflected in views of ACA senior personnel, CSO leaders, journalists and persons subject to investigation, if possible | Low level of confidence as reflected in views of ACA senior personnel, CSO leaders, journalists and persons subject to investigation, if possible | According to some, ACC officials treat people with dignity and respect during investigation. Others stated that the treatment varies according to the social and economic status of the person under investigation. Source: FGDs with CPC and CCC members, journalists (10 February and 23 March 2016); Interviews with key informants. |
| 48. Public perception of ACA's effectiveness in corruption control | High level of effectiveness as reflected in survey finding (above 75%) and views of CSO leaders, anti-corruption experts and journalists | Moderate level of effectiveness as reflected in survey finding (50%-75%) and views of CSO leaders, anti-corruption experts and journalists | Low level of effectiveness as reflected in survey finding (below 50%) and views of CSO leaders, anti-corruption experts and journalists | According to many, the ACC is not effective till now. Only 9.1% of the respondents in the GCB survey 2015 (yet to be published) stated that the ACC is doing well in fighting corruption. According to a survey conducted by IRI early this year, 49% of the respondents did not see the Government as fully engaged in or capable of fighting corruption. ¹⁶⁹ In another earlier survey, 66% of the respondents stated that corruption either remained same or increased in the last five years. ¹⁷⁰ In another earlier survey, 66% of the respondents stated that corruption either remained same or increased in last five years. ¹⁷¹ The ACC cannot claim that due to its activities many cases have been resolved. Source: GCB Survey 2015 (unpublished); FGDs with CPC and CCC members, journalists (10 February and 23 March 2016); Interviews with key informants; IRI Survey, January 2016; <i>Prothom Alo</i> Survey 2013. |
| 49. Perception of ACA's effectiveness in corruption control among persons with direct contact with ACA | High level of effectiveness as reflected in survey finding (above 75%) and views of CSO leaders, anti-corruption experts, journalists and persons with direct contact with ACA, if possible | Moderate level of effectiveness as reflected in survey finding (50%-75%) and views of CSO leaders, anti-corruption experts, journalists and persons with direct contact with ACA, if | Low level of effectiveness as reflected in survey finding (below 50%) and views of CSO leaders, anti-corruption experts, journalists and persons with direct contact | Some informants who had direct contact with the ACC claimed that it is not effective till now. The conviction rate in corruption cases is still very low. ACC has to reach people, as they are not aware about ACC's activities. Source: Interviews with key informants. |

¹⁶⁹<http://www.iri.org/resource/iri%20%99s-center-insights-poll-optimism-growing-bangladesh%20%99s-economic-future> (accessed on 12 July 2016).

¹⁷⁰<http://www.iri.org/resource/iri%20%99s-center-insights-poll-optimism-growing-bangladesh%20%99s-economic-future> (accessed on 12 July 2016).

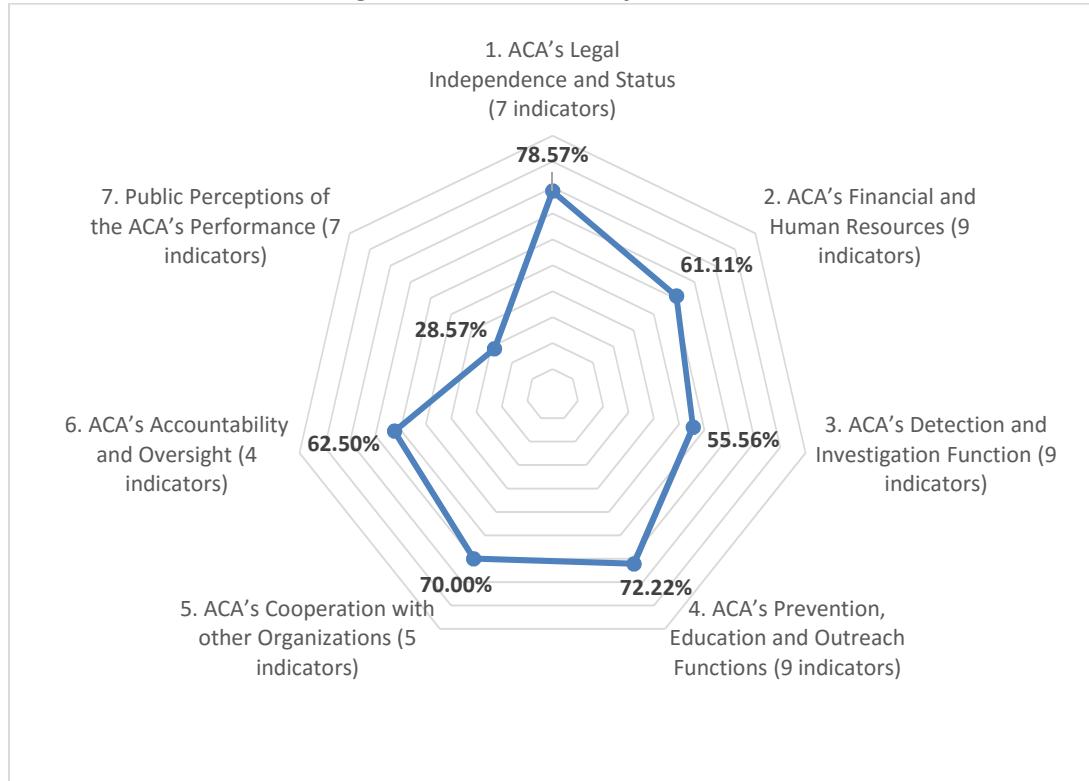
¹⁷¹ *Prothom Alo*, 10 October 2013.

| INDICATOR | INDICATOR VALUES | | | JUSTIFICATION OF SCORES AND DATA SOURCES |
|--|--|---|-----------------------------------|--|
| | HIGH | MODERATE | LOW | |
| 50. Perception of ACA's effectiveness in dealing with complaints among female citizens who had direct contact with ACA | High level of effectiveness as reflected in survey finding (above 75%) and views of CSO leaders, anti-corruption experts, journalists and females with direct contact with ACA if possible | Moderate level of effectiveness as reflected in survey finding (50%-75%) and views of CSO leaders, anti-corruption experts, journalists and females with direct contact with ACA, if possible | possible with ACA, if possible | Low level of effectiveness as reflected in survey finding (below 50%) and views of CSO leaders, anti-corruption experts, journalists and females with direct contact with ACA, if possible <i>Not applicable.</i> |

4. CONCLUSIONS AND RECOMMENDATIONS

According to this assessment, the overall score for Bangladesh ACC is 61.22%, which falls in the 'moderate' category. It is noteworthy that the score is 5.78 points short of the 'high' category, which indicates that the institution needs to improve by only a few indicators to rise to the high category. Among the 50 indicators, 21 indicators (42.86%) scored 'high', 19 (38.78%) scored 'moderate' and 09 (18.37%) scored 'low'.

Figure 6: ACC's Scores by Dimension

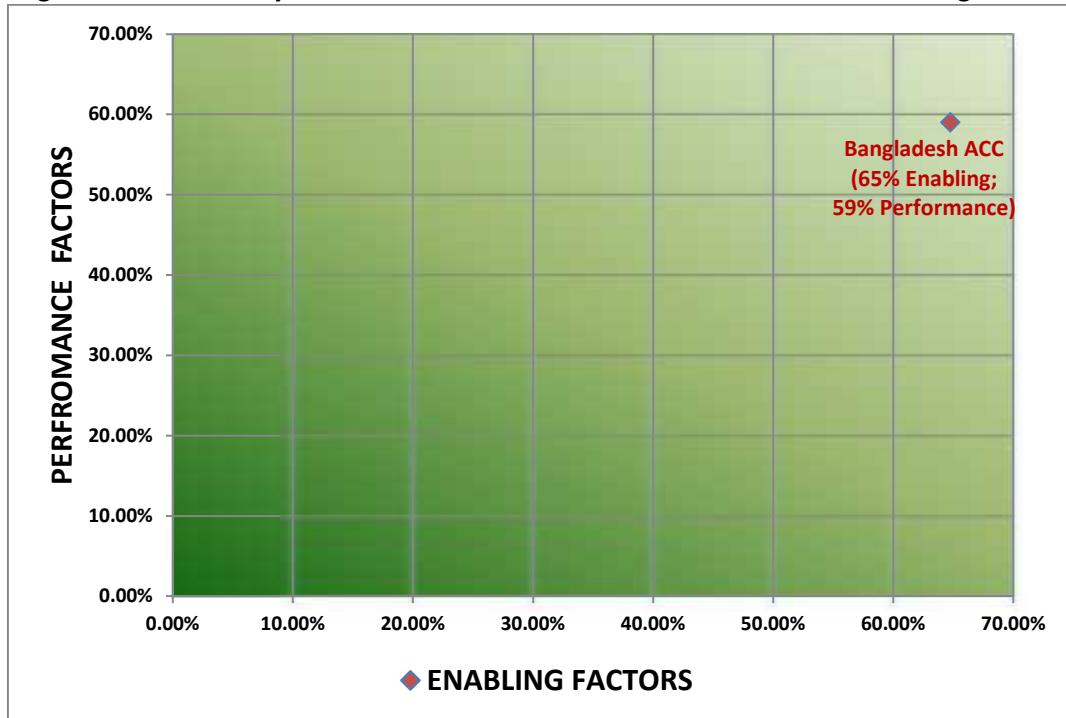


In sum, the strengths of the ACC includes legal independence and status with adequate legal powers and mandate; stability of budget which is gradually increased over years; staff stability with low turnover; willingness to investigate complaints, as it is responsive to complaints, willing to and has capacity to investigate influential persons, and high number of cases; corruption prevention initiatives with organizational reviews, engagement of stakeholders in prevention; collaboration with other stakeholders such as civil society, development partners; and participation in international networks.

On the other hand, the weaknesses of the ACC include inadequate budget particularly for development, investigation, recruitment of experienced lawyers, and donor dependency in prevention activities; low accessibility in terms of lodging complaints; inadequate/limited expertise and professionalism in investigation and prevention; low conviction rate; absence of independent oversight mechanism; lack of coordination with other public agencies; and low level of public confidence and negative perception on ACC's effectiveness.

ACC's main challenge lies in gaining people's trust and confidence, maintain and sustain the strong areas, and overcome its weaknesses.

Figure 7: Indicators by Classification: Distribution of Performance and Enabling Factors



Considering the facts and circumstances of past three years the following recommendations are proposed under each dimension in order to help ACC stronger, more efficient and effective.

RECOMMENDATIONS

Financial and Human Resources

1. **Enhanced budget for ACC:** The budget of the ACC should be enhanced for:
 - e. Logistical support for enquiry and investigation (such as transportation, equipment, restoration of confiscated goods etc.);
 - f. Prevention activities (such as public hearing, research etc.);
 - g. Recruitment of highly skilled and efficient lawyers; and
 - h. Training of ACC staff.
2. **Review of ACC's organogram and increase staff strength:** ACC should have its offices in all 64 districts with necessary staff and logistical support. The number of staff engaged in enquiry and investigation and prevention should be increased.
3. **Increased transparency in appointment of Commissioners:** The appointment process of the Chairman and Commissioners should be made more transparent. It should publicly disclose the names and profiles of the selected candidates before appointing the Commissioners. Participation from the political opponents and civil society in the process should be considered.

Detection and Investigation Function

4. **Digitalization of the complaint system:** The system of handling corruption complaints, investigation and case management should be digitalised. The system should be easy and user-friendly, and ensure anonymity. The ACC should also develop a proper structure for protecting whistle blowers.
5. **Measures to increase the conviction rate:** In order to increase the conviction rate of corruption cases the ACC should take measures such as consulting with lawyers before filing corruption cases and pursuing with the panel lawyers.

6. **Enhanced drive for asset recovery:** The ACC should take measures to recover, confiscate and freeze more assets out of corruption cases.

Prevention, Education and Outreach Functions

7. **Long-term comprehensive strategic plan:** The ACC should develop a long-term comprehensive strategic plan for preventing corruption through education and outreach programmes. It should also develop a mechanism to evaluate its activities.
8. **Improved website:** The ACC should have an improved website with the following features:
 - Should be more interactive;
 - Social media should be introduced;
 - Should be made user friendly with a repository of literature and research scholarly papers [Anti-Corruption Commission Act 2004, Section 17 (f)];
 - Information should be regularly updated, and information on ACC's budget, public hearing and other activities, activity plan, investigation and prosecution statistics should be provided; and
 - Amended Acts and Rules should be uploaded.

Cooperation with other Organizations

9. **Increased cooperation with other integrity agencies:** The ACC should take measures to increase collaboration and cooperation with other integrity agencies, particularly in terms of avoiding potential 'Conflict of Interest' while conducting investigation into alleged corruption of its personnel.

Accountability and Oversight

10. **Independent oversight mechanism:** An independent committee consisting of public representatives, present/ former bureaucrats and civil society members of high integrity, credibility and acceptability should be formed to advise, monitor and evaluate key aspects of ACC's work.

Public Perceptions of the ACC's Performance

11. **Enhance public confidence:** The following measures should be taken to enhance public confidence.
 - Publicise its activities on a larger scale, so that common people are aware of its achievements;
 - Publish and regularly update detailed statements on income, assets and liabilities of Commissioners and senior officials;
 - Take steps against corrupt public representatives & high officials, and people from other groups of the society; and
 - Ensure effective and timely investigation and quick disposal of corruption cases.

Annex 1: Background to the project

Transparency International believes that Anti-Corruption Agencies (ACAs), as public institutions tasked with combating corruption, must be transparent, accessible and accountable to citizens. They must operate with the utmost integrity, maintain a reputation of objectivity and professionalism and demonstrate effectiveness in their duties. Transparency International has identified ACAs as key partners in the fight against corruption and plans to work in constructive collaboration with governments who are ready to invest in improving their anti-corruption effectiveness by building strong oversight and enforcement mechanisms.

Transparency International's initiative aimed at strengthening anti-corruption agencies combines biennial assessments of ACAs with sustained engagement, dialogue and advocacy at both national and regional levels. A robust assessment tool was developed over a period of two years in consultation with numerous experts and practitioners around the world. In mid-2013, Transparency International convened an experts meeting in Kuala Lumpur to explore the possibility of developing an ACA assessment tool. After receiving encouraging feedback and useful input, Transparency International commissioned a background review and draft framework by anti-corruption specialist, Alan Doig. The concept received further interest and backing from ACAs in Asia Pacific during the 18th and 19th Steering Group Meetings of the ADB/OECD Anti-Corruption Initiative for Asia-Pacific in 2013 and 2014.

In 2014, Transparency International commissioned anti-corruption expert, Dr Jon Quah to further refine the framework, producing a set of indicators incorporating elements of TI's National Integrity Systems assessment methodology and other relevant tools and principles. In April 2015, Transparency International organised a Focus Group Discussion in Bangkok, bringing together practitioners, researchers and ACAs to scrutinise the indicator framework and approach. Participants subsequently formed an Advisory Group to guide the finalisation of the tool.

The tool was piloted in Bhutan in 2015 and lessons learned around the research framework, process and approach were captured and used to finalise the methodology in consultation with the Advisory Group.

Annex 2: Interviewees

Persons interviewed during assessment of ACC– Dhaka, February–March 2016

| | Position | Organisation |
|----|--|--|
| 1 | Former Secretary | Bangladesh Government |
| 2 | Professor, Department of Law | University of Dhaka |
| 3 | Lawyer | Bangladesh Supreme Court |
| 4 | Former Advisor of Caretaker Government | Bangladesh Government |
| 5 | Executive Director | <i>Ain O Salish Kendra</i> |
| 6 | Executive Director | South Asian Institute of Advanced Legal and Human Rights Studies (SAILS) |
| 7 | Political Leader | <i>Jatiya Party</i> |
| 8 | Political Leader | Bangladesh Awami League |
| 9 | Commissioners | ACC |
| 10 | Outgoing Chairperson and Commissioners | ACC |
| 11 | Director Generals | ACC |
| 12 | Directors & Deputy Directors | ACC |
| 13 | Additional Secretary | Ministry of Finance |
| 14 | Additional Secretary | Ministry of Law, Justice and Parliament affairs |
| 15 | Panel Lawyer | ACC |
| 16 | Chief Advisor/Governance Improvement | National Integrity Strategy Support Project, JICA |
| 17 | National Project coordinator | Justice Reform and Corruption Prevention Project, GIZ |
| 18 | Members, Corruption Prevention Committee (CPC) | ACC |
| 19 | Members, Committee of Concerned Citizens (CCC) | TIB |
| 20 | Senior Reporter | <i>Prothom Alo</i> |
| 21 | Editor | <i>Jamuna TV</i> |
| 22 | Special Correspondent | <i>Jamuna TV</i> |
| 23 | Staff Reporter | <i>Daily Janakantha</i> |
| 24 | Chief Reporter | <i>Asian Television</i> |
| 25 | Special Correspondent | <i>Banglanews24</i> |
| 26 | Staff Reporter | <i>Dainik Banik Barta</i> |
| 27 | Staff Correspondent | <i>New Age</i> |
| 28 | Staff Correspondent | <i>Independent TV</i> |
| 29 | Senior Reporter | <i>Daily Jugantor</i> |
| 30 | Senior Reporter | <i>Dainik Banik Barta</i> |
| 31 | Assistant Professor | Jahangirnagar University |

Annex 3: Stakeholders consulted

Persons engaged during consultation on assessment findings – Dhaka, 30 June 2016

| | Position | Organisation |
|----|---|--|
| 1 | Chairman | ACC |
| 2 | Commissioner | ACC |
| 3 | Commissioner | ACC |
| 4 | Secretary | ACC |
| 5 | Director General, Administration, Establishment and Finance | ACC |
| 6 | Director General, Prevention and Mass Awareness, Research, Experiment | ACC |
| 7 | Director General, Enquiries and Investigation | ACC |
| 8 | Director General, Legal and Prosecution | ACC |
| 9 | Director General, Special Enquiries and Investigation | ACC |
| 10 | Lead Researcher, ACA Strengthening study | Department of Public Administration, University of Dhaka |
| 11 | Executive Director | TIB |
| 12 | Deputy Executive Director | TIB |
| 13 | Director, Research and Policy | TIB |
| 14 | Director, Outreach and Communication | TIB |
| 15 | Senior Programme Manager, Research and Policy | TIB |
| 16 | Programme Manager, Research and Policy | TIB |

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