

The Interim Government's Reluctance to Pursue Reforms in Ordinance Formulation

Position Paper

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**The Interim Government's Ordinance-making:
Reform-Resistance from Within**

Background

- In the course of the anti-discrimination movement, the fall of the authoritarian government occurred at the cost of unprecedented bloodshed and sacrifice, leading to the formation of an Interim Government (IG) on 8 August 2024. The principal aspiration of the students and general people involved in the anti-discrimination movement was that the IG would create an enabling foundation of a state structure capable of building a transparent, accountably-governed, corruption-free, and discrimination-free “New Bangladesh.”
- The government has undertaken initiatives for sectoral, institutional, and legal reforms, based on the reports of various reform commissions, the July Charter, and its own considerations, to establish accountable government, good governance, democracy, and social justice, and to prevent the recurrence of authoritarian and fascist rule through its state reform processes. As part of these processes, more than a hundred ordinances have already been enacted.
- As part of its supportive role in the state reform process, Transparency International Bangladesh (TIB) has consistently put forward various reform proposals, reviewed some draft laws (ordinances), and made specific recommendations, many of which have been reflected in different government decisions and initiatives.
- However, in many instances, strategically important recommendations provided by the relevant reform commissions and other stakeholders, which are crucial for ensuring accountable governance, have been ignored in the formulation of key laws. TIB has articulated its concerns and positions on these issues and communicated through various platforms at different times.
- In this context, TIB has reviewed and identified the gaps that have emerged in the legal reform process for several key state sectors and institutions, as well as their potential implications. The key findings are presented below:

The List of Reviewed Ordinances

- Anti-Corruption Commission (Amendment) Ordinance, 2025
- Police Commission Ordinance, 2025
- National Human Rights Commission (Amendment) Ordinance, 2025
- Public Audit Ordinance, 2025
- Revenue Policy and Revenue Management Ordinance, 2025

- Cyber Security Ordinance, 2025
- Personal Data Protection Ordinance, 2025
- National Data Management Ordinance, 2025

Anti-Corruption Commission (Amendment) Ordinance, 2025

Positive Aspects

- The proposal to increase the number of ACC commissioners from three to five has been accepted, with provisions to include at least one-woman commissioner and an ICT expert.
- A provision has been introduced to expedite case handling and investigation processes, with a fixed investigation timeframe of 120 days established.
- The Commission has been granted the authority to file cases directly (FIR).
- A Clear provision have been included to conduct “confidential investigations” while keeping the identities of the Commission’s officials protected.
- The Anti-Corruption Commission has been granted jurisdiction to investigate and prosecute cases involving Bangladeshi citizens residing abroad or foreign nationals residing in Bangladesh who are involved in corruption in other countries.
- The Commission’s financial autonomy has been enhanced, although full financial independence, similar to that provided for other comparable commissions, has not been ensured.
- A provision has been introduced requiring the publication of activity report every six months.
- Submission of asset declarations by commission officials has been made mandatory, although public disclosure of these declarations has not been made compulsory.

Setbacks or Problematic Issues

- The authority to nominate opposition party representatives to the ACC Selection Committee, for the purpose of appointing the Chairman and Commissioners, has been placed with the Speaker instead of the opposition party leader in the Parliament. This has weakened the effectiveness of the Selection Committee and entrenched the influence of the ruling party.
- The responsibility to appoint an independent individual as a member of the committee, experienced in anti-corruption and good governance, has been assigned to the President instead of the Chief Justice.
- The highly important strategic recommendation to establish a ‘Review Committee’, essential for ensuring ACC accountability, has been deliberately ignored, even though it had been unanimously accepted by all political parties and both the government and the ACC were aware of this.

- Lack of transparency in appointing the Chairman and Commissioners: the provision to publish the names of shortlisted candidates has been rejected; instead of a strong and participatory search committee, the executive- and bureaucracy-controlled structure as in the previous time has been retained.
- Failure to establish a separate 'Integrity Unit' to address corruption within the ACC and to ensure financial and administrative autonomy has been observed.
- The proposal for 'end-to-end automation' of ACC operations, particularly complaints management, investigation, confidential inquiries, and case handling, has been ignored.
- The experience requirement for commissioner appointments has been fixed at 20 years instead of 15, recommended to enable relatively younger capable candidates to be considered.
- The recommendation to increase the human resources of ACC has been ignored.
- Proposals for positive and negative incentives for employees have been ignored. In particular, recommendations for taking action against corrupt ACC officials have been given no importance.
- Proposals for setting a maximum number of deputed bureaucrats to the ACC, especially those appointed from administrative service, have been ignored.
- Although the provision of requiring pre-investigation inquiries before filing direct FIR by the Commission after getting any credible evidence of offences was removed; in similar cases, the regional/local offices still unnecessarily require approval by the Commission's headquarters.
- Opportunities have been created to compromise in the judgement/punishment of corruption. If an individual admits guilt and agrees to pay fines or compensation, or both, the law allows broad scope for remission of punishment —effectively opening a 'floodgate' for the protection of corruption. This is also self-contradictory, because the same paragraph rightly provides corruption offences to be non-compoundable.
- Bribery and corruption in the private sector have not been brought under the purview of the law.

Other Recommendations of the ACC Reform Commission that were ignored

- Adopt a National Anti-Corruption Strategy specifying the anti-corruption roles and responsibilities of various state and non-state institutions. This includes the legislature, executive, judiciary, government sectors, law enforcement agencies, Election Commission, Ombudsperson, OCAG, the ACC, local government, political parties, media, civil society, and the corporate sector.
- Establish an Ombudsperson's office with authority to monitor the performance of institutions under the National Anti-Corruption Strategy and ensure reporting.
- Enact specific laws to permanently abolish the practice of legitimising black money.

- Create a specific legal framework to resolve and prevent conflicts of interest for decision-makers at various levels who hold power or are responsible for public interest-related decisions.
- Enact a “Beneficial Ownership Transparency Act” to broadly prevent fraud in the use of public funds and resources, including ownership in banks and financial institutions, particularly for companies, trusts, or foundations. This law would require mandatory disclosure of such profitable ownership through a publicly accessible registry.
- Introduce specific legal provisions to ensure transparency in political and electoral financing, including mandatory submission of annual, itemized and updatable income and asset statements by all elected representatives and their family members upon assuming office. These statements should be published on the Election Commission’s website for public verification.
- Ensure transparency in all domestic and international financial transactions as a measure to prevent tax evasion and money laundering, including Bangladesh’s participation in the Convention on the Mutual Administrative Assistance in Tax Matters and the implementation of the Common Reporting Standard (CRS).
- Join the Open Government Partnership (OGP) at the state level to adopt international best practices in transparent governance across government, private, and non-state sectors.
- Implement a comprehensive anti-corruption preventive framework, including short-, medium-, and long-term action plans, aimed at creatively enhancing awareness among the public and the younger generation that corruption is not only a punishable offense but also a socially, culturally, and religiously unacceptable, destructive, and discriminatory malady.

Police Commission Ordinance, 2025

Setbacks or Problematic Issues

- The ordinance seriously undermines the expectation of an independent and impartial police commission, avoiding even the use of the words “independent” or “impartial,” and instead merely describes it as a “statutory body.” At the same time, its provisions on composition, functions, and procedures are structured in a way that conflicts with the recommendations and decisions proposed by the National Consensus Commission. If the police commission is established under this ordinance, it will be entirely dominated by retired police and administrative bureaucrats, making it incapable of fulfilling the fundamental purpose of establishing such a commission.
- The ordinance allows the inclusion of a retired government officer (Grade-1) and a former police officer (Grade-1) as members of the commission, and grants authority over the commission to the former police officer as Member-Secretary. This is unprecedented both in Bangladesh and globally. By specifically designating a former police officer the status of a Member-Secretary, the ordinance creates potential

conflict of interest, undermines the commission's independence, and facilitates government and executive dominance over the commission.

- The composition and functioning of the selection committee for appointing the chairperson and members of the police commission are entirely placed under bureaucratic and police control, giving the ruling government full authority over the commission's formation and operations.
- The ordinance gives the government the authority to appoint any person serving in the Republic or a government employee to the commission. No limit is set on this number for the first three years, while a 30% ceiling is mentioned for later, which is more than sufficient to maintain government control.
- If a Police Commission is formed under this ordinance, instead of professional excellence and accountability of police including redress of grievances from within police and members of the public, it will only protect continued abuse of police power and corruption.

National Human Rights Commission (Amendment) Ordinance, 2025

Positive Aspects

- The activities of institutions such as law enforcement agencies, the armed forces, intelligence agencies, and relevant detention centers have been brought under the commission's jurisdiction.
- The commission's financial independence has been ensured.
- Provisions have been made to appoint the chairperson and all commissioners on a full-time basis.
- Matters related to human rights violations through torture and other inhuman acts (CAT) have been brought under the commission's mandate.
- Overall, the ordinance aligns with national expectations and international standards, although the potential created by the original ordinance was later seriously undermined.

Setbacks or Problematic Issues

- Although the ordinance issued on 9 November 2025 did not include the Cabinet Secretary as a member of the selection committee, it was amended on 8 December 2025—keeping the relevant stakeholders in the dark—to include the Cabinet Secretary in the committee. This has created a risk of government and political control or influence over the appointment of the chairperson and commissioners as well as operation of the Commission.
- A provision is included that creates opportunities to appoint individuals employed in government or private institutions as chairperson or commissioner of the commission by taking deputation, lien, or leave without pay, instead of resigning from their position. Which will create conflict of interest.
- Provisions broadly allow the appointment of individuals serving in the Republic or government employees on deputation to the commission (up to 30% of the total staff). This poses a risk to the commission's ability to operate independently and free from government influence or interference.

Public Audit Ordinance, 2025

Positive Aspects

- The jurisdiction and scope of the Comptroller and Auditor General (CAG) have been clearly defined.
- In addition to financial auditing, the CAG is empowered to audit efficiency, economy, effectiveness and performance.

Setbacks or Problematic Issues

- The lack of provision to audit revenue assessment and collection (Section 6) could undermine the constitutional status and independence of the CAG, reduce accountability in government revenue mobilisation, and leave irregularities and tax evasion outside the scope of oversight.
- Requirements for prior government approval for contracts with international/foreign organizations, and provision for government to formulate rules in consultation with the OCAG are contradictory to the constitutional status of the OCAG.
- There is no mandatory requirement for timely publication of the annual report.

Revenue Policy and Revenue Management Ordinance, 2025

Positive Aspects

- Formation of an advisory committee comprising sectoral representatives and experts.
- Emphasis on automation and establishing interconnectivity.

Setbacks or Problematic Issues

- The existing structure of the National Board of Revenue (NBR) was reorganized, creating two separate divisions: the *Revenue Policy Division* and the *Revenue Administration Division*. The interim government's lack of preparedness and foresight became evident in failing to implement this crucial reform proposal of separating revenue policy formulation from revenue administration. The unprecedented agitation by revenue officers and staff, and the subsequent punitive measures including dismissals, created discomfort and a trust deficit within the revenue sector. Ultimately, the failure to transform the revenue collection division into an independent authority with legal safeguards, in line with international best practices, resulted in its continued subordination under the Finance Division of Ministry of Finance representing political and administrative authority. Consequently, the extent to which the main objective of the NBR reform—enhancing revenue collection—will be achieved remains questionable.

Cyber security Ordinance, 2025

Positive Aspects

- Provisions for arrest with a warrant, prohibition of online gambling, and publication of a blocked content list have been included.

Setbacks or Problematic Issues

- **Complex structure and merging of multiple issues:** The structure and content of the Cyber security Ordinance, 2025 are not yet fully aligned with international best practices. The ordinance primarily merges three areas—cyber security, cybercrime, and freedom of expression in cyber space—into a single hybrid law, which creates both practical complexity and opportunities for misuse.
- **Ambiguity in content removal or blocking powers [Section 8(2)]:** Unclear definitions regarding religious, communal hatred, or otherwise prejudicial speech increase the risk of misuse. In the absence of clear guidance, distinguishing between hateful speech on religion and permissible content becomes largely subjective and debatable.
- Although tribunal approval is required for immediate content blocking, there remains room for selective ‘cherry-picking’ of content.
- **Crime and Punishment [Sections 26(1) & (2)]:** There is a risk of misuse of imprisonment and fines, especially in relation to religious or ethnic content that allegedly incites violence, hate, or prejudice in cyberspace.
- **National Cyber security Agency [Section 5]:** Being entirely under government control, conflicts of interest may arise in sensitive areas such as content blocking.
- **National Cyber security Council [Section 12]:** Led by the head of government, this council reinforces government authority in cyberspace. Out of 25 council members, only two are ICT or human rights experts, both government-appointed, raising concerns about the lack of genuine stakeholder representation outside the government and perpetuating risks of state control, surveillance, and conflicts of interest.

Personal Data Protection Ordinance, 2025

Setbacks or Problematic Issues

- **Omission of globally accepted data protection principles:** Globally recognised data protection principles, such as legality, primacy of human rights, fairness and transparency, purpose limitation, accuracy, integrity and confidentiality, and accountability, have been omitted or disregarded.
- **Duties and responsibilities of data controllers and processors [Section 15(4)]:** Under the pretext of disproportionate effort or excessive expenses, data controllers and processors have been given an exemption from their duties and responsibilities

under Section 15(4). This exemption is vested in the authority, practically under government control, creating a potential for misuse.

- **Exemptions under Section 24:** Broad access to personal data is allowed under the guise of “crime prevention,” which raises concerns that it could be used as a tool for control and surveillance in the name of data protection. In the absence of clear definitions, the ordinance also grants the authority the power to use personal data in the name of “national security” and “public interest”.

National Data Management Ordinance, 2025

Setbacks or Problematic Issues

- In light of the Personal Data Protection Ordinance, 2025, the responsibility for the management, interoperability, and protection of all types of data has been vested in the National Data Management Authority through this separate ordinance. According to international best practices, such an authority is generally established as an integral part of data protection legislation rather than through a separate law.
- Although the ordinance states that the National Data Management Authority “shall remain independent in the discharge of its duties and functions,” the chairperson and members of the authority are to be selected by a committee led by the Cabinet Secretary. In the context of Bangladesh, this selection process raises serious concerns regarding the authority’s independence and neutrality, as it creates scope for the appointment of government-preferred or loyal individuals.
- The authority has also been assigned the responsibility of developing and operating an interoperability gateway or G2G platform under the ordinance. This effectively means that the authority itself will function as a data management operator, thereby creating a clear conflict of interest.

Overall Observations

- In the wake of unprecedented bloodshed and sacrifice that led to the fall of the former authoritarian kleptocratic regime, the interim government assumed responsibility for laying the foundation of the long-aspired state reforms necessary for a transition to democracy and accountable governance. Notable steps taken by the interim government include:
 - The formation of 11 reform commissions, the National Consensus Commission, multiple white paper committees, several reform committees, and the Commission of Enquiry on Enforced Disappearances; inviting the United Nations to investigate widespread human rights violations, including mass killings carried out by the authoritarian government during the July uprising; agreeing to the establishment of the UN Office of the High Commissioner for Human Rights; and signing the convention on the prevention of enforced disappearances, among others.

- Legal reforms aimed at establishing an independent secretariat for the judiciary, which stands as one of the government's most significant achievements—provided that the necessary financial and institutional capacities are genuinely ensured.
 - Based on reports prepared by the aforementioned commissions and committees, notable government initiatives include the decision to hold a referendum on the implementation of constitutional and other reform recommendations contained in the July Charter, as well as the promulgation of several reform-oriented ordinances and executive decisions—some originating from reform commissions' recommendations, and others taken at the government's own discretion.
- There is no indication that any clear or coherent strategy was followed in identifying sectors or institutions for forming reform commission. Beyond the 11 commissions and committees, several nationally important and critical sectors—such as education, agriculture, and private sector/businesses—have been excluded without any clarity.
 - Apart from the decision to hold the referendum, no concrete implementation strategy has been formulated for the execution of the reform commissions' recommendations.
 - From the outset, no importance was given to analysis of strength, weakness, opportunities and risks, especially to identify and overcome reform-resistant forces. Instead, these vested interests have been found too often to prevail which led to the exclusion of many crucial recommendations, the adoption of reform-contrary decisions, and even the unjustified undermining of the July Charter, thereby setting negative precedents.
 - In decision-making, an ad hoc selection approach has been followed in the name of reform, influenced by internal government dynamics and the underlying bureaucratic power structures behind it. As a result, comparatively less significant, and in some cases reform-opposing, laws and decisions have been chosen and adopted while more strategic ones have been excluded.
 - With few exceptions, there has been no visible progress regarding government action on the “immediately implementable” recommendations submitted by all reform commissions. Moreover, beyond the six first round commissions, no specific action plan exists for implementing recommendations from the second round reform commissions such as the Media, Health, Women's Affairs, Labour, and Local Government, or from the White Paper on the State of Bangladesh Economy.
 - With a handful of exceptions, ordinances have been enacted unilaterally by the government without engaging stakeholders. In some cases, draft ordinances were briefly uploaded on websites merely as a token gesture. Even when some stakeholders were able to get engaged overcoming resistance, many promised changes agreed through such engagements were not made for no reason explained

while regressive provisions were included keeping stakeholders uninformed. In some cases, stakeholders were even the targets of smear campaigns for critical views.

- Overall, the government has failed to set examples of the expected level of transparency and proactive disclosure of information in lawmaking and public interest-related decision-making.
- With the exception of ordinances related to judicial separation (Independent Secretariat of the Judiciary) and the amendment of the Foreign Donations (Voluntary Activities) Regulation Act applicable to the NGO sector, nearly all enacted ordinances reflect submission to reform-resistant forces, particularly influential bureaucratic groups, thereby derailing reform objectives. Numerous provisions contrary to the core aspiration of state reform, namely the establishment of accountable governance, have been introduced.
- Across ordinances concerning the Anti-Corruption Commission, Police Commission, National Human Rights Commission, OCAG, Cyber Security, Personal Data Protection, and National Data Management, provisions have been retained that prioritize unchecked and unaccountable authority of those in power, including the bureaucracy, prevailing over public interest.
- For example, the Police Commission Ordinance has been so formulated that it has completely shattered the long-standing aspiration for an independent police commission that could ensure professional excellence of police and building a people-oriented, transparent, and accountable law enforcement force in Bangladesh. This token ordinance contains numerous elements that will render any commission formed under it into nothing more than a resort for the continued abuse of power by retired administrative and police officials. In effect, it will serve as a body to protect police excesses including corruption and abuse of power.
- The National Human Rights Commission Ordinance could have emerged as an internationally credible law had the specific provision for bureaucratic control not been enabled in the name of revision of the original ordinance, keeping in the dark the national and international stakeholders, who were involved earlier.
- Although the Cyber Security, Personal Data Protection, and National Data Management ordinances contain several timely and positive provisions, each, individually and collectively, has established legal mechanisms that will enable the government and related institutions to suppress freedom of expression, dissent, and media freedom without judicial safeguards or accountability, thereby perpetuating a surveillance-based governance model reminiscent of the authoritarian era.
- Many recommendations of the Anti-Corruption Commission Reform Commission were not accorded the expected importance by either the government or the ACC. Instead, without engaging other stakeholders, the most critical strategic recommendation for ensuring both full independence and accountability of the ACC was deliberately excluded under the exclusive authority of the ACC and the government bureaucracy. This exclusion occurred despite the absence of any

disagreement among the ACC's top leadership after the report's publication and despite near-unanimous, note of dissent-free consensus of almost all political parties as per the July Charter, which was known to both the government and the ACC.

- Overall, despite many commendable progresses, many strategic loopholes have been created that will cause derailing of the substantive prospect and aspirations of state reform.
