

Overall Score:

**64 - Weak**

Legal Framework Score:

**81 - Strong**

Actual Implementation Score:

**47 - Very Weak**

Category I. Civil Society, Public Information and Media

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## I-1. <sup>57</sup> Civil Society Organizations

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### 1. Are anti-corruption/good governance CSOs legally protected?

100

1a. In law, citizens have a right to form civil society organizations (CSOs) focused on anti-corruption or good governance.

**YES** | NO

#### References:

In Bangladesh, there are a number of laws under which citizens have the right to form a civil society organization as an NGO. It can be registered under any one of four laws, such as:

(1) Societies Registration Act of 1861; (2) Trust Act of 1882; (3) Companies Act of 1913; (4) Cooperative Societies Ordinance of 1964.

Besides, there are number of regulations and ordinances that govern NGOs activities.

For more details: ADB, A study of NGOs: Bangladesh;

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

**YES:** A YES score is earned when freedom to assemble into groups promoting good governance or anti-corruption is protected by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

**NO:** A NO score is earned when any single non-violent group is legally prohibited from organizing to promote good governance or anti-corruption. These groups may include non-violent separatist groups, political parties or religious groups.

1b. In law, anti-corruption/good governance CSOs are free to accept funding from any foreign or domestic sources.

YES | NO

**Comments:**

With prior approval of the Government of Bangladesh, any organizations registered as an NGO may receive or operate foreign funds.

For more details please read:

ADB, A Study of NGOs: Bangladesh, 1999  
and/or visit [http://www.ti-bangladesh.org/index.php?page\\_id=229](http://www.ti-bangladesh.org/index.php?page_id=229)

**References:**

The Foreign Contributions (Regulation) Ordinance, 1982.  
Ordinance No. XXXI of 1982, Bangladesh

**YES:** A YES score is earned if anti-corruption/good governance CSOs face no legal or regulatory restrictions to raise or accept funds from any foreign or domestic sources. A YES score may still be earned if funds from groups with a history of violence or terrorism (within last ten years) are banned.

**NO:** A NO score is earned if there any formal legal or regulatory bans on foreign or domestic funding sources for CSOs focused on anti-corruption or good governance.

1c. In law, anti-corruption/good governance CSOs are required to disclose their sources of funding.

YES | NO

**Comments:**

NGOs (including CSOs) who received foreign donations on approved projects must submit the statements of foreign donations received and expenditure in the NGO Affairs Bureau of Bangladesh.

For more details please read:

Mokbul Morshed Ahmad, The State, Laws and Non-Governmental Organizations (NGOs) in Bangladesh, vol.3, Issue March 3, 2001,  
A quarterly publication from International Center for Not-for-Profit Law.

**References:**

The Bangladesh Bank (Regulation Rules: Section 4(4): 1978;  
The Foreign Contributions (Regulation) Ordinance, 1982;  
Working Procedure of Foreign-assisted Bangladeshi Non-Government Voluntary Organization (NGOs) A Circular, July 27, 1993

**YES:** A YES score is earned if anti-corruption/good governance CSOs are required to publicly disclose their sources of funding.

**NO:** A NO score is earned if no such public disclosure requirement exists.

## 2. Are good governance/anti-corruption CSOs able to operate freely?

67

2a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance CSOs.

100 | 75 | 50 | 25 | 0

### References:

Interview with Advocate Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007 at 8.00 p.m.

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

Transparency International, Berlin, 2004, National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh, Aug. 12, 2007

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007 at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007 at 10.30 a.m. (over phone).

**100:** CSOs focused on promoting good governance or anti-corruption can freely organize with little to no interaction with the government, other than voluntary registration.

**75:**

**50:** CSOs focused on promoting good governance or anti-corruption must go through formal steps to form, requiring interaction with the state such as licenses or registration. Formation is possible, though there is some burden on the CSO. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Other than pro-government groups, CSOs focused on promoting good governance or anti-corruption are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

2b. In practice, anti-corruption/good governance CSOs actively engage in the political and policymaking process.

100 | 75 | 50 | 25 | 0

**References:**

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

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

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Dhaka, Sept. 6, 2007 at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP),  
Dhaka, Sept. 6, 2007 at 10.30 a.m. (over phone).

Interview with advocate Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of  
Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007 at 8.00 p.m.

**100:** Civil society organizations focused on anti-corruption or good governance are an essential component of the political process. CSOs provide widely valued insights and have political power. Those CSOs play a leading role in shaping public opinion on political matters.

**75:**

**50:** Anti-corruption/good governance CSOs are active, but may not be relevant to political decisions or the policymaking process. Those CSOs are willing to articulate opinions on political matters, but have little access to decision makers. They have some influence over public opinion, but considerably less than political figures.

**25:**

**0:** Anti-corruption/good governance CSOs are effectively prohibited from engaging in the political process. Those CSOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.

2c. In practice, no anti-corruption/good governance CSOs have been shut down by the government for their work on corruption-related issues during the study period.

**YES**

**NO**

**Comments:**

After releasing the Corruption Database 2005 report of TIB in July 2006, the Govt. of Bangladesh, especially two ministers showed unprecedented negative reaction including threats of legal action against TIB and the chairman of Board of Trustees of TIB. Even it was discussed in National parliament by ministers and called for a coalition of all major parties against TIB by the ruling party MPs. TIB also faced the problem of delay in approval of fund-release from NGO Affairs Bureau of the government, as always.

<http://www.ti-bangladesh.org/AnnualReport2006-pub.pdf>.

**References:**

Annual Report 2006, Transparency International Bangladesh, <http://www.ti-bangladesh.org/AnnualReport2006-pub.pdf>

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006,  
Dhaka, December 2006,  
www.cgs-bu.com

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
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Dhaka, Sept. 6, 2007 at 10.30 a.m. (over phone).

Interview with advocate Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of  
Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007 at 8.00 p.m.

**YES:** A YES score is earned if there were no CSOs shut down by the government or forced to cease operations because of their work on corruption-related issues during the study period.

**NO:** A NO score is earned if any CSO has been effectively shut down by the government or forced to cease operations because of its work on corruption-related issues during the study period. The causal relationship between the cessation of operations and the CSO's work may not be explicit, however the burden of proof here is low. If it seems likely that the CSO was forced to cease operations due to its work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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### 3. Are civil society activists safe when working on corruption issues?

100

3a. In practice, in the past year, no civil society activists working on corruption issues have been imprisoned.

**YES** | NO

**Comments:**

After releasing the Corruption Database 2005 report of TIB in July 2006, the Govt. of Bangladesh, especially two ministers showed unprecedented negative reaction including threats of legal action against TIB and the chairman of Board of Trustees of TIB. Even it was discussed in National parliament by ministers and called for a coalition of all major parties against TIB by the ruling party MPs. TIB also faced the problem of delay in approval of fund-release from NGO Affairs Bureau of the government, as always.

<http://www.ti-bangladesh.org/AnnualReport2006-pub.pdf>.

**References:**

Annual Report 2006, Transparency International Bangladesh, <http://www.ti-bangladesh.org/AnnualReport2006-pub.pdf>

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006,  
Dhaka, December 2006,  
www.cgs-bu.com

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

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Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP),  
Dhaka, Sept. 6, 2007 at 10.30 a.m. (over phone).

Interview with advocate Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of  
Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007 at 8.00 p.m.

**YES:** A YES score is earned if there were no CSO activists imprisoned because of their work covering corruption. YES is a positive score.

**NO:** A NO score is earned if any activist was jailed in relation to work covering corruption. The causal relationship between the official charges and the person's work may not be explicit, however the burden of proof here is low. If it seems likely that the person was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. "Imprisoned" is defined here as detention by the government lasting more than 24 hours.

3b. In practice, in the past year, no civil society activists working on corruption issues have been physically harmed.

**YES** | NO

**Comments:**

After releasing the Corruption Database 2005 report of TIB in July 2006, the Govt. of Bangladesh, especially two ministers showed unprecedented negative reaction including threats of legal action against TIB and the chairman of Board of Trustees of TIB. Even it was discussed in National parliament by ministers and called for a coalition of all major parties against TIB by the ruling party MPs. TIB also faced the problem of delay in approval of fund-release from NGO Affairs Bureau of the government, as always.

<http://www.ti-bangladesh.org/AnnualReport2006-pub.pdf>.

**References:**

Annual Report 2006, Transparency International Bangladesh, <http://www.ti-bangladesh.org/AnnualReport2006-pub.pdf>

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

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

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Dhaka, Sept. 6, 2007 at 10.30 a.m. (over phone).

Interview with advocate Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007 at 8.00 p.m.

**YES:** A YES score is earned if there were no documented cases of CSO activists covering corruption being assaulted in the specific study period. A YES score can be earned if there was an attack but it was clearly unrelated to the activist's work. YES is a positive score.

**NO:** A NO score is earned if there were any documented cases during the study period of assault to an activist who covers corruption. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

3c. In practice, in the past year, no civil society activists working on corruption issues have been killed.

YES | NO

**Comments:**

After releasing the Corruption Database 2005 report of TIB in July 2006, the Govt. of Bangladesh, especially two ministers showed unprecedented negative reaction including threats of legal action against TIB and the chairman of Board of Trustees of TIB. Even it was discussed in National parliament by ministers and called for a coalition of all major parties against TIB by the ruling party MPs. TIB also faced the problem of delay in approval of fund-release from NGO Affairs Bureau of the government, as always.

<http://www.ti-bangladesh.org/AnnualReport2006-pub.pdf>.

**References:**

Annual Report 2006, Transparency International Bangladesh, <http://www.ti-bangladesh.org/AnnualReport2006-pub.pdf>

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

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
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Interview with advocate Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007 at 8.00 p.m.

**YES:** A YES score is earned if there were no documented cases of CSO activists being killed because of their work covering corruption in the specific study period. YES is a positive score.

**NO:** A NO score is earned if there were any documented cases during the study period where a person was killed related to a corruption trial, scandal or investigation. The relationship between a mysterious death and an individual's history may not be clear, however the burden of proof here is low. If it is reasonable that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

## 4. Can citizens organize into trade unions?

88

4a. In law, citizens have a right to organize into trade unions.

YES | NO

### Comments:

Article 38 of the Constitution states that, Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interests of morality or public order”

### References:

Art. 38 of the Constitution states that, Every citizen shall have the right to form associations or unions, subject to any reasonable restrictions imposed by law in the interests of morality or public order”.

For more details please visit: <http://www.bangla2000.com/Bangladesh/constitution.html>.

**YES:** A YES score is earned when trade unions are allowed by law, regardless of political ideology, religion or objectives. Groups with a history of violence or terrorism (within last ten years) may be banned. Groups sympathetic to or related to banned groups must be allowed if they have no history of violence.

**NO:** A NO score is earned when any single non-violent trade union is legally prohibited by the government from organizing.

4b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

### Comments:

In Bangladesh, citizens can organize into trade unions, except for a few organizations, e.g. Export Processing Zone (EPZ).

### References:

U.S. Department of State  
Country Reports on Human Rights Practices 2006, Released by the Bureau of Democracy, Human Rights, and Labor,  
March 6, 2007,  
<http://www.state.gov/g/drl/rls/hrrpt/2006/78869.htm>

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

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

**100:** Trade unions are common and are an important part to the political process and political discourse. Trade union organizers have widely understood rights. Trade unions are free from intimidation or violence.

**75:**

**50:** Trade unions exist, but are not always relevant to politics or policy debates. Barriers to organizing trade unions exist, such as intimidation at work, or retribution firings. Trade union organizers have some rights, but these may not be commonly known, or are difficult to defend.

**25:**

**0:** Trade unions are rare. Significant barriers to organization exist, including direct violence. Rights of union organizers are not widely known, or are ineffective in protecting organizers.

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## I-2. Media

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### 5. Are media and free speech protected?

100

5a. In law, freedom of the media is guaranteed.

**YES** | **NO**

#### References:

Art. 39 (2) (b) of the Constitution of the People's Republic of Bangladesh  
<http://www.pmo.gov.bd/constitution/index.htm>

**YES:** A YES score is earned if freedom of the press is guaranteed in law, including to all political parties, religions, and ideologies.

**NO:** A NO score is earned if any specific publication relating to government affairs is legally banned, or any general topic is prohibited from publication. Specific restrictions on media regarding privacy or slander are allowed, but not if these amount to legal censorship of a general topic, such as corruption or defense. A NO score is earned if non-government media is prohibited or restricted.

5b. In law, freedom of speech is guaranteed.

YES | NO

**References:**

Art. 39 (2) (b) of the Constitution of the People's Republic of Bangladesh  
<http://www.pmo.gov.bd/constitution/index.htm>

**YES:** A YES score is earned if freedom of individual speech is guaranteed in law, including to all political parties, religions, and ideologies.

**NO:** A NO score is earned if any individual speech is legally prohibited, regardless of topic. Specific exceptions for speech linked with a criminal act, such as a prohibition on death threats, are allowed. However, any non-specific prohibition earns a NO score.

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## 6. Are citizens able to form print media entities?

56

6a. In practice, the government does not create barriers to form a print media entity.

100 | 75 | 50 | 25 | 0

**References:**

Power and Participation Research Center (PPRC),  
Bangladesh Governance Report 2007, p-116-126.  
Dhaka, 2007,

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

**100:** Print media entities can freely organize with little to no interaction with the government. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of print media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur.

**25:**

**0:** Print media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear.

6b. In law, where a print media license is necessary, there is an appeal mechanism if a license is denied or revoked.

YES | NO

**Comments:**

The High Court Division under its extraordinary jurisdiction can scrutinize the legality or propriety of any action/decision of public officials or statutory body under article 102 of the Constitution of the Peoples Republic of Bangladesh.

**References:**

The Printing Presses and Publications (Declaration and Registration) Act of 1973, Bangladesh.

Art. 102 of the Constitution of the Peoples Republic of Bangladesh.

**YES:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied print media license, including through the courts. A YES score is also earned if no print license is necessary.

**NO:** A NO score is earned if there is no appeal process for print media licenses.

6c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

There is an allegation that some are lobbying with the ministers and influential persons in the government to get permission on priority basis. It took nine months for the Daily Shamokal to get a license.

**References:**

The Daily Star,  
Monday, November 22, 2004,  
<http://www.asiamedia.ucla.edu/article.asp?parentid=16962>

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

**25:**

**0:** Licensing takes close to or more than one year for most groups.

6d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

It is alleged that lobbying with the ministers and influential persons in the government is essential in most cases to get permission on priority basis. The Costs of getting license may vary from person to person.

See The Daily Star,  
Monday, Nov. 22, 2004,  
<http://www.asiamedia.ucla.edu/article.asp?parentid=16962>

**References:**

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007.

The Daily Star,  
Monday, Nov. 22, 2004,  
<http://www.asiamedia.ucla.edu/article.asp?parentid=16962>.

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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## 7. Are citizens able to form broadcast (radio and TV) media entities?

50

7a. In practice, the government does not create barriers to form a broadcast (radio and TV) media entity.

100 | 75 | 50 | 25 | 0

**Comments:**

The authorities use some acts including the Wireless Telegraphy Act, 1885, the Telegraph Act, 1933 and Bangladesh Telecommunications Regulatory Commission (BTRC) Act, 2001, to allocate frequency for and oversee technological aspects of the channels. It is alleged that lobbying with the ministers and influential persons in the government to get permission on priority basis is essential in Bangladesh

See The Daily Star,  
Monday, Nov. 22, 2004,  
<http://www.asiamedia.ucla.edu/article.asp?parentid=16962>

**References:**

The Daily Star,  
Monday, Nov. 22, 2004,  
<http://www.asiamedia.ucla.edu/article.asp?parentid=16962>.

Power and Participation Research Center (PPRC),  
Bangladesh Governance Report 2007, p-116-126  
Dhaka, 2007,

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

**100:** Broadcast media entities can freely organize with little to no interaction with the government. Media groups have equal access to broadcast bandwidth through a reasonably fair distribution system. This score may still be earned if groups or individuals with a history of political violence or terrorism (within last ten years) are banned from forming media entities.

**75:**

**50:** Formation of broadcast media groups is possible, though there is some burden on the media group including overly complicated registration or licensing requirements. Some unofficial barriers, such as harassment of minority groups, may occur. Division of broadcast bandwidth is widely viewed to be somewhat unfair.

**25:**

**0:** Broadcast media groups are effectively prohibited, either by official requirements or by unofficial means, such as intimidation or fear. This score is appropriate if the division of broadcast bandwidth is widely viewed to be used as a political tool.

7b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeal mechanism if a license is denied or revoked.

**YES** | **NO**

**Comments:**

The High Court Division under its extra-ordinary writ jurisdiction can scrutinize the legality or propriety of any action/decision of public officials or statutory body under article 102 of the Constitution of the People's Republic of Bangladesh. In many cases, people are frustrated due to delays and corrupt practices in judiciary.

**References:**

Art. 102 of the Constitution of the Peoples Republic of Bangladesh

The Bangladesh Telecommunication (Amendment) Act, 2006, February 16, 2006, Bangladesh Gazette.

National Telecommunication Policy, Bangladesh

The Bangladesh Telecommunications Regulatory Commission ( Licencing Procedure) Regulations, 2004,  
[http://www.btrc.gov.bd/licencing\\_regulation.htm](http://www.btrc.gov.bd/licencing_regulation.htm).

The Wireless Telegraphy Act, 1885, Bangladesh.

The Telegraph Act, 1933, Bangladesh.

The Company Act, 1994, Bangladesh.

**YES:** A YES score is earned if there is, in law or in accompanying regulations, a formal process to appeal a denied broadcast media license, including through the courts. A YES score is also earned if no broadcast license is necessary.

**NO:** A NO score is earned if there is no appeal process for broadcast media licenses.

7c. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The authorities use some acts including the Wireless Telegraphy Act, 1885, the Telegraph Act, 1933 and Bangladesh Telecommunications Regulatory Commission (BTRC) Act, 2001, to allocate frequency for and oversee technological aspects of the channels. It is alleged that lobbying with the ministers and influential persons in the government to get permission on priority basis is essential in Bangladesh

See The Daily Star,  
Monday, Nov. 22, 2004,  
<http://www.asiamedia.ucla.edu/article.asp?parentid=16962>

**References:**

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

Bangladesh Enterprise Institute,  
A Study On Broadcast Media in Bangladesh: Assessment of Needs and Priorities in Diversifying Broadcast Media,  
September 2006,  
[www.bei-bd.org/docs/bml.pdf](http://www.bei-bd.org/docs/bml.pdf)

Wikipedia, [http://en.wikipedia.org/wiki/List\\_of\\_television\\_stations\\_in\\_Bangladesh](http://en.wikipedia.org/wiki/List_of_television_stations_in_Bangladesh)

**100:** Licenses are not required or licenses can be obtained within two months.

**75:**

**50:** Licensing is required and takes more than two months. Some groups may be delayed up to six months.

**25:**

**0:** Licensing takes close to or more than one year for most groups.

7d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

It is alleged that lobbying with the ministers and influential persons in the government to get permission on priority basis is essential in Bangladesh

See The Daily Star,  
Monday, Nov. 22, 2004,  
<http://www.asiamedia.ucla.edu/article.asp?parentid=16962>

**References:**

The Daily Star,  
Monday, Nov. 22, 2004,  
<http://www.asiamedia.ucla.edu/article.asp?parentid=16962>.

Power and Participation Research Center (PPRC),  
Bangladesh Governance Report 2007, p-116-126  
Dhaka, 2007

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

**100:** Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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## 8. Can citizens freely use the Internet?

88

8a. In practice, the government does not prevent citizens from accessing content published online.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no direct government restriction on access to the Internet. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

See U.S. Department of State,  
March 6, 2007,  
<http://www.state.gov/g/drl/rls/hrrpt/2006/78869.htm>

**References:**

U.S. Department of State,

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

**100:** The government does not prevent Internet users from accessing online content. While some forms of content may be illegal to download or own (such as child pornography), the government does not manipulate networks to prevent access to this information. This indicator addresses direct government intervention in the transfer of information, not indirect deterrents such as intimidation, surveillance or technical difficulties in countries with poor infrastructure.

**75:**

**50:** Internet users are prevented by the government from reaching online content in some cases. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

**25:**

**0:** Internet users are routinely prevented from accessing online content. Government restrictions are in place at all times for certain topics. Government tactics may include firewalls preventing access to networks in other countries, or manipulating search engine results to exclude politically sensitive topics.

8b. In practice, the government does not censor citizens creating content online.

100 | 75 | 50 | 25 | 0

**Comments:**

Generally, there were no direct government restrictions on access to the Internet with limited exception. Individuals and groups could express their peaceful views via the Internet & e-mail but it may be restricted during State of Emergency" period according to the article 141 of the Bangladesh Constitution.

**References:**

U.S. Department of State,  
Country Report on Human Rights Practices-2006,  
March 6, 2007,  
<http://www.state.gov/g/drl/rls/hrrpt/2006/78869.htm>

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

**100:** The government never removes online information or disables servers due to their political content. All political speech is protected with limited exceptions, such as legitimate intellectual property restrictions; direct calls to violence; or pornography.

**75:**

**50:** In some cases, the government restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting restricted content, or indirectly through threats or intimidation against the persons posting political content.

**25:**

**0:** The government regularly restricts political speech by its citizens on the Internet. This is accomplished either directly by controlling servers hosting the restricted content, or indirectly through threats or intimidation against the persons posting political content.

## 9. Are the media able to report on corruption?

75

9a. In law, it is legal to report accurate news even if it damages the reputation of a public figure.

**YES** | NO

### Comments:

Freedom of speech, expression and freedom of press are guaranteed by article 39 of the Bangladesh Constitution, but these freedoms are subject to any reasonable restriction imposed by the law. The Newspaper Employees (Condition of Service) Act of 1974 laid down rules for ensuring rights and privileges of the journalists and the employees in the newspapers. But Special Powers Act of 1974, Official Secrets Act of 1923, Copyright Act, Contempt of Court Act, Children Act, Criminal Procedure Code, etc. are a major impediment to press freedom.

The Official Secrets Act, 1923 under clause 3, stipulates that any person can be convicted of criminal offence if that person goes to a restricted place or proceeds toward that place or makes a map or sketch of that place or collects confidential information about that place or publishes that information. Under section 3(a), nobody can publish any photo, sketch or map of a secret place. Under clause 4, collection of news or information in collaboration with any foreign agent is not permissible. Under clause 5, information collected secretly cannot be published. If a newspaper publishes secret news, the reporter, editor, printer and publisher will be guilty of committing an offence. Any connivance in this matter will be treated as a criminal offence.

### References:

Article 39 of Bangladesh Constitution.

The Special Powers Act of 1974,

The Official Secrets Act of 1923

Reazuddin Ahmed, The New Nation,  
Freedom of press and expectations of the people,  
June 26, 2006,

<http://nation.ittefaq.com/artman/exec/view.cgi/51/28762>

The Daily Star,  
Aug. 10, 2006,

<http://www.asiamedia.ucla.edu/article.asp?parentid=50673>

The Daily Star,  
Dec. 13, 2004,

<http://www.asiamedia.ucla.edu/article.asp?parentid=18533>

**YES:** A YES score is earned if it is legal to report accurate information on public figures regardless of damage to their reputations. Public figures are defined broadly, including anyone in a position of responsibility in the government or civil service; any political leader; leaders of civil society groups including religious groups, trade unions, or NGOs; leaders or officers of large businesses. A YES score can still be earned if a reckless disregard for the truth (i.e. slander) is prohibited.

**NO:** A NO score is earned if privacy laws protect any public figures (as defined in the YES coding) from accurate information.

9b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

100 | 75 | 50 | 25 | 0

**Comments:**

Generally, the journalist of Bangladesh enjoys freedom for any reporting. Sometimes it appears that the political alliance with religious groups has a growing intolerance towards secular position which has led to high degree of self censorship among journalists. Censorship is also practiced on administrative and technical grounds.

([http://search.com.bd/banglapedia/HT/P\\_0269.htm](http://search.com.bd/banglapedia/HT/P_0269.htm))

**References:**

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh, Aug. 12, 2007

Power and Participation Research Center (PPRC), Bangladesh Governance Report 2007, p-116-126 Dhaka, 2007

U.S. Department of State, Country Report on Human Rights Practices-2006, Bangladesh, March 6, 2007  
<http://www.state.gov/g/drl/rls/hrrpt/2006/78869.htm>

Rounaq Jahan, senior research scholar, Columbia University, New York, Countries at the Crossroads 2006, Country Report Bangladesh,

**100:** The government, its proxies, or media ownership/distribution groups make no attempt to restrict media coverage of corruption-related issues through unofficial means.

**75:**

**50:** The government, its proxies, or media ownership/distribution groups make some attempts to restrict media coverage of corruption-related issues through unofficial means, such as restricting access by disfavored media outlets, or other short-term consequences. Violent reprisals against media outlets are rare.

**25:**

**0:** The government, its proxies, or media ownership/distribution groups actively use illegal methods to restrict reporting of corruption-related issues. This may include harassment, arrests, and threats. Journalists and publishers take a personal risk to report on corruption, and media outlets who commonly report on corruption face long-term consequences or violent reprisals.

9c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.

100 | 75 | 50 | 25 | 0

**Comments:**

Generally, the journalist of Bangladesh enjoys freedom for any reporting. Sometimes it appears that the political alliance with

religious groups has a growing intolerance towards secular position which has led to high degree of self censorship among journalists. Censorship is also practiced on administrative and technical grounds.

**References:**

Power and Participation Research Center (PPRC),  
Bangladesh Governance Report 2007, p-116-126  
Dhaka, 2007

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

Bangladesh Enterprise Institute,  
A Study On Broadcast Media in Bangladesh: Assessment of Needs and Priorities in Diversifying Broadcast Media,  
Sept. 2006,  
[www.bei-bd.org/docs/bml.pdf](http://www.bei-bd.org/docs/bml.pdf)

**100:** The government never prevents publication of controversial corruption-related materials.

**75:**

**50:** The government prevents publication of controversial corruption-related material in cases where there is a strong political incentive to suppress the information. This score is appropriate if in countries where illiteracy is high, the government may allow a free print press but censor broadcast media.

**25:**

**0:** The government regularly censors material prior to publication, especially politically sensitive or damaging corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

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## 10. Are the media credible sources of information?

80

10a. In law, print media companies are required to disclose their ownership.

**YES** | NO

**References:**

The Printing Presses and Publications (Declaration and Registration) Act of 1973, Bangladesh

Newspaper Employees (Conditions of Service) Act, 1974, Bangladesh.

The Company Act, 1994, Bangladesh.

**YES:** A YES score is earned if print media companies are required by law to disclose all owners of the company.

**NO:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain types of entities or agents from being disclosed.

10b. In law, broadcast (radio and TV) media companies are required to disclose their ownership.

YES | NO

**References:**

The Bangladesh Telecommunications Act 2001 (Act No. 18 of 2001), April 16, 2001, Bangladesh Gazette, put into effect on Jan. 31, 2002.

The Bangladesh Telecommunication (Amendment) Act, 2006, Feb. 16, 2006, Bangladesh Gazette.

National Telecommunication Policy, Bangladesh

The Bangladesh Telecommunications Regulatory Commission (Licencing Procedure) Regulations, 2004, [http://www.btrc.gov.bd/licencing\\_regulation.htm](http://www.btrc.gov.bd/licencing_regulation.htm).

The Wireless Telegraphy Act, 1885, Bangladesh.

The Telegraph Act, 1933, Bangladesh.

**YES:** A YES score is earned if broadcast media companies are required by law to disclose all owners of the company.

**NO:** A NO score is earned if there is no such requirement or if the requirement is optional, only partially applicable, or exempts certain type of entities or agents from being disclosed.

10c. In practice, journalists and editors adhere to strict, professional practices in their reporting.

100 | 75 | 50 | 25 | 0

**References:**

Power and Participation Research Center (PPRC), Bangladesh Governance Report 2007, p-116-126 Dhaka, 2007

Human Rights Watch, New York, 2006, [hrw.org/english/docs/2006/06/07/bangla13518.htm](http://hrw.org/english/docs/2006/06/07/bangla13518.htm)

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh, Aug. 12, 2007

Bangladesh Enterprise Institute, September 2006, A Study On Broadcast Media in Bangladesh: Assessment of Needs and Priorities in Diversifying Broadcast Media, [www.bei-bd.org/docs/bml.pdf](http://www.bei-bd.org/docs/bml.pdf)

U.S. Department of State, Country Report on Human Rights Practices-2006, Bangladesh, March 06, 2007

Rounaq Jahan, senior research scholar, Columbia University, New York, Countries at the Crossroads 2006, Country Report Bangladesh,

**100:** Editors and journalists at the major media outlets abide by a strict journalistic code of conduct and are unwilling to alter their coverage of a particular issue, event or person in exchange for money, gifts, or other favors or remuneration.

**75:**

**50:** Editors and journalists at the major media outlets generally avoid altering coverage in exchange for favors but some exceptions have been noted. Not all newsrooms abide by a formal journalistic code of conduct.

**25:**

**0:** Editors and journalists are widely known to sell" favorable or unfavorable coverage in exchange for money, gifts, or other remuneration. The major media outlets do not abide by any formal journalistic code of conduct.

10d. In practice, during the most recent election, political parties or independent candidates received fair media coverage.

100 | 75 | 50 | 25 | 0

**Comments:**

During political government, the state-owned main broadcasters- Radio Bangladesh and Bangladesh Television (BTV) are favorable to the Government.

(BBC News, June 5, 2007, [http://news.bbc.co.uk/2/hi/south\\_asia/country\\_profiles/1160598.stm](http://news.bbc.co.uk/2/hi/south_asia/country_profiles/1160598.stm))

**References:**

Transparency International Bangladesh,  
Election Tracking,  
February 2007,  
[http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401)

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

BBC News,  
June 5, 2007, [http://news.bbc.co.uk/2/hi/south\\_asia/country\\_profiles/1160598.stm](http://news.bbc.co.uk/2/hi/south_asia/country_profiles/1160598.stm)

**100:** All political parties and independent candidates have some access to media outlets. Individual media outlets may have biases, but on balance, the national media coverage reflects the interests of the electorate. Media groups generally act as disinterested parties in an election. In places where a government is popular with the public, opposition viewpoints can access the public via media outlets.

**75:**

**50:** Major popular media outlets have a persistent bias regarding some parties or independent candidates. Some major parties may be partially excluded from media coverage, or draw more negative coverage. Media sectors may have distinct biases, such as newspapers favoring one party, while radio favors another.

**25:**

**0:** The mass media, on balance, have clear preferences in election outcomes and coverage is driven to achieve these goals. Some major parties or independent candidates are excluded or consistently negatively portrayed by mass media. Dissenting political opinions are only found on fringe or elite media outlets, such as Web sites.

10e. In practice, political parties and candidates have equitable access to state-owned media outlets.

100 | 75 | **50** | 25 | 0

**Comments:**

During political government, the state-owned main broadcasters- Radio Bangladesh and Bangladesh Television (BTV) are favorable to the Government.

**References:**

Transparency International Bangladesh,  
Election Tracking,  
February 2007,  
[http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401)

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

BBC News,  
June 5, 2007, [http://news.bbc.co.uk/2/hi/south\\_asia/country\\_profiles/1160598.stm](http://news.bbc.co.uk/2/hi/south_asia/country_profiles/1160598.stm)

**100:** The government ensures that equal access and fair treatment of election contestants is provided by all state-owned media outlets, including all electronic and print media. This obligation extends to news reports, editorial comment, and all other content. All parties and candidates are offered consistent and equivalent rates for campaign advertising on state-owned media outlets.

**75:**

**50:** The government generally ensures equal access and fair treatment of all candidates and parties by state-owned media outlets but some exceptions exist. State-owned media may occasionally discriminate against particular parties or candidates and advertising rates may be confusing or non-transparent.

**25:**

**0:** The government uses state-owned media to routinely discriminate against opposition candidates and parties. Advertising space may be denied to opposition candidates and parties or higher rates may be charged.

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## 11. Are journalists safe when investigating corruption?

67

11a. In practice, in the past year, no journalists investigating corruption have been imprisoned.

**YES** | NO

**References:**

Odhikar,  
Report 2006 (Project on Investigation, Research and Publication of Human Rights Violations),  
Dhaka, Bangladesh,  
[www.odhikar.org](http://www.odhikar.org)

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

**YES:** A YES score is earned if there were no journalists imprisoned related to work covering corruption during the study period. A YES score is positive.

**NO:** A NO score is earned if any journalist was jailed because of his/her work covering corruption during the study period. The causal relationship between the official charges and the journalist's work may not be explicit, however the burden of proof here is low. If it seems likely that the journalist was imprisoned due to his or her work, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes. Imprisoned" is defined here as detention by the government lasting more than 24 hours.

11b. In practice, in the past year, no journalists investigating corruption have been physically harmed.

YES | **NO**

**Comments:**

At least four journalists had reportedly received threats in recent months (May 2006) and fled Kushtia after publishing reports that alleged Shahidul Islams (Former MP of BNP) involvement in corruption. (Human Rights Watch, New York, 2006, Bangladesh: Investigate Attacks on Media, <http://hrw.org/english/docs/2006/06/07/bangla13518.htm>)

**References:**

Human Rights Watch,  
New York, 2006,  
<http://hrw.org/english/docs/2006/06/07/bangla13518.htm>

BRAC University, Centre for Governance Studies,  
The State of Governance in Bangladesh 2006, p-66  
Dhaka, December 2006,  
[www.cgs-bu.com](http://www.cgs-bu.com)

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Dhaka, Bangladesh,  
Aug. 12, 2007

**YES:** A YES score is earned if there were no documented cases of journalists being assaulted during the specific study period for their work covering corruption issues. A YES score is positive.

**NO:** A NO score is earned if there were any documented cases of assault to a journalist covering corruption during the study period. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

11c. In practice, in the past year, no journalists investigating corruption have been killed.

YES | NO

**References:**

Odhikar,  
Report 2006 (Project on Investigation, Research and Publication of Human Rights Violations),  
Dhaka, Bangladesh,  
www.odhikar.org

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

**YES:** A YES score is earned if there were no documented cases of journalists being killed because of their work covering corruption-related issues during the study period. A YES score is positive.

**NO:** A NO score is earned if there were any documented cases where a journalist was killed in relation to his or her work covering corruption-related issues in the study period. The relationship between a mysterious death and an individual's work may not be clear, however the burden of proof here is low. If it is a reasonable guess that a person was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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74  
I-3. Public Access to Information

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12. Do citizens have a legal right of access to information?

0

12a. In law, citizens have a right of access to government information and basic government records.

YES | NO

**Comments:**

In Bangladesh, there are some laws, such as the Official Secrets Act (1923), the Evidence Act (1872), Penal Code, the Code of Criminal Procedure (1960), and the Rules of Business (1996) that are being imposed by the governments to curtail people's rights of access to information.

Article 19 of the Government Servants Conduct Rules, 1979 says: A government servant shall not, unless generally or specially empowered by the government in this behalf, disclose directly or indirectly to government servants belonging to other ministries, divisions or departments, or to non-official persons or to the Press, the contents of any official document or communicate any information which has come into his possession in the course of his official duties, or has been prepared or collected by him in the course of those duties, whether from official sources or otherwise."

"Journalists are denied general information in the name of the Official Secrets Act. Besides, it's not clearly mentioned which information can be disclosed and which ones are not. In most cases, government officials take advantage of the law even when journalists seek simple information," says Prof Dr Shakhawat Ali Khan, former chairman of Mass Communication and Journalism Department of Dhaka University, published in the Financial Express, 20th May 2007, [http://www.financialexpress-bd.com/index3.asp?cnd=5/20/2007&section\\_id=5&newsid=61630&spcl=no](http://www.financialexpress-bd.com/index3.asp?cnd=5/20/2007&section_id=5&newsid=61630&spcl=no)

People, including journalists, are denied information by officials who claim the Official Secrets Act, 1923.

**References:**

The Official Secrets Act, 1923 <http://www.drishtipat.org/HRLaw/secrets.htm>

The Evidence Act (1872)

The Financial Express,  
The Vital Right to Information,  
May 20, 2007,

[http://www.financialexpress-bd.com/index3.asp?cnd=5/20/2007&section\\_id=5&newsid=61630&spcl=no](http://www.financialexpress-bd.com/index3.asp?cnd=5/20/2007&section_id=5&newsid=61630&spcl=no)

**YES:** A YES score is earned if there is a formal right to access government documents, including constitutional guarantees. Exceptions can be made for national security reasons or individual privacy, but they should be limited in scope. All other government documents should be available upon a public request.

**NO:** A NO score is earned if there is no such right.

12b. In law, citizens have a right of appeal if access to a basic government record is denied.

YES | **NO**

**Comments:**

Till date, there is no law on Right to Information in Bangladesh. At present, several civil society organizations have formed coalitions and networks to work at different levels to make the Access to Information act.

People, including journalists, are denied information by officials claiming the Official Secrets Act, 1923. The partisan division in Bangladeshi society, combined with the stringent laws on state secrets (Official secrecy Act 1923) also means that the access to information depends on personal connections and relationships with high-ranking officials.

**References:**

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

The Official Secrets Act, 1923.

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

Power and Participation Research Center (PPRC), 2007,  
Governance Report 2007, p-116-126,  
Dhaka, Bangladesh

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Manusher Jonno, July 2006,  
Conference Report on Right to Information  
[www.manusher.org](http://www.manusher.org)

Odhikar,  
Report 2006 (Project on Investigation, Research and Publication of Human Rights Violations), Dhaka, Bangladesh,  
[www.odhikar.org](http://www.odhikar.org)

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

U.S. Department of State,  
Country Report on Human Rights Practices-2006, Bangladesh,  
March 06, 2007,  
<http://www.state.gov/g/drl/rls/hrrpt/2006/78869.htm>

Rounaq Jahan, senior research scholar, Columbia University, New York,  
Countries at the Crossroads 2006, Country Report Bangladesh

The Daily Star,  
Bangladesh Needs a Right to Information Law Now,  
Sept. 28, 2006,  
<http://www.asiamedia.ucla.edu/article.asp?parentid=54064>

**YES:** A YES score is earned if there is a formal process of appeal for rejected information requests. A YES score can still be earned if the appeals process involves redress through the courts rather than administrative appeal.

**NO:** A NO score is earned if there is no such formal process.

12c. In law, there is an established institutional mechanism through which citizens can request government records.

YES | **NO**

**Comments:**

Till date, there is no law in Right to Information in Bangladesh. At present, several civil society organizations have formed coalitions and networks to work at different levels to make the Access to Information act.

People, including journalists, are denied information by officials claiming the Official Secrets Act, 1923. The partisan division in Bangladeshi society, combined with the stringent laws on state secrets (Official secrecy Act 1923) also means that the access to information depends on personal connections and relationships with high-ranking officials.

**References:**

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

The Official Secrets Act, 1923.

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

Power and Participation Research Center (PPRC), 2007,  
Governance Report 2007, p-116-126,  
Dhaka, Bangladesh

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Manusher Jonno, July 2006,  
Conference Report on Right to Informationw  
[www.manusher.org](http://www.manusher.org)

Odhikar,  
Report 2006 (Project on Investigation, Research and Publication of Human Rights Violations), Dhaka, Bangladesh,  
[www.odhikar.org](http://www.odhikar.org)

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

U.S. Department of State,  
Country Report on Human Rights Practices-2006, Bangladesh,  
March 6, 2007,  
<http://www.state.gov/g/drl/rls/hrrpt/2006/78869.htm>

Rounaq Jahan, senior research scholar, Columbia University, New York,  
Countries at the Crossroads 2006, Country Report Bangladesh

The Daily Star,  
Bangladesh Needs a Right to Information Law Now,  
Sept. 28, 2006,  
<http://www.asiamedia.ucla.edu/article.asp?parentid=54064>

**YES:** A YES score is earned if there is a formal government mechanism/institution through which citizens can access government records available under freedom of information laws. This mechanism could be a government office (or offices within agencies or ministries) or an electronic request system.

**NO:** A NO score is earned if there is no such formal mechanism or institution.

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### 13. Is the right of access to information effective?

15

13a. In practice, citizens receive responses to access to information requests within a reasonable time period.

100 | 75 | 50 | **25** | 0

**Comments:**

Till date, there is no law in Right to Information in Bangladesh. At present, several civil society organizations have formed coalitions and networks to work at different levels to make the Access to Information act.

People, including journalists, are denied information by officials claiming the Official Secrets Act, 1923. The partisan division in Bangladeshi society, combined with the stringent laws on state secrets (Official secrecy Act 1923) also means that the access to information depends on personal connections and relationships with high-ranking officials.

Under clause 3 of The Official Secrets Act, 1923, any person can be convicted of criminal offence if that person goes to a restricted place or proceeds toward that place or makes a map or sketch of that place or collects confidential information about that place or publishes that information. Under section 3(a) of the The Official Secrets Act, 1923, nobody can publish any photo, sketch or map of a secret place. Under clause 4, collection of news or information in collaboration with any foreign agent is not permissible. Under clause 5 of The Official Secrets Act, 1923, information collected secretly cannot be published. If a newspaper publishes secret news, the reporter, editor, printer and publisher will be guilty of committing an offence. Any connivance in this matter will be treated as a criminal offence.

Under clause 5 of the Telegraph Act 1885, the government can hold any news or report from publication.

Article 19 of The Government Servants (Conduct) Rules, 1979, states that A Government servant shall not, unless generally or specially empowered by the government in this behalf, disclose directly or indirectly to government servants belonging to other ministries, divisions or departments, or to non official persons or to the press, the contents of any official document or communicate any information which has come into his possession in the course of his official duties, or has been prepared or collected by him in the course of those duties, whether from official sources or otherwise .

**References:**

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

The Official Secrets Act, 1923.

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

Power and Participation Research Center (PPRC), 2007,  
Governance Report 2007, p-116-126,  
Dhaka, Bangladesh

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Manusher Jonno, July 2006,  
Conference Report on Right to Informationw  
[www.manusher.org](http://www.manusher.org)

Odhikar,  
Report 2006 (Project on Investigation, Research and Publication of Human Rights Violations), Dhaka, Bangladesh,  
[www.odhikar.org](http://www.odhikar.org)

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
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U.S. Department of State,  
Country Report on Human Rights Practices-2006, Bangladesh,  
March 6, 2007,  
<http://www.state.gov/g/drl/rls/hrrpt/2006/78869.htm>

Rounaq Jahan, senior research scholar, Columbia University, New York,  
Countries at the Crossroads 2006, Country Report Bangladesh

The Daily Star,  
Bangladesh Needs a Right to Information Law Now,  
Sept. 28, 2006,  
<http://www.asiamedia.ucla.edu/article.asp?parentid=54064>

**100:** Records are available on-line, or records can be obtained within two weeks. Records are uniformly available; there are no delays for politically sensitive information. Legitimate exceptions are allowed for sensitive national security-related information.

**75:**

**50:** Records take around one to two months to obtain. Some additional delays may be experienced. Politically-sensitive information may be withheld without sufficient justification.

**25:**

**0:** Records take more than four months to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records. National security exemptions may be abused to avoid disclosure of government information.

13b. In practice, citizens can use the access to information mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Till date, there is no law in Right to Information in Bangladesh. At present, several civil society organizations have formed coalitions and networks to work at different levels to make the Access to Information act.

People, including journalists, are denied information by officials claiming the Official Secrets Act, 1923. The partisan division in Bangladeshi society, combined with the stringent laws on state secrets (Official secrecy Act 1923) also means that the access to information depends on personal connections and relationships with high-ranking officials.

Under clause 3 of The Official Secrets Act, 1923, any person can be convicted of criminal offence if that person goes to a restricted place or proceeds toward that place or makes a map or sketch of that place or collects confidential information about that place or publishes that information. Under section 3(a) of the The Official Secrets Act, 1923, nobody can publish any photo, sketch or map of a secret place. Under clause 4, collection of news or information in collaboration with any foreign agent is not permissible. Under clause 5 of The Official Secrets Act, 1923, information collected secretly cannot be published. If a newspaper publishes secret news, the reporter, editor, printer and publisher will be guilty of committing an offence. Any connivance in this matter will be treated as a criminal offence.

Under clause 5 of the Telegraph Act 1885, the government can hold any news or report from publication.

Article 19 of The Government Servants (Conduct) Rules, 1979, states that A Government servant shall not, unless generally or specially empowered by the government in this behalf, disclose directly or indirectly to government servants belonging to other ministries, divisions or departments, or to non official persons or to the press, the contents of any official document or communicate any information which has come into his possession in the course of his official duties, or has been prepared or collected by him in the course of those duties, whether from official sources or otherwise .

**References:**

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

The Official Secrets Act, 1923.

BRAC University, Center for Governance Studies,  
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U.S. Department of State,  
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March 6, 2007,  
<http://www.state.gov/g/drl/rls/hrrpt/2006/78869.htm>

Rounaq Jahan, senior research scholar, Columbia University, New York,  
Countries at the Crossroads 2006, Country Report Bangladesh

The Daily Star,  
Bangladesh Needs a Right to Information Law Now,  
Sept. 28, 2006,  
<http://www.asiamedia.ucla.edu/article.asp?parentid=54064>

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

13c. In practice, citizens can resolve appeals to access to information requests within a reasonable time period.

100 | 75 | 50 | 25 | 0

#### Comments:

Till date, there is no law in Right to Information in Bangladesh. At present, several civil society organizations have formed coalitions and networks to work at different levels to make the Access to Information act.

People, including journalists, are denied information by officials claiming the Official Secrets Act, 1923. The partisan division in Bangladeshi society, combined with the stringent laws on state secrets (Official secrecy Act 1923) also means that the access to information depends on personal connections and relationships with high-ranking officials.

Under clause 3 of The Official Secrets Act, 1923, any person can be convicted of criminal offence if that person goes to a restricted place or proceeds toward that place or makes a map or sketch of that place or collects confidential information about that place or publishes that information. Under section 3(a) of the The Official Secrets Act, 1923, nobody can publish any photo, sketch or map of a secret place. Under clause 4, collection of news or information in collaboration with any foreign agent is not permissible. Under clause 5 of The Official Secrets Act, 1923, information collected secretly cannot be published. If a newspaper publishes secret news, the reporter, editor, printer and publisher will be guilty of committing an offence. Any connivance in this matter will be treated as a criminal offence.

Under clause 5 of the Telegraph Act 1885, the government can hold any news or report from publication.

Article 19 of The Government Servants (Conduct) Rules, 1979, states that A Government servant shall not, unless generally or specially empowered by the government in this behalf, disclose directly or indirectly to government servants belonging to other ministries, divisions or departments, or to non official persons or to the press, the contents of any official document or communicate any information which has come into his possession in the course of his official duties, or has been prepared or collected by him in the course of those duties, whether from official sources or otherwise .

#### References:

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

The Official Secrets Act, 1923.

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006,  
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[www.odhikar.org](http://www.odhikar.org)

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
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Rounaq Jahan, senior research scholar, Columbia University, New York,  
Countries at the Crossroads 2006, Country Report Bangladesh

The Daily Star,  
Bangladesh Needs a Right to Information Law Now,  
Sept. 28, 2006,  
<http://www.asiamedia.ucla.edu/article.asp?parentid=54064>

**100:** The agency/entity acts on appeals quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** The agency/entity acts on appeals quickly but with some exceptions. Some appeals may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity does not resolve appeals in a timely fashion quickly. Appeals may be unacknowledged for many months and simple issues may take more than three months to resolve.

13d. In practice, citizens can resolve appeals to information requests at a reasonable cost.

**Comments:**

Till date, there is no law in Right to Information in Bangladesh. At present, several civil society organizations have formed coalitions and networks to work at different levels to make the Access to Information act.

People, including journalists, are denied information by officials claiming the Official Secrets Act, 1923. The partisan division in Bangladeshi society, combined with the stringent laws on state secrets (Official secrecy Act 1923) also means that the access to information depends on personal connections and relationships with high-ranking officials.

Under clause 3 of The Official Secrets Act, 1923, any person can be convicted of criminal offence if that person goes to a restricted place or proceeds toward that place or makes a map or sketch of that place or collects confidential information about that place or publishes that information. Under section 3(a) of the The Official Secrets Act, 1923, nobody can publish any photo, sketch or map of a secret place. Under clause 4, collection of news or information in collaboration with any foreign agent is not permissible. Under clause 5 of The Official Secrets Act, 1923, information collected secretly cannot be published. If a newspaper publishes secret news, the reporter, editor, printer and publisher will be guilty of committing an offence. Any connivance in this matter will be treated as a criminal offence.

Under clause 5 of the Telegraph Act 1885, the government can hold any news or report from publication.

Article 19 of The Government Servants (Conduct) Rules, 1979, states that A Government servant shall not, unless generally or specially empowered by the government in this behalf, disclose directly or indirectly to government servants belonging to other ministries, divisions or departments, or to non official persons or to the press, the contents of any official document or communicate any information which has come into his possession in the course of his official duties, or has been prepared or collected by him in the course of those duties, whether from official sources or otherwise .

**References:**

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

The Official Secrets Act, 1923.

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

Power and Participation Research Center (PPRC), 2007,  
Governance Report 2007, p-116-126,  
Dhaka, Bangladesh

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

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Report 2006 (Project on Investigation, Research and Publication of Human Rights Violations), Dhaka, Bangladesh,  
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Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
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<http://www.state.gov/g/drl/rls/hrrpt/2006/78869.htm>

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Countries at the Crossroads 2006, Country Report Bangladesh

The Daily Star,  
Bangladesh Needs a Right to Information Law Now,  
Sept. 28, 2006,  
<http://www.asiamedia.ucla.edu/article.asp?parentid=54064>

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge an access to information determination.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge an access to information determination.

**25:**

**0:** The prohibitive cost of utilizing the access to information appeals mechanism prevents middle class citizens from challenging access to information determinations.

13e. In practice, the government gives reasons for denying an information request.

100 | 75 | 50 | 25 | 0

**Comments:**

Till date, there is no law in Right to Information in Bangladesh. At present, several civil society organizations have formed coalitions and networks to work at different levels to make the Access to Information act.

People, including journalists, are denied information by officials claiming the Official Secrets Act, 1923. The partisan division in Bangladeshi society, combined with the stringent laws on state secrets (Official secrecy Act 1923) also means that the access to information depends on personal connections and relationships with high-ranking officials.

Under clause 3 of The Official Secrets Act, 1923, any person can be convicted of criminal offence if that person goes to a restricted place or proceeds toward that place or makes a map or sketch of that place or collects confidential information about that place or publishes that information. Under section 3(a) of the The Official Secrets Act, 1923, nobody can publish any photo, sketch or map of a secret place. Under clause 4, collection of news or information in collaboration with any foreign agent is not permissible. Under clause 5 of The Official Secrets Act, 1923, information collected secretly cannot be published. If a newspaper publishes secret news, the reporter, editor, printer and publisher will be guilty of committing an offence. Any connivance in this matter will be treated as a criminal offence.

Under clause 5 of the Telegraph Act 1885, the government can hold any news or report from publication.

Article 19 of The Government Servants (Conduct) Rules, 1979, states that A Government servant shall not, unless generally or specially empowered by the government in this behalf, disclose directly or indirectly to government servants belonging to other ministries, divisions or departments, or to non official persons or to the press, the contents of any official document or communicate any information which has come into his possession in the course of his official duties, or has been prepared or collected by him in the course of those duties, whether from official sources or otherwise .

**References:**

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

The Official Secrets Act, 1923.

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006,  
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Power and Participation Research Center (PPRC), 2007,  
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Report 2006 (Project on Investigation, Research and Publication of Human Rights Violations), Dhaka, Bangladesh,  
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The Daily Star,  
Bangladesh Needs a Right to Information Law Now,  
Sept. 28, 2006,  
<http://www.asiamedia.ucla.edu/article.asp?parentid=54064>

**100:** The government always discloses to the requestor the specific, formal reasons for denying information requests.

**75:**

**50:** The government usually discloses reasons for denying an information request to the requestor, with some exceptions. The reasons may be vague or difficult to obtain.

**25:**

**0:** The government does not regularly give reasons for denying an information request to the requestor.

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## Category II. Elections

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### II-1. <sup>60</sup>Voting & Citizen Participation

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#### 14. Is there a legal framework guaranteeing the right to vote?

100

14a. In law, universal and equal adult suffrage is guaranteed to all citizens.

YES | NO

**Comments:**

The election law lay down the manner in which the electoral right, including the right to vote and the right to a stand as a candidate, is to be exercised. The constitution of Bangladesh stipulates in Article 11 that The Republic shall be a democracy in which fundamental human rights and freedoms and respect for dignity and worth of the human persons shall be guaranteed, and in which effective participation by the people through their elected representatives in administration at all levels, shall be ensured."

Article 122 (1) states that " The elections to Parliament shall be on the basis of adult franchise." Article 122(2) states that, " A person shall be entitled to be enrolled on the electoral roll for a constituency delimited for the purpose of election to the Parliament, if he–

- (a) is a citizen of Bangladesh;
- (b) is not less than 18 years of age;
- (c) does not stand declared by a competent court to be of unsound mind;
- (d) is or is deemed by law to be a resident of that constituency."

Article 22 (1) of the Local Government (Union Parishads) Ordinance, 1983 provides that " Every person whose name is for the time being entered in the electoral roll of a ward shall be entitled to vote at an election of a member, other than in reserved seats for that ward." Article 22 (2) of the Local Government (Union Parishads) Ordinance, 1983 provides that " every person whose name is for the time being entered in the electoral roll of a ward of a union shall be entitled to vote an election of chairman for that union."

**References:**

Art. 11, 27, 122 (1,2) of Bangladesh Constitution  
<http://www.pmo.gov.bd/constitution/index.htm>;

Art. 22 the Local Government (Union Parishads) Ordinance, 1983

**YES:** A YES score is earned if the right to vote is guaranteed to all citizens of the country (basic age limitations are allowed). A YES score can still be earned if voting procedures are, in practice, inconvenient or unfair.

**NO:** A NO score is earned if suffrage is denied by law to any group of adult citizens for any reason. Citizen is defined broadly, to include all ethnicities, or anyone born in the country. A NO score is earned if homeless or impoverished people are legally prohibited from voting.

14b. In law, there is a legal framework requiring that elections be held at regular intervals.

YES | NO

**References:**

Art. 123 of Bangladesh Constitution.

**YES:** A YES score is earned if there is a statutory or other framework enshrined in law that mandates elections at reasonable intervals.

**NO:** A NO score is earned if no such framework exists.

---

15. Can all citizens exercise their right to vote?

15a. In practice, all adult citizens can vote.

100 | 75 | 50 | 25 | 0

**Comments:**

In Bangladesh, it was found from the previous national and local govt. elections that in a few places, the actual voters were restraining from voting because they received threats. The following irregularities or malpractices have been identified in few places from different research and monitoring reports are as follows:

- (i) forces taking control of some voting centers for partisan candidates;
- (ii) distributing the excess ballot papers;
- (iii) false vote-casting, etc.

**References:**

Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Reports on Human Rights Practices – 2003, Bangladesh, Feb. 25, 2004, <http://www.state.gov/g/drl/rls/hrrpt/2003/27944.htm>

Transparency International Bangladesh  
A working paper on Bangladesh Election Commission,  
Nov. 6, 2006,  
[www.ti-bangladesh.org](http://www.ti-bangladesh.org)

EU Election Observation Mission, Bangladesh Parliamentary Elections,  
Oct. 1, 2001;

2. Muhammad Nurul Huda,  
'Electoral Malpractices: Problems and Prescriptions'  
The Daily Star,  
Nov. 10, 2005

**100:** Voting is open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers.

**75:**

**50:** Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

**25:**

**0:** Voting is not available to some demographics through some form of official or unofficial pressure. Voting may be too dangerous, expensive, or difficult for many people.

15b. In practice, ballots are secret or equivalently protected.

**Comments:**

Till date, the Election Commission of Bangladesh does not introduce transparent ballot box although it is demanded since long time from different corners. The present caretaker govt. is thinking positively about transparent ballot boxes to eliminate electoral fraud and controlling violence. The following irregularities or malpractices have been identified in few places from different research and monitoring reports are as follows:

- (i) forces taking control of some voting centers for partisan candidates;
- (ii) distributing the excess ballot papers;
- (iii) false vote-casting, etc.

**References:**

Bureau of Democracy, Human Rights, and Labor, U.S. Department of State,  
Country Reports on Human Rights Practices – 2003, Bangladesh,  
Feb. 25, 2004,  
<http://www.state.gov/g/drl/rls/hrrpt/2003/27944.htm>

Transparency International Bangladesh  
A working paper on Bangladesh Election Commission,  
Nov. 6, 2006,  
[www.ti-bangladesh.org](http://www.ti-bangladesh.org)

EU Election Observation Mission, Bangladesh Parliamentary Elections,  
Oct. 1, 2001;

2. Muhammad Nurul Huda,  
'Electoral Malpractices: Problems and Prescriptions'  
The Daily Star,  
Nov. 10, 2005

**100:** Ballots are secret, or there is a functional equivalent protection, in all cases.

**75:**

**50:** Ballots are secret, or there is a functional equivalent protection, in most cases. Some exceptions to this practice have occurred. Ballots may be subject to tampering during transport or counting.

**25:**

**0:** Ballot preferences are not secret. Ballots are routinely tampered with during transport and counting.

15c. In practice, elections are held according to a regular schedule.

**Comments:**

The country experienced upheavals in the first 20 years of nationhood after the 1971 war of liberation. In 1990, a quasi-military regime came to an end, and a caretaker government was established. In early 1991, national elections were held. After reconstituting the parliamentary democracy in 1991, national elections were held in Bangladesh in 1991, 1996 and 2001. The next elections were scheduled for January 2007, but on Jan. 11, 2007, the president of Bangladesh declared the state of emergency, under articles 141A (1), (2), (3), 141B, 141C (1), (2) and (3) of the constitution, as it is to the president's satisfaction that a grave emergency exists, in which the security or economic life of Bangladesh is threatened by internal disturbance. Elections were effectively postponed and scheduled for Jan. 22, 2007.

**References:**

Bangladesh Election Commission,  
<http://www.ecs.gov.bd/press.php3>

The Daily Star

Jan. 12 2007,

<http://www.thedailystar.net/2007/01/12/d7011201011.htm>

Bureau of Democracy, Human Rights, and Labor, U.S. Department of State,

Country Reports on Human Rights Practices – 2003, Bangladesh,

Feb. 25, 2004,

<http://www.state.gov/g/drl/rls/hrrpt/2003/27944.htm>

**100:** Elections are always held according to a regular schedule, or there is a formal democratic process for calling a new election, with deadlines for mandatory elections.

**75:**

**50:** Elections are normally held according to a regular schedule, but there have been recent exceptions. The formal process for calling a new election may be flawed or abused.

**25:**

**0:** Elections are called arbitrarily by the government. There is no functioning schedule or deadline for new elections.

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## 16. Are citizens able to participate equally in the political process?

80

16a. In law, all citizens have a right to form political parties.

YES

NO

**Comments:**

The constitution provides for the right of every citizen to form associations, subject to reasonable restrictions” in the interest of morality or public order, and the government generally respected this right. Individuals were free to join private groups.

**References:**

Art. 38 of the Constitution

<http://www.pmo.gov.bd/constitution/index.htm>

**YES:** A YES score is earned if citizens have the right to form political parties without interference from government. A YES score may still be earned if groups or individuals with a history of violence or terrorism (within last ten years) are banned from forming political parties. Non-discriminatory minimal criteria (e.g. minimum age) are also allowed.

**NO:** A NO score is earned if there are any legal or regulatory restrictions or prohibitions barring any types of political parties from being formed.

16b. In law, all citizens have a right to run for political office.

YES | NO

**Comments:**

Article 38 of the constitution states that every citizen shall have the right to form association or unions, subject to any reasonable restrictions imposed by law in the interest of morality or public order.”

Article 152 of the Constitution states that “Political Party” includes a group or combination of persons who operate within or outside Parliament under a distinctive name and who hold themselves out for the purpose of propagating a political opinion or engaging in any other political activity.”

Article 90A. (3) (b) of “ The Representation of the People Order, 1972” provides that -An application under clause (1) shall contain ” the address of its Head Office, name of point of contact, telephone and fax number” which clearly indicates the right of the citizens to run for political office.

**References:**

Arts.38, 152 of the Constitution <http://www.pmo.gov.bd/constitution/index.htm>;

Art. 90A. 3 (b) of Chapter VIA of The Representation of the People Order, 1972”, President’s Order No. 155 of 1972.

**YES:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) have the right under law to run for political office. A YES score may still be earned if Individuals with a history of violence, terrorism, or criminality are banned from running for office.

**NO:** A NO score is earned if there are any legal restrictions barring certain individuals or groups from running for political office.

16c. In practice, all citizens are able to form political parties.

100 | 75 | 50 | 25 | 0

**Comments:**

On Oct. 26, 2006, Dr. Chowdhury, in collaboration with Oli Ahmed, formed a new party named Liberal Democratic Party (LDP) comprised of ex-BNP leaders.  
(<http://www.liberalbd.org/about.html>).

It is difficult to say how many political parties there are in Bangladesh at the moment. In the 2001 national elections, 53 political parties participated with symbols. In July 2005, the chief election commissioner (CEC) invited 117 political parties to have a three-day dialogue about the new voter list, which indicates the easy access of citizen to form a political party in Bangladesh.

**References:**

Bangladesh Election Commission  
<http://www.ecs.gov.bd/election.php3?parties=1>

The Herald Tribune,  
Oct. 26, 2006  
[http://www.ihf.com/articles/ap/2006/10/26/asia/AS\\_POL\\_Bangladesh\\_Dissidents.php](http://www.ihf.com/articles/ap/2006/10/26/asia/AS_POL_Bangladesh_Dissidents.php)

Transparency Internation Bangladesh,  
A Diagnostic Study on Bangladesh Election Commission”, p-61,  
Nov. 6, 2006,  
[www.ti-bangladesh.org](http://www.ti-bangladesh.org)

**100:** While there is no guarantee of electoral success, political parties can form freely without opposition.

**75:**

**50:** Some barriers to formation are present, such as burdensome registration requirements that may not be fairly applied. Some parties' political viewpoints may draw pressure from the government, such as surveillance or intimidation. Some political parties or organizations may have extra barriers to getting on a ballot.

**25:**

**0:** Some political parties are effectively barred from forming through some manner of official or unofficial pressure. This may include threats, arrest, or violence from competing parties or other groups.

16d. In practice, all citizens can run for political office.

100 | 75 | 50 | 25 | 0

**Comments:**

The Election Commission of Bangladesh makes a non-mandatory provision for registration of political parties. For that, most of the political parties including lead political parties have not been registered with the Election Commission. It is difficult to say how many political parties there are in Bangladesh at the moment. In the 2001 national elections, 53 political parties participated with symbols. In July 2005, the chief election commissioner (CEC) invited 117 political parties to a three-day dialogue about the new voter list, which indicates the easy access of citizen to form political party in Bangladesh. Besides, there are many political party with names, but no activities.

**References:**

Transparency International, Berlin, 2004, ,  
National Integrity Systems Country Study Report, Bangladesh 2003, p-37  
[www.transparency.org](http://www.transparency.org)

Transparency International Bangladesh,  
A Diagnostic Study on Bangladesh Election Commission", p. 61,  
Nov. 6, 2006,  
[www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Bangladesh Election Commission  
<http://www.ecs.gov.bd/election.php3?parties=1>

**100:** While there is no guarantee of electoral success, anyone can run for office under transparent and equitable guidelines. There is a formal process for access to the ballot which is fairly applied. The costs of running a campaign are reasonable and do not deter candidates from entering a race.

**75:**

**50:** Some barriers exist to getting on the ballot and bureaucratic or regulatory requirements for doing do may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office.

**25:**

**0:** Citizens can effectively be barred from the ballot through government abuse of official rules and/or unofficial pressure. The costs of running a campaign are extremely high and result in most average citizens being unable to run an effective campaign for office.

16e. In practice, an opposition party is represented in the legislature.

100 | 75 | 50 | 25 | 0

**Comments:**

In the 8th parliament (2001-2006), the chairmen of all standing committees were from the treasury bench. (source:p-13, <http://www.ti-bangladesh.org/Corruption&ParliamentaryOversight.pdf>). The prime minister answered 112 main questions, among which 95 percent came from the treasury bench. About 93 percent of the proposals from the opposition party for assessing public opinion on the proposed bills were rejected by viva-vote. The same happened to the bill amendment proposals by the opposition party. In the 8th parliament, the main opposition party boycotted the House proceedings for 223 out of 373 days.

**References:**

Bangladesh Parliament Legislative and Information Centre, Bangladesh Parliament, [http://www.parliamentofbangladesh.org/Committee/Committee\\_List\\_Detail.htm#1](http://www.parliamentofbangladesh.org/Committee/Committee_List_Detail.htm#1). Business Advisory Committee

Transparency International Bangladesh,  
A research report entitled Role of 8th Parliament to institutionalize Democracy”,  
Feb. 12., 2007,  
[www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Transparency International Bangladesh,  
“Corruption and Parliamentary Oversight: Primacy of the Political Will”,  
Dec. 9, 2006,  
<http://www.ti-bangladesh.org/Corruption&ParliamentaryOversight.pdf>

Transparency International, 2006,  
“National Integrity Systems in South Asia”, p-4.

**100:** The opposition party always has some influence on the proceedings of the legislature. The opposition party can introduce legislation or bring pending matters to a vote without the consent of the ruling party.

**75:**

**50:** The opposition party has influence on the proceeding of the legislature, but it is limited in scope. The opposition’s ability to force votes or publicly debate certain topics may be limited.

**25:**

**0:** The opposition party has only token participation in the legislature’s proceedings and cannot advance legislation or force a debate.

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## II-2. Election Integrity

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17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

17. In law, is there an election monitoring agency or set of election monitoring agencies/entities?

YES | NO

**Comments:**

The Election Commission is the only independent constitutional body with the mandate of holding election at different tiers.

**References:**

Bangladesh Election Commission  
<http://www.ecs.gov.bd/index.php3>

**YES:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to ensure the integrity of the election process.

**NO:** A NO score is earned if no domestic agency or set of domestic agencies/entities that monitors elections. A NO score is earned if elections are only monitored by an agency informally, such as poll booth monitoring by the police, only by international observers, or only by NGOs. A NO score is earned if the domestic election agency or set of domestic agencies simply facilitates the process of voting but is not empowered to report violations or abuses.

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18. Is the election monitoring agency effective?

60

18a. In law, the agency or set of agencies/entities is protected from political interference.

YES | NO

**Comments:**

The Election Commission is an independent constitutional body formed in accordance with article 118 of the constitution. Article 126 of the constitution and Articles 4 and 5 of the Representation of the People Order provide that it shall be the duty of all executive authorities to assist the Election Commission in the discharge of its functions.

The Commission has the power to require any person or authority to perform such functions or render such assistance for the purpose of election. For more details please visit the website of Bangladesh Election Commission, <http://www.ecs.gov.bd/>

**References:**

Arts. 118, 119, 58 B, of the Constitution  
<http://www.pmo.gov.bd/constitution/index.htm>

Arts. 3, 3A, 4, 5 of the Representation of the People Order, 1972, [www.ecs.gov.bd/handbook/RPO%201972.pdf](http://www.ecs.gov.bd/handbook/RPO%201972.pdf)

**YES:** A YES score is earned only if the agency or set of agencies/entities has some formal organizational independence from the bodies contesting in the election. A YES score is still earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the election monitoring agency or set of agencies/entities is legally tied to bodies contesting the election (i.e. an executive branch agency such as the Interior Ministry, or a committee of the legislature). A NO score is automatically earned if there is no domestic election monitoring agency.

18b. In practice, agency (or set of agencies/entities) appointments are made that support the independence of the agency.

100 | 75 | 50 | 25 | 0

**Comments:**

The Election Commission has the authority to appoint a returning officer and assistant returning officer among government officials and withdraw any officer during elections (Article 7 of The Representation of the People's Order, 1972). But the Election Commission has to depend on the Public Service Commission for recruitment of its first class officers. Again, promotion depends on partisan identity, and the EC does not have the authority to change the approved organogram without the concurrence of the Ministry of Finance and the Ministry of Establishment. Appointment of the chief election commissioner and election commissioners depend on the commitment to the ruling party. (Transparency International Bangladesh, Working Paper on Bangladesh Election Commission, p-83). The CEC and ECs have been appointed by the president.

**References:**

Transparency International Bangladesh,  
Working Paper on Bangladesh Election Commission, p-82-83,  
Nov. 6, 2006

Daily Star  
Jan. 17, 2000

The Representation of the People's Order, 1972, Article 7

**100:** Appointments to the agency or set of agencies/entities are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. However, individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

18c. In practice, the agency or set of agencies/entities has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Transparency International Bangladesh conducted a study on Bangladesh Election Commission", which was published on Nov. 6, 2006. The study revealed that 705 out of 2,423 positions were vacant. (source: Election Commission's Monthly Report, Aug. 10, 2006 & Transparency International Bangladesh, Working Paper on Bangladesh Election Commission, Nov. 6, 2006, p-26).

**References:**

Bangladesh Election Commission  
<http://www.ecs.gov.bd/index.php3?v=speech>

Transparency International Bangladesh,  
Working Paper on Bangladesh Election Commission,  
Nov. 6, 2006, p-26.

**100:** The agency or set of agencies/entities has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency or set of agencies/entities has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency or set of agencies/entities has no staff, or such a limited staff that is clearly unqualified to fulfill its mandate.

18d. In practice, the agency or set of agencies/entities makes timely, publicly available reports following an election cycle.

100 | 75 | 50 | 25 | 0

**References:**

Election Commission Secretariat, Bangladesh  
<http://www.ecs.gov.bd/election.php3?id=24>

**100:** Reports are released to the public on a predictable schedule, without exceptions.

**75:**

**50:** Reports are released, but may be delayed, difficult to access, or otherwise limited.

**25:**

**0:** The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

18e. In practice, when necessary, the agency or set of agencies/entities imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

There were many violations of the code of conduct and rule & regulations in the elections in Bangladesh, including the failure to

submit the return of election expenses by the candidates, using more than one microphone, printing multi-colored posters, installing monuments etc, but there has not been any example of punishment against those who violated the rules. For example, in the 8th parliamentary election in 2001, 1,921 candidates took part, and among them only 435 submitted the statements of expenses within due time. The Election Commission did not take any action against those who did not submit the statements. Two departmental actions have been taken against two civil surgeons, Dr. A K M Ruhul Amin and Dr. Mazharul Alam, during the Gazipur-2 by-election in 2001 for violating the electoral code of conduct. Upon complaints, the Election Commission sent the issue to the Electoral Inquiry Committee, which recommended that action be taken against them (source: Daily Jai Jai Din, June 10, 2006, Transparency International Bangladesh, Nov. 6, 2006)

In the 8th parliamentary elections, allegations of violation of the code of conduct were made against over 600 candidates, but the Election Commission's role was limited only to giving warnings, although such violations should have resulted in fines of 20,000 taka (US\$291) and imprisonment of two to seven years, if proven guilty.

**References:**

Daily Ittefaq, (available only in Bengali)  
April 24, 2006;

Daily Jai Jai Din,  
June 10, 2006;

Daily Jugantor,  
July 23, 2005;

Transparency International Bangladesh,  
A Working Paper on Bangladesh Election Commission, p-64 & 94,  
Nov. 6, 2006

**100:** When rules violations are discovered, the agency or set of agencies/entities is aggressive in penalizing offenders and/or in cooperating with other agencies in penalizing offenders.

**75:**

**50:** The agency or set of agencies/entities enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or set of agencies/entities does not effectively penalize offenders and/or cooperate with other agencies in penalizing offenders. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

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## 19. Are elections systems transparent and effective?

79

19a. In practice, there is a clear and transparent system of voter registration.

100 | 75 | **50** | 25 | 0

**Comments:**

The preparation of electoral rolls of 2006 created serious concerns and raised a lot of criticisms like signature or fingerprint given by others, many voters being out of the registration process, voter listing being done by party worker, inclusion of fake voters, and so on from political parties, civil society, international agencies, media and common people. In early January 2007, the Awami League-led 14 party alliance announced the boycott the elections claiming different irregularities. The present caretaker

government and Election Commission of Bangladesh are committed to develop a transparent voter registration system and prepare a clear and transparent voter list.

**References:**

Transparency International Bangladesh,  
Working paper on Bangladesh Election Commission.  
Nov. 6, 2006,

Digitised Voter Listing Begins in RCC Today,  
The Daily Star, Bangladesh,  
Saturday, Aug. 11, 2007,  
<http://thedailystar.net/2007/08/11/d70811012617.htm>

Voter Registration Begins in Rajshahi,  
e-mela.com, Bangladesh,  
Sunday, Aug. 12, 2007,  
<http://e-mela.com/page.php?id=775>

EC Can Draw Voter List without Photo,  
Shakhawat Liton, Bangladesh,  
Monday, Aug. 13, 2007,  
<http://e-mela.com/page.php?id=778>

Mahfuz Anam, editor of the Daily Star,  
'Voters' List Is Too Important for One Person To Decide',  
Daily Star, Oct. 28, 2005;

Statement of former chief Election Commissioner, M A Aziz, on July 13, 2006 later published in different national dailies;

Justice Naimuddin Ahmed,  
The Daily Star,  
June 14, 2006.

United States Institute of Peace  
The Future of Democracy of Bangladesh, [http://www.usip.org/pubs/usipeace\\_briefings/2007/0302\\_democracy\\_bangladesh.html](http://www.usip.org/pubs/usipeace_briefings/2007/0302_democracy_bangladesh.html)

**100:** There is a transparent system of voter registration that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote.

**75:**

**50:** There is a transparent voter registration system that provides voters with sufficient time to understand their rights, check the accuracy of their registration, and ensure that errors are corrected before they vote but there are some problems. Voters may have not access to registration lists with sufficient time to correct errors before voting or registration lists may at times be inaccessible.

**25:**

**0:** The system of voter registration is incomplete or does not exist. Government may routinely falsify registration lists to affect voting patterns and limit access to the polls. Double voting and ghost" voting by non-existent voters is common.

19b. In law, election results can be contested through the judicial system.

YES | NO

**Comments:**

No election shall be called in question except by an election petition presented by a candidate for that election. An election

petition should be presented to the Election Commission within 45 days after the publication in the official gazette of the name of the candidate. Then the Election Commission (EC) makes arrangement for submission of the election petition to the concerned election tribunals, constituted for this purpose by the EC. The tribunal may (i) cancel the petition; (ii) cancel the election for the elected candidate and declare another contestant candidate as properly elected, or (iii) cancel the whole election.

**References:**

The Representation of the People Order, 1972, 49, 91A, [www.ecs.gov.bd/handbook/RPO%201972.pdf](http://www.ecs.gov.bd/handbook/RPO%201972.pdf)

**YES:** A YES score is earned if citizens or political parties can challenge allegedly fraudulent election results through the courts or other judicial mechanisms.

**NO:** A NO score is earned if there is no legal right for citizens or political parties to challenge allegedly fraudulent election results in the courts or other judicial mechanisms.

19c. In practice, election results can be effectively appealed through the judicial system.

100 | 75 | **50** | 25 | 0

**Comments:**

It was found from a working paper on Bangladesh Election Commission conducted by Transparency International Bangladesh in 2006 that only 19 out of 31 election petitions were resolved between 1991 and 1995. After the 8th parliamentary election in 2001, 31 cases were filed with the High Court. Of these, 16 were dismissed due to either of reluctance of the petitioners to continue the cases or on grounds of lack of merits, one was rejected, one became legally ineffective, and 13 remain pending with the Appellate and High Court division.

**References:**

Transparency International Bangladesh,  
Working paper on Bangladesh Election Commission,  
Nov.6, 2006, p-55-56.

The Daily Ittefaq,  
April 24, 2006

**100:** The electoral appeals mechanism takes cases from both candidates complaining of flaws in the electoral process as well as citizens bringing complaints related to denial of suffrage or registration errors. There is an expedited process for resolving such complaints to avoid delaying a timely announcement of electoral results.

**75:**

**50:** The electoral appeals mechanism takes complaints from both candidates and voters but may not always act on complaints promptly. The appeals mechanism may be abused at times by parties or candidates seeking to delay the announcement of electoral results.

**25:**

**0:** The electoral appeals mechanism rarely or never acts on complaints brought by candidates or citizens. Citizens may not be able to bring complaints related to denial of suffrage or voter registration errors.

19d. In practice, the military and security forces remain neutral during elections.

**Comments:**

The NORDEM report on Bangladesh parliament Election 2001 mentioned that in spite of irregularities in the pre-election period, the Election Day procedures were generally free, fair, and peaceful. Military forces proved to be well organized and handled the queues outside the polling booths satisfactorily. The police were most co-operative towards the observers. All security forces were heavily armed, but no one seemed to take any notice of that.

A NAEM report on Election Day 2001 mentioned that the elections to the 8th parliament were held in a peaceful atmosphere throughout Bangladesh, barring only some isolated incidents. The NAEM report mentioned that as soon as the election-result was announced, the police administration changed its stance.(source: Media Alliance for Election Monitoring in Bangladesh (NAEM), 2001, NAEM's report on post election violence, Bangladesh Centre for Development, Journalism and Communication)

**References:**

The Norwegian Institute of Human Rights / Nordem, University of Oslo, A Working Paper on BANGLADESH: PARLIAMENTARY ELECTIONS 2001", December 2001, [http://www.humanrights.uio.no/forskning/publ/wp/other/wp\\_2001\\_20.htm](http://www.humanrights.uio.no/forskning/publ/wp/other/wp_2001_20.htm)

Bangladesh Center for Development, Journalism and Communication, 53 Central Road (2nd Floor), Dhanmondi, Dhaka 1205, Bangladesh, Phone: 880-2-8620539 Fax: 880-2-8616977, Email: bcdjc@citechco.net,

Media Alliance for Election Monitoring in Bangladesh (NAEM), NAEM's report on post election violence, 2001, <http://www.bcdjc.org/mreport-5.html>

**100:** The military, military officers, and other security forces refrain from overtly supporting or opposing political candidates or commenting on elections. The military or security forces refrain from physically interfering with political campaigns, rallies, or voting.

**75:**

**50:** The military, military officers, and security forces may be known to unofficially support or oppose particular candidates or parties. The military or security forces generally refrain from the use of force to support or oppose particular candidates or parties but there are exceptions.

**25:**

**0:** The military or other security forces are an active and explicit player in politics and overly support or oppose particular candidates or parties. The military or security forces routinely exercise the use of force to support or oppose parties or candidates.

19e. In law, domestic and international election observers are allowed to monitor elections.

YES | NO

**References:**

Art. 91C of The Representation of The People Order, 1972, [www.ecs.gov.bd/handbook/RPO%201972.pdf](http://www.ecs.gov.bd/handbook/RPO%201972.pdf)

Guidelines for Foreign Observer (2001) & Guidelines for National Observer (2001)

**YES:** A YES score is earned if domestic and international election observers are allowed to monitor the electoral process.

**NO:** A NO score is earned if there are any legal or regulatory prohibitions on the monitoring of the electoral process by domestic or international election observers.

19f. In practice, election observers are able to effectively monitor elections.

100 | 75 | 50 | 25 | 0

**References:**

Nordem Report by Tone K. Sissener,  
WORKING PAPER, 2001:20, BANGLADESH:PARLIAMENTARY ELECTIONS 2001,  
[http://www.humanrights.uio.no/forskning/publ/wp/other/wp\\_2001\\_20.htm](http://www.humanrights.uio.no/forskning/publ/wp/other/wp_2001_20.htm)

Bangladesh Election Commission Secretariate, Observer's Report,  
<http://www.ecs.gov.bd/news.php3>

**100:** Election observers have unfettered access to polling sites, counting stations, and voters themselves. The government does not interfere with the observers' activities.

**75:**

**50:** Election observers generally have access to polling sites, counting stations, and voters but encounter restrictions in certain areas. The government may impose burdensome regulatory or bureaucratic requirements on observers to discourage their involvement.

**25:**

**0:** Election observers' movements are significantly limited by the government and many polling and counting sites are restricted or barred from observers. The government imposes so many bureaucratic or regulatory burdens on the observers that their mission is rendered ineffective.

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80  
II-3. Political Financing

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20. Are there regulations governing political financing?

43

20a. In law, there are regulations governing private contributions to political parties.

YES | NO

**Comments:**

In Bangladesh, there is no disclosure rule applicable to political party funding. Donations are not made public.

**References:**

Transparency International, Germany, 2006,  
National Integrity Systems in South Asia, p-6,  
www.transparency.org

**YES:** A YES score is earned if there are any formal rules (by law or regulation) controlling private contributions to political parties.

**NO:** A NO score is earned if there is no regulation of private contributions to political parties.

20b. In law, there are limits on individual donations to candidates and political parties.

YES | NO

**Comments:**

Currently there is no disclosure rule applicable to political party funding. Substantial donations and their sources are not typically made public.

There is almost a total absence of any legal provision regulating private contributions to election campaigns. The RPO, 1972) allows the possibility of voluntary contribution to an election fund and stipulates that no donation amounting more than 1,000 taka (US\$14.5) shall be received by a political party unless it is made by a check. There is no limit on individual donations to candidates and/or political parties.

**References:**

Transparency International, Berlin,  
National Integrity Systems in South Asia, 2006, p-6

The Representation of the People Order (RPO), 1972

**YES:** A YES score is earned if there are any limits, regardless of size, on individual contributions to political candidates and political parties. A YES score is earned if individual contributions are prohibited.

**NO:** A NO score is earned if there are no limits on contributions from individuals. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

20c. In law, there are limits on corporate donations to candidates and political parties.

YES | NO

**Comments:**

There is a total absence of any legal provision regulating corporate contributions to candidates and/or political parties for election campaigns.

**References:**

Dr. Debapriya Bhattacharya is executive director, Center for Policy Dialogue, Clean Finance for Competent Candidates, Credible Elections published in New Age, <http://www.newagebd.com/store/anni06/politics.html>

Representation of the People Order, 1972

**YES:** A YES score is earned if there are any limits, regardless of size, on corporate contributions to political candidates and political parties. A YES score is earned if contributions are prohibited.

**NO:** A NO score is earned if there are no limits on corporate contributions to candidates or political parties. A NO score is also earned if limits are applied by the government on opposition parties/candidates in a discriminatory manner.

20d. In law, there are limits on total political party expenditures.

**YES** | NO

**References:**

Art. 44CC of the Representation of the People Order, 1972

**YES:** A YES score is earned if there are any limits, regardless of size, on political party expenditures. A YES score is earned if all party expenditures are prohibited.

**NO:** A NO score is earned if there are no limits on political party expenditures. A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.

20e. In law, there are requirements for disclosure of donations to political candidates and parties.

**YES** | NO

**Comments:**

The election regulations (RPO 1972) require only disclosure of campaign funds of individuals candidates. Article 44AA (1) of the Representation of the People Order, 1972 states that Every contesting candidate shall submit to the returning officer, within seven days following the withdrawal day, a statement, in the prescribed form, of the probable sources of funding to meet his election expenses showing— (a) the sum to be provided by him from his own income and the sources of such income; (b) the sum to be borrowed, or received as voluntary contribution, from his relation and the sources of their income; (c) the sum to be borrowed, or received as voluntary contribution, from any other person; (d) the sum to be received as voluntary contribution, from any political party, organization or association; (e) the sum to be received from any other source.

Article 44CC (4) of the Representation of the People Order, 1972 states that No such political party shall receive any donation amounting to more than 1,000 take (US\$14.5) unless it is made by check.

Article 44CCC (3) of the Representation of the People Order, 1972 states that Every political party shall furnish to the commission a separate statement, certified to be correct and complete by the secretary to the party, showing the opening balance of the party funds on the date of publication of the notification under clause (1) of Article 11 the closing balance of the funds on the date of completion of election in all constituencies and the total amount received by the party, as donation or otherwise, during the period between the said two dates.

**References:**

Art. 44C (1) & 44CCC (3) of the Representation of the People Order, 1972

**YES:** A YES score is earned if there are any requirements mandating the disclosure of financial contributions to political parties or candidates.

**NO:** A NO score is earned if there are no requirements mandating the disclosure of contributions to political parties or candidates, existing regulations do not require a donor's name or amount given, or the regulations allow for anonymous donations.

20f. In law, there are requirements for the independent auditing of the finances of political parties and candidates.

YES | NO

**Comments:**

Substantial donations and their sources are not typically made public. No official reports or audits of campaign financing or expenditure are prepared by any independent institutions, nor are such reports presented to the Parliament.

**References:**

Transparency International, Berlin,  
National Integrity Systems in South Asia

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of candidate and party finances. The auditing is performed by an impartial third-party.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of political parties and candidates or if such requirements exist but allow for candidates or parties to self-audit.

20g. In law, there is an agency or entity that monitors the political financing process.

YES | NO

**References:**

Bangladesh Election Commission  
<http://www.ecs.gov.bd/>

**YES:** A YES score is earned if there is a domestic agency or set of domestic agencies/entities formally assigned to monitor and enforce laws and regulations around political financing. A YES score is earned even if the agency/entity is ineffective in practice.

**NO:** A NO score is earned if there is no such agency or entity.

## 21. Are the regulations governing political financing effective?

0

21a. In practice, the limits on individual donations to candidates and political parties are effective in regulating an individual's ability to financially support a candidate or political party.

100 | 75 | 50 | 25 | 0

### Comments:

In Bangladesh, there is no disclosure rule applicable to political party funding. Donations and their sources are not typically made public. No official reports and/or audits of campaign financing or expenditure are prepared by any independent institutions.

### References:

Transparency International, Berlin,  
National Integrity Systems Country Study Report, Bangladesh 2003

Transparency International, Berlin, 2006,  
National Integrity Systems in South Asia

Center for Policy Dialogue, CPD reveals 12-point agenda for CG to hold credible polls,  
Jan. 25, 2007,  
<http://www.thedailystar.net/2007/01/26/d7012601044.htm>.

Debapriya Bhattacharya,  
Clean Finance for Competent Candidates, Credible Elections, <http://www.newagebd.com/store/anni06/politics.html>

Center for Governance Studies, BRAC University, Bangladesh,  
The State of Governance in Bangladesh 2006,  
Dhaka, Bangladesh, December 2006.

PPRC  
Bangladesh Governance Report 2007, Unbundling Governance,  
March 2007

**100:** Existing limits represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign.

**75:**

**50:** Existing limits generally represent the full extent to which an individual can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which individuals can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The vast majority of individual contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

21b. In practice, the limits on corporate donations to candidates and political parties are effective in regulating a company's ability to financially support a candidate or political party.

100 | 75 | 50 | 25 | 0

**Comments:**

There is a total absence of any legal provision regulating corporate contributions to election campaigns. Donations and their sources are not typically made public. No official reports or audits of campaign financing or expenditure are prepared by any independent institutions.

**References:**

Transparency International , Berlin, 2003  
National Integrity Systems Country Study Report, Bangladesh

Transparency International, Berlin, 2006,  
National Integrity Systems in South Asia

Center for Policy Dialogue, CPD reveals 12-point agenda for CG to hold credible polls,  
Jan. 25, 2007,  
<http://www.thedailystar.net/2007/01/26/d7012601044.htm>,

Debapriya Bhattacharya,  
Clean Finance for Competent Candidates, Credible Elections, <http://www.newagebd.com/store/anni06/politics.html>

Center for Governance Studies, BRAC University, Bangladesh,  
The State of Governance in Bangladesh 2006,  
Dhaka, Bangladesh, December 2006.

PPRC  
Bangladesh Governance Report 2007, Unbundling Governance,  
March 2007

**100:** Existing limits represent the full extent to which a company can directly or indirectly financially support a candidate or political party. Limits are reasonably low enough in the context of the total costs of running a campaign to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a company can directly or indirectly financially support a candidate or political party. However, exceptions and loopholes exist through which companies can indirectly support candidates or political parties above and beyond those formal limitations. Such loopholes could include making to donations to third-party groups that advocate on behalf of (or against) a particular candidate or party; unregulated loans to candidates or parties (rather than direct donations); or in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a campaign.

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of corporate contributions to a candidate or political party are made outside of the formal limitation system. There is no enforcement of violations. Limits are so high that they are meaningless in the context of the overall costs of running a campaign.

21c. In practice, the limits on total party expenditures are effective in regulating a political party's ability to fund campaigns or politically-related activities.

100 | 75 | 50 | 25 | 0

**Comments:**

In Bangladesh, there is no legal framework for the corporate sector to make financial contributions to election campaigns. A study on Tracking the Election Process: An Analysis of the Violations of Electoral Code of Conduct by the Candidates of the Postponed Ninth Parliamentary Election in 2007 by Transparency International Bangladesh revealed that on an average each candidate spent more than 15 lakh 20,000 taka (US\$29.1 million), whereas according to election law (RPO 1972) the election expenses have been limited to a maximum five lakh taka (US\$7,278) for one candidate.

**References:**

Transparency International, Berlin, 2003  
National Integrity Systems Country Study Report, Bangladesh

Transparency International, Berlin, 2006,  
National Integrity Systems in South Asia

Transparency International Bangladesh,  
Working paper on Bangladesh Election Commission  
Nov. 6, 2006

few articles on political party financing, published in Daily New Age, <http://www.newagebd.com/store/anni06/politics.html>

Transparency International Bangladesh, Dhaka, 2007,  
Tracking the Election Process: An Analysis of the Violations of Electoral Code of Conduct by the Candidates of the Postponed Ninth Parliamentary Election [http://www.ti-bangladesh.org/ES\\_ElectionTracking3.pdf](http://www.ti-bangladesh.org/ES_ElectionTracking3.pdf)

**100:** Existing limits represent the full extent to which political parties are able to finance their activities. Limits are reasonably low enough in the context of the total costs of running a party to be meaningful.

**75:**

**50:** Existing limits generally represent the full extent to which a political party can finance its activities. However, exceptions and loopholes exist through which parties can generate revenue or finance their activities beyond the scope of existing regulations. Such loopholes could include taking loans that are outside of the scope of regulations covering direct donations; links to revenue-generating business activities that are beyond the scope of electoral or campaign-related regulations; or accepting in-kind support that is not explicitly regulated by laws or regulations. The limits may be too high in the context of the overall costs of running a party

**25:**

**0:** Existing limits are routinely bypassed or willfully ignored. The majority of expenditures are made outside of the formal limitation system. Limits are so high that they are meaningless in the context of the overall costs of running a party.

21d. In practice, when necessary, an agency or entity monitoring political financing independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

A report on the Bangladesh Election Commission conducted by Transparency International Bangladesh in November 2006 revealed that there is a serious lack of professionalism in terms of discharging the functions of the Election Commission. It is also revealed that in Bangladesh the personal expenditure reports are rarely submitted to the returning officers within the stipulated time but the returning officer(s) is neither under any legal obligation nor willing to bring that matter to the notice of the Election Commission or to the courts. In the 8th parliamentary election held in 2001 no political party submitted its election expenses, but the Election Commission has not taken action against a single party.

**References:**

Transparency International, Berlin,  
National Integrity Systems Country Study Report, Bangladesh 2003

Transparency International, Berlin, 2006,  
National Integrity Systems in South Asia

Transparency International Bangladesh,  
Working paper on Bangladesh Election Commission,  
Nov. 6, 2006,

Center for Policy Dialogue, CPD reveals 12-point agenda for CG to hold credible polls,  
Jan. 25, 2007,  
<http://www.thedailystar.net/2007/01/26/d7012601044.htm>,

Debapriya Bhattacharya  
Clean Finance for Competent Candidates, Credible Elections, <http://www.newagebd.com/store/anni06/politics.html>

Daily Ittefaq,  
April 24, 2006 (available only in Bengali)

**100:** The agency or entity aggressively starts investigations into allegations of wrong doing with respect to political financing. The agency is fair in its application of this power.

**75:**

**50:** The agency or entity will start investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power.

21e. In practice, when necessary, an agency or entity monitoring political financing imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

A report on the Bangladesh Election Commission conducted by Transparency International Bangladesh in November 2006 revealed that there is a serious lack of professionalism in terms of discharging the functions of the Election Commission. It is also revealed that in Bangladesh the personal expenditure reports are rarely submitted to the returning officers within the stipulated time but the returning officer(s) is neither under any legal obligation nor willing to bring that matter to the notice of the Election Commission or to the courts. In the 8th parliamentary election held in 2001 no political party submitted its election expenses, but the Election Commission has not taken action against a single party.

**References:**

Transparency International Bangladesh,

Daily Ittefaq,  
April 24, 2006

To get a few articles on political rules and regulations and practices in Bangladesh,  
see: <http://www.newagebd.com/store/anni06/politics.html>

**100:** When rules violations are discovered, the agency or entity is aggressive in penalizing offenders.

**75:**

**50:** The agency or entity enforces rules, but is limited in its effectiveness. The agency or entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or entity does not effectively penalize offenders. The agency or entity may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency or entity may be partisan in its application of power.

21f. In practice, contributions to political parties and candidates are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

In Bangladesh, no official reports or audits of campaign financing or expenditure are prepared by any independent institutions, nor are such reports presented to the Parliament.

A report on the Bangladesh Election Commission conducted by Transparency International Bangladesh in November 2006 revealed that there is a serious lack of professionalism in terms of discharging the functions of the Election Commission. It is also revealed that in Bangladesh the personal expenditure reports are rarely submitted to the returning officers within the stipulated time but the returning officer(s) is neither under any legal obligation nor willing to bring that matter to the notice of the Election Commission or to the courts. In the 8th parliamentary election held in 2001 no political party submitted its election expenses, but the Election Commission has not taken action against a single party.

The report also mentioned that there has been no monitoring system of keeping accounts of the candidates election expenses. The EC failed to identify a single candidate violating the election expenditure margin.

**References:**

Transparency International, Berlin,  
National Integrity Systems Country Study Report, Bangladesh 2003

Transparency International, Berlin, 2006,  
National Integrity Systems in South Asia

Transparency International Bangladesh,  
Working paper on Bangladesh Election Commission, p-64,  
Nov. 6, 2006,

**100:** Political party and candidate finances are regularly audited using generally accepted auditing practices. This includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

**75:**

**50:** Political party and candidate finances (as defined) are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed contributions. Contributions to the political party or candidate may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

**25:**

**0:** Party and candidate finances are not audited, or the audits performed have no value in tracking contributions. Audits may be performed by entities known to be partisan or biased in their practices.

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## 22. Can citizens access records related to political financing?

8

22a. In practice, political parties and candidates disclose data relating to financial support and expenditures within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Party candidates are required to file a 'return of election expenses' within 15 days of publication of the election results. With the reference of Fair Election Monitoring Alliance, Dhaka, June 2002, Transparency International, Berlin 2004, stated in the NIS Country Study Report, Bangladesh 2003 that only 74 candidates complied with this requirements after the 2001 elections. (source: Transparency International, Berlin 2004, National Integrity System Country Study Report, Bangladesh 2003, p-36)

**References:**

Fair Election Monitoring Alliance, Dhaka, June 2002,  
Observation Report on Bangladesh Parliamentary Election, Oct.1, 2001.

Transparency International, Berlin,  
National Integrity Systems Country Study Report, Bangladesh 2003

**100:** Political parties and candidates disclose their sources of funding and expenditures at least every quarter.

**75:**

**50:** Political parties and candidates disclose their sources of funding and expenditures only one or two times per year. Delays may occur when sensitive political information is involved.

**25:**

**0:** Political parties and candidates never publish their sources of funding or expenditures or publish that information only rarely with more than a year in between publication. Politically sensitive information is regular withheld from public disclosure.

22b. In practice, citizens can access the financial records of political parties and candidates within a reasonable time period.

**Comments:**

The Election Commission did not make public the statement containing information about the candidates' sources of election expenses. In the 1996 parliamentary elections, it was found that nearly 95 percent of the MPs did not submit the individual expenditure reports to the EC. These findings, however, were never made public or even officially transmitted to other officials of EC. (source: Transparency International Bangladesh, Nov. 6, 2006, Working paper on Bangladesh Election Commission, p-95).

**References:**

Badiul Alam Majumdar  
Justice Will Not Be Denied Forever,  
Daily Star, May 7, 2006.

Transparency International Bangladesh,  
Working paper on Bangladesh Election Commission  
Nov. 6, 2006,

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take two to four weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.

22c. In practice, citizens can access the financial records of political parties and candidates at a reasonable cost.

**Comments:**

The Election Commission did not make public the statement containing information about the candidates' sources of election expenses. In the 1996 parliamentary elections, it was found that nearly 95 percent of the MPs did not submit the individual expenditure reports to the EC. These findings, however, were never made public or even officially transmitted to other officials of EC. (source: Transparency International Bangladesh, Nov. 6, 2006, Working paper on Bangladesh Election Commission, p-95).

**References:**

Transparency International Bangladesh,  
Working paper on Bangladesh Election Commission.  
Nov. 6, 2006,

Badiul Alam Majumdar  
Justice Will Not Be Denied Forever,  
Daily Star, May 7, 2006

To get a few articles on political rules and regulations and practices in Bangladesh: <http://www.newagebd.com/store/anni06/politics.html>

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## Category III. Government Accountability

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### III-1. ~~52~~ Executive Accountability

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23. In law, can citizens sue the government for infringement of their civil rights?

100

23. In law, can citizens sue the government for infringement of their civil rights?

YES | NO

**Comments:**

Article 26(1) provides that all existing laws inconsistent with the provisions of Part III shall, to the extent of such inconsistency, become void on the commencement of the Constitution. Article 26(2) provides that the State shall not make any law which would be inconsistent with any provisions of Part III of the Constitution, and any law so made shall, to the extent of such inconsistency, be void. Under Article 102 of the Constitution, a writ petition can be filed by an aggrieved person against any person or authority. Again, the Order XXVI (1) of Part IV The Supreme Court of Bangladesh (Appellate Division) Rules, 1988 states that Subject to the law and the practice of the Court, the Court may, either of its own motion or on the application of a party to a proceeding, review its own judgment or order in a civil proceeding on grounds similar to those mentioned in order XLVII, rule 1 of the Code of Civil Procedure and a criminal proceeding on the ground of an error apparent on the face of the record. Article 107(1) of the Constitution of Bangladesh states that Subject to any law made by Parliament the Supreme Court may, with the approval of the president, make rules for regulating the practice and procedure of each division of the Supreme Court and of any court subordinate to it. It is vested with the plenary legislative power of the Republic, subject only to the limitations set by the Constitution.

**References:**

Arts. 26 & 102 of the Constitution

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

**YES:** A YES score is earned if all citizens (citizen is defined broadly, to include all ethnicities, or anyone born in the country) can receive compensation or redress through the courts for civil rights violations committed by the government, such as failure to follow due process of law when detaining suspected criminals.

**NO:** A NO score is earned if any group of citizens is excluded from the right to sue the government, or no such mechanism exists.

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## 24. Can the chief executive be held accountable for his/her actions?

63

24a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | **50** | 25 | 0

### References:

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept.6., 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6., 2007, at 10.30 a.m. over phone.

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

Power and Participation Research Center (PPRC), Dhaka, 2007,  
Bangladesh Governance Report 2007

SHUJAN-Shushashoner Jannoy Nagorik  
<http://www.shujan.org/>

Transparency International Bangladesh,  
Parliament Watch 2001-2006  
Feb. 12, 2007,  
[www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

**100:** The chief executive and/or cabinet ministers give formal explanations of all policy matters. The chief executive regularly takes critical questions from journalists or an opposition party, usually at least once a month. There is no censoring of such sessions.

**75:**

**50:** The chief executive and/or cabinet ministers give explanations of policy, but not always in a timely or complete way. The chief executive occasionally takes critical questions from journalists or an opposition party, but not in a regular or formalized process. Particular issues of political sensitivity may be censored by government broadcasters.

**25:**

**0:** The chief executive and/or cabinet ministers do not give substantial justifications for policy. Public appearances by the chief executive offer no exposure to critical questions. The government and government-run media routinely censor such sessions.

24b. In law, the judiciary can review the actions of the executive.

YES | NO

**Comments:**

Under Article 102 of the Constitution, the High Court issues directions or orders to any person or authority for infringement of any of the fundamental rights as embodied in Part III of the Constitution. Under Article 102 of the Constitution, a writ petition can be filed by an aggrieved person against any person performing the functions in connection with the affairs of the Republic or of a local authority. The person must be a public functionary including all statutory authorities as defined in Article 152 of the Constitution.

Individuals can bring legal actions against any law or action which is violative of any fundamental right under Part III of the Constitution of Bangladesh. Article 26(1) provides that all existing laws inconsistent with the provisions of Part III shall, to the extent of inconsistency, become void on the commencement of the Constitution. Article 26(2) provides that the State shall not make any law which would be inconsistent with any provisions of Part III, and any law so made shall, to the extent of inconsistency, be void.

**References:**

The Constitution of the Peoples Republic of Bangladesh, [http://en.wikipedia.org/wiki/Constitution\\_of\\_Bangladesh](http://en.wikipedia.org/wiki/Constitution_of_Bangladesh)

**YES:** A YES score is earned if there is a formal process by which the judiciary can pass judgments on the legality or constitutionality of actions taken by the executive.

**NO:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exemptions exist with respect to executive actions that are reviewable (a national security exemption, for example).

24c. In practice, when necessary, the judiciary reviews the actions of the executive.

100 | 75 | 50 | 25 | 0

**References:**

Bangladesh Court Slams Police, April 1999, [http://news.bbc.co.uk/1/hi/world/south\\_asia/323633.stm](http://news.bbc.co.uk/1/hi/world/south_asia/323633.stm)

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6., 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

SHUJAN-Shushashoner Jannoy Nagorik  
<http://www.shujan.org/>

Interview with advocate Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Aug.17, 2007, at 8.00 p.m.

Rules of Procedure of Parliament of Peoples Republic of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>

Transparency International Bangladesh,  
Working Paper on Bangladesh Election Commission  
Nov. 6, 2006, W, w  
[www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Transparency International Bangladesh,  
Parliament Watch 2001-2006,  
Feb. 12, 2007, [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006,  
[www.cgs-bu.com](http://www.cgs-bu.com)

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing executive actions and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power. It does not need to rely upon the executive to initiate a constitutional or legal review.

**75:**

**50:** The judiciary will review executive actions, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review executive policy. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power. It must rely on instructions from the executive in order to initiate a legal or constitutional review.

24d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

100 | 75 | **50** | 25 | 0

**References:**

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6., 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with advocate Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Aug.17, 2007, at 8.00 p.m.

Rules of Procedure of Parliament of Peoples Republic of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>

Transparency International Bangladesh,  
Working Paper on Bangladesh Election Commission

Nov. 6, 2006, W, w  
www.ti-bangladesh.org

Transparency International Bangladesh,  
Parliament Watch 2001-2006,  
Feb. 12, 2007, www.ti-bangladesh.org

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006,

Power and Participation Research Centre (PPRC), Dhaka, 2007,  
Bangladesh Governance Report 2007, p-84-85

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

Rounaq Jahan, senior research scholar, Columbia University, New York,  
Countries at the Crossroads 2006, Country Report Bangladesh,

**100:** The chief executive utilizes executive orders only when there is no constitutional or legal requirement for official legislative action or approval. Executive orders are limited in number and narrow in scope.

**75:**

**50:** The chief executive sometimes relies on executive orders to implement policies and regulations opposed by the legislature. Some executive orders are overly broad in scope and are designed to circumvent constitutional or legal requirements for legislative action or approval.

**25:**

**0:** The chief executive routinely abuses executive orders to render the legislature practically useless. Executive orders are the norm, not the exception, and directly contravene constitutional or legal requirements for legislative action or approval.

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## 25. Is the executive leadership subject to criminal proceedings?

0

25a. In law, the heads of state and government can be prosecuted for crimes they commit.

YES | **NO**

### Comments:

Presidents Impunity:

Article 51 (1 & 2) of the Constitution of Bangladesh states that (1) Without prejudice to the provisions of article 52, the President shall not be answerable in any court for anything done or omitted by him in the exercise or purported exercise of the functions of this office, but this clause shall not prejudice the right of any person to take proceedings against the Government; (2) During his term of office no criminal proceedings whatsoever shall be instituted or continued against the President in, and no process for his arrest or imprisonment shall issue from, any court.

Article 52 (1-5) of the Constitution of Bangladesh states that (1) The President may be impeached on a charge of violating this Constitution or of grave misconduct, preferred by a notice of motion signed by a majority of the total number of members of the Parliament and delivered to the speaker, setting out the particulars of the charges, and the motion shall not be debated earlier than fourteen nor later than thirty days after the notice is so delivered; and the Speaker shall forthwith summon Parliament if it is

not in session; (2) The Conduct of the President may be referred by Parliament to any court, tribunal or body appointed or designated by Parliament for the investigation of a charge under this article; (3) The President shall have the right to appear and to be represented during the consideration of the charge; (4) If after the consideration of the charge a resolution is passed by Parliament by votes of not less than two-thirds of the total number of members declaring that the charge has been substantiated, the President shall vacate his office on the date on which the resolution is passed; (5) Where the Speaker is exercising the functions of the President under article 54 the provisions of this article shall apply subject to the modifications that the reference to the Speaker in clause (1) shall be construed as a deference to the Deputy Speaker, and that the reference in clause (4) to the vacation by the President of his office shall be construed as a reference to the vacation by the Speaker of his office as Speaker; and on the passing of a resolution such as is referred to in clause (4) the Speaker shall cease to exercise the functions of President.

Rule 172 of the Rules of Procedure of Parliament of Peoples Republic of Bangladesh states that ( Intimation to Speaker by Magistrate, of arrest, detention etc., of a member) When a member is arrested on criminal charge or for a criminal offence or is sentenced to imprisonment by a court, or is detained under an executive order, the committing judge, magistrate, or executive authority, as the case may be, shall immediately intimate such fact to the Speaker indicating the reasons for the arrest, detention or imprisonment of the member in the appropriate form set out in Schedule III.

Rule 173 of the Rules of Procedure of Parliament of Peoples Republic of Bangladesh (Intimation to Speaker on release of a member) states that When a member is arrested and after conviction released on bail pending an appeal, or otherwise released, such fact shall also be intimated to the Speaker by the authority concerned in the appropriate form set out in Schedule III.

Rule 174 of the Rules of Procedure of Parliament of Peoples Republic of Bangladesh states that No arrest shall be made within the precincts of the House without obtaining the permission of the Speaker.

Rule 175 of the Rules of Procedure of Parliament of Peoples Republic of Bangladesh No legal process, civil or criminal, shall be served within the precincts of the House without obtaining the permission of the Speaker.

#### References:

Arts. 51, 52 of the Constitution of the People's Republic of Bangladesh,  
[http://en.wikipedia.org/wiki/Constitution\\_of\\_Bangladesh](http://en.wikipedia.org/wiki/Constitution_of_Bangladesh)

**YES:** A YES score is earned if the heads of state and government can be investigated, charged or prosecuted for criminal allegations. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**NO:** A NO score is earned if either the head of state or government cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on the heads of state or government.

25b. In law, ministerial-level officials can be prosecuted for crimes they commit.

YES | **NO**

#### Comments:

During their tenure, the ministers enjoy immunity from prosecution with respects to acts committed.

#### References:

Rules of Procedure of Parliament of People's Republic of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>

The Constitution of the People's Republic of Bangladesh, [http://en.wikipedia.org/wiki/Constitution\\_of\\_Bangladesh](http://en.wikipedia.org/wiki/Constitution_of_Bangladesh)

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

**YES:** A YES score is earned if ministerial-level officials, or their equivalents, can all be investigated, charged or prosecuted for criminal allegations.

**NO:** A NO score is earned if any ministerial-level official, or equivalent official, cannot be investigated, charged or prosecuted for criminal allegations or the executive branch controls whether investigative or prosecutorial immunity can be lifted on ministerial-level officials.

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## 26. Are there regulations governing conflicts of interest by the executive branch?

31

26a. In law, the heads of state and government are required to file a regular asset disclosure form.

**YES** | NO

**Comments:**

In Bangladesh, the president and the prime minister are the Head of State and Head of Government, respectively. The member (s) of Parliament is elected by the people of Bangladesh. The members of Parliament (MP) elect the president, and the president appoints the prime minister (leader of the House) from the members of Parliament.

Article 27A (2) of The Conduct of Election Rules, 1972” states that A contesting candidate shall, within seven days next following the withdrawal day, submit the statement of his assets and liabilities and his annual income and expenditure required under article 44AA (2) in Form XVIIIB. The election commission can investigate matters relating to election of the candidates. But there is no provision for the independent auditing of the asset disclosure forms of members of the national legislature and for monitoring of assets and liabilities of ministers. The prime minister may approve an enquiry against any minister regarding any irregularities if committed. There is no provision of asset disclosure for Head of State (President). “

**References:**

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

The Conduct of Election Rules, 1972, Dhaka, GOB

**YES:** A YES score is earned if the heads of state and government are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form need not be publicly available to score a YES. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**NO:** A NO score is earned if either the head of state or government is not required to disclose assets.

26b. In law, ministerial-level officials are required to file a regular asset disclosure form.

YES | NO

**Comments:**

There is no provision for monitoring of assets or submission of wealth statements of ministers.

Article 27A (2) of The Conduct of Election Rules, 1972” states that A contesting candidate shall, within seven days next following the withdrawal day, submit the statement of his assets and liabilities and his annual income and expenditure required under article 44AA (2) in Form XVIIIB. The election commission can investigate matters relating to election of the candidates. But there is no provision for the independent auditing of the asset disclosure forms of members of the national legislature and for monitoring of assets and liabilities of ministers. The prime minister may approve an enquiry against any minister regarding any irregularities if committed. There is no provision of asset disclosure for head of state (president).”

**References:**

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

The Conduct of Election Rules, 1972, Dhaka, GOB.

Rules of Procedure of Parliament of Peoples Republic of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>

**YES:** A YES score is earned if ministerial-level officials, or their equivalents, are all required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets.

**NO:** A NO score is earned if ministers are not required to disclose assets. A NO score is earned if some ministers must disclose assets, but other ministers are not required.

26c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

YES | NO

**Comments:**

The government service rules provide for registration of gifts in an official manner (Rules 5-7 of The Government Servant (Conduct) Rules, 1979).

There are no rules limiting the acceptance of hospitality. Rule 5 of The Government Servant (Conduct) Rules, 1979 states that- ( ) Save as otherwise provided in this rule, no servant shall, except with the previous sanction of the government, accept, or permit any member of his family to accept, from any person any gift the receipt of which will place him under any form of official obligation to the donor. If the offer of a gift cannot be refused without giving undue offence, it may be accepted and delivered to the Government for decision as to its disposal.

(ii) If any question arises whether receipt of a gift places a government servant under any form of official obligation to the donor, the decision of the government thereon shall be final.

(iii) If any gift is offered by the head or representative of a foreign state, the government servant concerned should attempt to avoid acceptance of such a gift, if he can do so without giving offence. If, however, he cannot do so, he shall accept the gift and shall report its receipt to the Establishment Division for orders as to its disposal.

(iv) Secretaries to the government, or officers of equivalent status may accept gifts, offered abroad or within Bangladesh by institutions or officials dignitaries of foreign governments of comparable or higher level provided that the value of the gift in each case does not exceed 500 taka (US\$7.27). If the gift is capable of being used in a government office or department or at official residence, it should be used, accordingly. If the gift cannot be so used, the government servant may retain it for his own use.

Rules 6 of The Government Servant ( Conduct) Rules, 1979 states that – No Government servant shall, except with the approval of the president accept a foreign award, title or decoration.

Explanation.-For the purposes of this rule, the expression “approval of President” means prior approval in ordinary cases and ex post facto approval in special cases where sufficient time is not available for obtaining prior approval.

Rules 7 of The Government Servant ( Conduct) Rules, 1979 states that – (i) No Government servant shall encourage meetings to be held in his honour or presentation of addresses of which the main purpose is to praise him or any entertainment to be held in his honor.

(ii) Subject to the provisions of any general or special order of the government, a government servant may attend a fare-well entertainment of a substantially private and informal character held as a mark of regard to himself or to some other government servant, or to a person who has recently quitted the service of government, on the occasion of retirement from service or departure from a district or station of himself or such other government servant or person.

**References:**

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003

**YES:** A YES score is earned if there are formal guidelines regulating gifts and hospitality offered to members of the executive branch of government.

**NO:** A NO score is earned if there are no guidelines or regulations with respect to gifts and hospitality offered to members of the executive branch. A NO score is earned if the guidelines are overly general and do not specify what is and is not appropriate.

26d. In law, there are requirements for the independent auditing of the executive branch asset disclosure forms (defined here as ministers and heads of state and government).

YES | **NO**

**Comments:**

Article 27A (2) of The Conduct of Election Rules, 1972” states that ” A contesting candidate shall, within seven days next following the withdrawal day, submit the statement of his assets and liabilities and his annual income and expenditure required under article 44AA (2) in Form XVIIIB”. The Election Commission can investigate matters relating to the election of the candidates. But there is no provision for the independent auditing of the asset disclosure forms of members of the national legislature and for monitoring of assets and liabilities of ministers/head of state/government.

**References:**

Rules of Procedure of Parliament of People’s Republic of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

The Conduct of Election Rules, 1972, Dhaka, GOB.

The Constitution of the Peoples Republic of Bangladesh, [http://en.wikipedia.org/wiki/Constitution\\_of\\_Bangladesh](http://en.wikipedia.org/wiki/Constitution_of_Bangladesh)

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of executive branch asset disclosures. The auditing is performed by an impartial third-party. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of executive branch asset disclosures or if such requirements exist but allow for self-auditing.

26e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

YES | **NO**

**References:**

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Rules of Procedure of Parliament of Peoples Republic of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former Member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

**YES:** A YES score is earned if there are regulations restricting the ability of heads of state/government and ministers to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues. Figurehead officials (symbolic figures without day-to-day authority) may be exempt.

**NO:** A NO score is earned if no such restrictions exist.

26f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

100 | 75 | 50 | 25 | **0**

**References:**

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Rules of Procedure of Parliament of Peoples Republic of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

**100:** The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no or few cases of those officials taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, heads of state/government or ministers are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Heads of state/government or ministers routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

26g. In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

100 | 75 | 50 | 25 | 0

**References:**

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

**100:** The regulations governing gifts and hospitality to members of the executive branch are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the executive branch are generally applied though exceptions exist. Some ministers in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to members of the executive branch are routinely ignored and unenforced. Ministers and other members of the executive branch routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

26h. In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

**References:**

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

SHUJAN-Shushashoner Jannoy Nagorik,  
<http://www.shujan.org/>

**100:** Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Executive branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Executive branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

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## 27. Can citizens access the asset disclosure records of the heads of state and government?

0

27a. In law, citizens can access the asset disclosure records of the heads of state and government.

YES | **NO**

**Comments:**

During election period according to article 24A (2) & article 27 (1) of the Conduct of Election Rules 1972", the contesting candidate (who may be selected by the parliament as a head of the government if he/she being elected in the election) submit asset record and it is open for people but during non election period, more specifically, during Caretaker Govt, the head of Govt. is not supposed to disclose his/her asset record. There is no provision for Head of State to disclose his/her asset record for the people.

Article 27A (2) of "The Conduct of Election Rules, 1972" states that " A contesting candidate shall, within seven days next following the withdrawal day, submit the statement of his assets and liabilities and his annual income and expenditure required under article 44AA (2) in Form XVIIIB".

The election commission can investigate matters relating to election of the candidates. But there is no provision for the independent auditing of the asset disclosure forms of members of the national legislature and for monitoring of assets and liabilities of ministers. The prime minister may approve an enquiry against any minister regarding any irregularities if committed. This is open for citizens. Article 27 (1) of "The Conduct of Election Rules, 1972" states that " The document retained by the Commission (Commission means Election Commission) under article 42 except the ballot papers, shall be open to public

inspection during office hours on payment of a fee at the rate of five take (US\$0.07) for each document". In practice, it is very restricted for the peopl.

**References:**

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

The Conduct of Election Rules, 1972, Dhaka, GOB.

The Constitution of the People's Republic of Bangladesh.

**YES:** A YES score is earned if the heads of state and government file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**NO:** A NO score is earned if there is no asset disclosure for either the head of state or government. A NO score is earned if the form is filed, but not available to the public.

27b. In practice, citizens can access the asset disclosure records of the heads of state and government within a reasonable time period.

100 | 75 | 50 | 25 | 0

**References:**

Interview with G M Kader, former ember of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

SHUJAN-Shushashoner Jannoy Nagorik,  
<http://www.shujan.org/>

Transparency International Bangladesh,  
Working Paper on Bangladesh Election Commission, www.ti-bangladesh.org  
Nov. 6, 2006,

Transparency International Bangladesh,  
Parliament Watch 2001-2006, ww  
Feb. 12, 2007,  
www.ti-bangladesh.org

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some additional delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

27c. In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

100 | 75 | 50 | 25 | 0

**References:**

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

SHUJAN-Shushashoner Jannoy Nagorik, <http://www.shujan.org/>

Transparency International Bangladesh, Parliament Watch 2001-2006, ww Feb. 12, 2007, [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Transparency International, Berlin, 2004, National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh, Aug. 12, 2007

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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28. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

28. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

100 | 75 | 50 | 25 | 0

**Comments:**

Politicization has taken a heavy toll of our bureaucracy. Ministers try to influence the public officials to take administrative decisions in their favor. Even the ministers or MPs threaten the officials with awful consequences if their demands are not met. Due to successive politicization processes in public administration, incompetent people have been placed in different key points in our administration. The Bangladesh Governance Report 2007 conducted by PPRC states that various groups of officers were recruited into the civil service without having met the criteria for entering the service (page-84).

With reference to the Bangladesh Observer published on July 22, 2006, the State of Governance in Bangladesh 2006 report described the politicization scenario in recruitment and promotion in civil administration. The report (p-55) mentioned that on July 13, 2006, the government promoted 153 deputy secretaries to the post of joint secretary, depriving around 100 eligible officers along with five additional secretaries promoted to the post of secretary.

The recruitment rules for the Bangladesh Civil Service are not entirely based on merit. 45 percent of first and second class posts are recruited on merit, and other 55 percent are recruited in accordance with a quota system. There were a few modifications or amendments in the recruitment policy in 1997 and 2004. In 2004 (PSC 2004: 13-14) an amendment was made that if suitable candidates are not found to fill the 30 percent for freedom fighters or son of freedom fighters, the posts will be filled through merit-based recruitment. For third and fourth classes, there is no provision on merit-based recruitment.

**References:**

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh, Aug. 12, 2007.

The World Bank Group,  
GPSR net, online content on Administrative & Civil Service Reform, Asset Disclosure by Public Officials:  
Bangladesh, <http://www1.worldbank.org/publicsector/civilservice/assetsbycountry.asp?index=1>

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006  
[www.cgs-bu.com](http://www.cgs-bu.com)

Transparency International Bangladesh, March 2007,  
Bangladesh Public Service Commission: A Diagnostic Study, w  
[www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Transparency International Bangladesh,  
Working Paper on Bangladesh Election Commission,  
Nov. 6, 2006,  
[www.ti-bangladesh.org](http://www.ti-bangladesh.org)

**100:** Clear rules are followed distinguishing state functions from party activities. Government funds are never used for party activities. The civil service is completely distinct from party bureaucracy.

**75:**

**50:** The ruling party is, in principal, separate from the state, but exceptions to this standard sometimes occur. Examples may be the use of civil servants to organize political rallies, use of government vehicles on campaign trips, or use of government funds for party purposes.

**25:**

**0:** The government bureaucracy is an extension of the ruling party. There are few boundaries between government and party activities. Government funds, equipment and personnel are regularly used to support party activities.

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## III-2. Legislative Accountability

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### 29. Can members of the legislature be held accountable for their actions?

83

29a. In law, the judiciary can review laws passed by the legislature.

**YES** | NO

**Comments:**

According to article 107, the Supreme court has rule making power. Article 107 states that (1) Subject to any law made by Parliament the Supreme Court may, with the approval of the President, make rules for regulating the practice and procedure of each division of the Supreme Court and of any court subordinate to it. (2) The Supreme Court may delegate any of its functions under clause (1) and article 113 to a division of that Court or to one or more Judges. (3) Subject to any rules made under this article the Chief Justice shall determine which Judge are to constitute any Bench of a division of the Supreme Court and which Judges are to sit for any purpose. (4) The Chief Justice may authorize the next most senior-Judge of either Division of the Supreme Court to exercise in that division any of the powers conferred by clause (3) or by rules made under this article.

The Parliament makes laws, but individuals can bring legal action against any law or action which violates any fundamental right under article 26(1,2) & 102 of the constitution. The judicial power of the Republic is vested in the judiciary consisting of the Supreme Court and the subordinate courts. The guardianship of the Constitution is vested upon the Supreme Court which is invested with the power of judicial review. According to the article 113 of Bangladesh Constitution, the Supreme Court has also rule making power relating to appointment of personnel and to regulation of practice and procedure of each division subject to the approval of the President. of the Supreme Court and of sub-ordinate courts. Further, the Supreme Court has the authority to call on all executive and judicial agencies.

**References:**

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh.

Rules of Procedure of Parliament of Peoples Republic of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>

The Constitution of the People's Republic of Bangladesh.

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988.

**YES:** A YES score is earned if there is a formal process by which the judiciary or constitutional courts can pass judgments on the legality or constitutionality of laws passed by the legislature.

**NO:** A NO score is earned if no such mechanism exists. A NO score is earned if judicial review is vaguely established in law or regulation without formal procedures. A NO score is earned if general exceptions exist exempting certain legislative actions from being reviewed (a national security exemption, for example).

29b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | **50** | 25 | 0

**References:**

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh.

Rules of Procedure of Parliament of Peoples Republic of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988.

**100:** When constitutional or legal questions or possible violations are raised, the judiciary is aggressive in reviewing laws passed and can void illegal or unconstitutional actions. The judiciary is fair and nonpartisan in its application of this power.

**75:**

**50:** The judiciary will review laws passed, but is limited in its effectiveness. The judiciary may be slow to act, unwilling to take on politically sensitive issues, or occasionally unable to enforce its judgments.

**25:**

**0:** The judiciary does not effectively review laws passed. The judiciary may make judgments but not enforce them, or may fail to pass judgments on executive abuses. The judiciary may be partisan in its application of power.

29c. In law, are members of the national legislature subject to criminal proceedings?

YES | NO

**Comments:**

Rule 172 of the Rules of Procedure of Parliament of Peoples Republic of Bangladesh states that ( When a member is arrested on a criminal charge or for a criminal offence or is sentenced to imprisonment by a court, or is detained under an executive order, the committing judge, magistrate, or executive authority, as the case may be, shall immediately intimate such fact to the Speaker indicating the reasons for the arrest, detention or imprisonment of the member in the appropriate form set out in Schedule III.

Rule 173 of the Rules of Procedure of Parliament of Peoples Republic of Bangladesh (I states that When a member is arrested and after conviction released on bail pending an appeal, or otherwise released, such fact shall also be intimated to the Speaker by the authority concerned in the appropriate form set out in Schedule III.

Rule 174 of the Rules of Procedure of Parliament of Peoples Republic of Bangladesh states that No arrest shall be made within the precincts of the House without obtaining the permission of the Speaker.

Rule 175 of the Rules of Procedure of Parliament of Peoples Republic of Bangladesh No legal process, civil or criminal, shall be served within the precincts of the House without obtaining the permission of the Speaker.

Rule 176 of the Rules of Procedure of Parliament of Peoples Republic of Bangladesh As soon as may be, the Speaker shall, after he has received a communication referred to in rule 172 or rule 173 read it out in the House if in session or, if the House is not in session, direct that it may be circulated for the information of the members: Provided that the intimation of the release of a member either on bail or by discharge on appeal is received before the House has been informed of the original arrest, the fact of his arrest, or his subsequent release or discharge, may not be intimated to the House by the Speaker.

**References:**

Rules of Procedure of Parliament of Peoples Republic of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>

Penal Code1860, Dhaka, Bangladesh

The Code of Civil Procedure, 1908

The Anti-Corruption Commission Act, 1994.

**YES:** A YES score is earned if all members of the legislature can, in law, be investigated and prosecuted for criminal allegations.

**NO:** A NO score is earned if any member of the legislature cannot, in law, be investigated and prosecuted for criminal proceedings.

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30. Are there regulations governing conflicts of interest by members of the national legislature?

14

30a. In law, members of the national legislature are required to file an asset disclosure form.

YES | NO

**Comments:**

Article 27A (2) of The Conduct of Election Rules, 1972" states that A contesting candidate shall, within seven days following the

withdrawal day, submit the statement of his assets and liabilities and his annual income and expenditure required under article 44AA (2) in Form XVIIB.

**References:**

Art. 27A (2) of The Conduct of Election Rules, 1972", Dhaka, GOB.

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

**YES:** A YES score is earned if all members of the legislature are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**NO:** A NO score is earned if any member of the legislature is not required to disclose assets.

30b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

YES | **NO**

**References:**

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

**YES:** A YES score is earned if there are regulations restricting national legislators' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**NO:** A NO score is earned if no such restrictions exist.

30c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

YES | **NO**

**References:**

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

**YES:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the legislature.

**NO:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the legislature. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

30d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

YES | **NO**

**Comments:**

Article 27A (2) of The Conduct of Election Rules, 1972" states that A contesting candidate shall, within seven days following the withdrawal day, submit the statement of his assets and liabilities and his annual income and expenditure required under article 44AA (2) in Form XVIIIB.

There is no provision for the independent auditing of the asset disclosure forms of members of the national legislature.

**References:**

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

The Conduct of Election Rules, 1972, Dhaka, GOB.

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of legislative branch asset disclosures. The auditing is performed by an impartial third-party.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of legislative branch asset disclosures or if such requirements exist but allow for self-auditing.

30e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100 | 75 | 50 | 25 | **0**

**References:**

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.”

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

**100:** The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no or few cases of legislators taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off” period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, legislators are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Legislators routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

30f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

Till date, in Bangladesh, there is no Code of Ethics for the members of Parliament.

**References:**

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

**100:** The regulations governing gifts and hospitality to national legislators are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to legislators. Legislators never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to national legislators are generally applied though exceptions exist. Some legislators in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to national legislators are routinely ignored and unenforced. Legislators routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

30g. In practice, national legislative branch asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**Comments:**

Article 27A (2) of The Conduct of Election Rules, 1972” states that A contesting candidate shall, within seven days following the withdrawal day, submit the statement of his assets and liabilities and his annual income and expenditure required under article 44AA (2) in Form XVIIIB.

There is no provision for the independent auditing of the asset disclosure forms of members of the national legislature.

**References:**

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Transparency International Bangladesh,  
Working Paper on Bangladesh Election Commission,  
Nov. 6, 2006,  
[www.ti-bangladesh.org](http://www.ti-bangladesh.org)

The Conduct of Election Rules, 1972, Dhaka, GOB.

**100:** Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** Legislative branch asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** Legislative branch asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

---

### 31. Can citizens access the asset disclosure records of members of the national legislature?

33

31a. In law, citizens can access the asset disclosure records of members of the national legislature.

YES | NO

**Comments:**

Article 27A (2) of The Conduct of Election Rules, 1972” states that “A contesting candidate shall, within seven days following the withdrawal day, submit the statement of his assets and liabilities and his annual income and expenditure required under article 44AA (2) in Form XVIIIB”.

This is open for citizens. Article 27 (1) of “The Conduct of Election Rules, 1972” states that ” the document retained by the Commission (Commission means Election Commission) under article 42, except the ballot papers, shall be open to public inspection during office hours on payment of a fee at the rate of five taka (US\$0.07) for each document”.

**References:**

Rules of Procedure of Parliament of People’s Republic of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh.

**YES:** A YES score is earned if members of the national legislature file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**NO:** A NO score is earned if there is no asset disclosure for members of the national legislature. A NO score is earned if the form is filed, but not available to the public.

31b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Although according to the article 27 (1) of The Conduct of Election Rules, 1972, the legislative asset disclosure record are open, the officials of the Election Commission always refuse to give this kind of information, claiming the Official Secrets Act, 1923.

**References:**

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

SHUJAN-Shushashoner Jannoy Nagorik  
<http://www.shujan.org/>

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

31c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Although according to the article 27 (1) of The Conduct of Election Rules, 1972, the legislative asset disclosure records are open, the officials of the Election Commission always refuse to give this kind of information, claiming the Official Secrets Act, 1923.

**References:**

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

SHUJAN-Shushashoner Jannoy Nagorik

<http://www.shujan.org/>

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## 32. Can citizens access legislative processes and documents?

75

32a. In law, citizens can access records of legislative processes and documents.

**Comments:**

Article 27A (2) of The Conduct of Election Rules, 1972” states that A contesting candidate shall, within seven days following the withdrawal day, submit the statement of his assets and liabilities and his annual income and expenditure required under article 44AA (2) in Form XVIIIB. This is open for citizen.

Article 27 (1) of “The Conduct of Election Rules, 1972” states that The document retained by the Commission (Commission means Election Commission) under article 42, except the ballot papers, shall be open to public inspection during office hours on payment of a fee at the rate of five Taka (US\$0.07) for each document.

Article 298 (2) of the Rules of Procedure of Parliament states that All papers and documents laid on the Table shall be considered public .

Article 306 of the Rules of Procedure of Parliament states that The Secretary shall cause to prepare a full report of the proceedings of the House at each of its sittings and shall, as soon as practicable, publish it in such form and manner as the Speaker may, from time to time, direct.

Article 309 (1 &2) of the Rules of Procedure of Parliament states that (1) The Speaker may authorize printing, publication, distribution or sale of any paper, document or report in connection with the business of the House or any paper, document or report laid on the Table or presented to the House or a Committee thereof. ; (2) A paper, document or report printed, published, distributed or sold in pursuance of sub-rule (1) shall be deemed to have been printed, published, distributed or sold under the authority of the House within the meaning of clause (4) of Article 78 of the Constitution.”

Article 310 of the Rules of Procedure of Parliament states that that The Secretary shall have custody of all records, documents and papers belonging to the House or any of its Committees or the Parliament Secretariat, and he shall not permit any such record, documents or papers to be taken from the [Parliament] without the permission of the Speaker.

Article 312 of the Rules of Procedure of Parliament states that that The admission of strangers during the sitting of the House to those portions of the House which are not reserved for the exclusive use of members shall be regulated in accordance with orders made by the Speaker

Article 313 of the Rules of Procedure of Parliament states that that The Speaker may, whenever he thinks fit, order the withdrawal of strangers from any part of the House.

**References:**

Interview with G M Kader, Former Member of Parliament (MP), Dhaka, September 06, 2007 at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, Former Member of Parliament (MP), Dhaka, September 06, 2007 at 10.30 a.m. over phone.

Rules of Procedure of Parliament of Peoples Republic of Bangladesh, <http://www.parliamentofbangladesh.org/rprocedure.htm>

**YES:** A YES score is earned if there is a general legal right to access records of legislative proceedings including voting records. A YES score can still be given if there are formal rules for specific exemptions to the right to disclosure (special secret sessions related to national security).

**NO:** A NO score is earned if there is no general right to access documents recording legislative proceedings. A NO score is earned if there exemptions to the general right that are not clearly defined by formal rules.

32b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

**Comments:**

Although according to the rules of procedure of Parliament the published documents are open, the officials of the Parliament Secretariate often refuse to give this kind of information claiming the Official Secrets Act, 1923. People collect this information or documents from MP (s)/officials with whom they have a personal connection. Radio Bangladesh and Bangladesh Television cast the whole and partial parliament session, respectively, but it is restricted for private TV channel to enter the parliament.

**References:**

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

SHUJAN-Shushashoner Jannoy Nagorik  
<http://www.shujan.org/>

Transparency International Bangladesh,  
Parliament Watch 2001-2006,  
Feb. 12, 2007,  
Pwww.ti-bangladesh.org

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

32c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

100 | **75** | 50 | 25 | 0

**Comments:**

Although according to the rules of procedure of Parliament the published documents are open, the officials of the Parliament Secretariate often refuse to give this kind of information claiming the Official Secrets Act, 1923. People collect this information or documents from MP (s)/officials with whom they have a personal connection.

**References:**

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. over phone.

Transparency International Bangladesh,  
Working Paper on Bangladesh Election Commission  
Nov. 6, 2006,  
www.ti-bangladesh.org

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## 51 III-3. Judicial Accountability

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### 33. Are judges appointed fairly?

83

33a. In law, there is a transparent procedure for selecting national-level judges.

YES | NO

**Comments:**

Article 95 of the Constitution states that-

(1) The chief justice and other judges shall be appointed by the president.

(2) A person shall not be qualified for appointment as a judge unless he is a citizen of Bangladesh and-

(a) has, for not less than 10 years, been an advocate of the Supreme Court; or

(b) has, for not less than 10 years, held judicial office in the territory of Bangladesh; or

(c) has such other qualifications as may be prescribed by law for appointment as a judge of the Supreme Court.

(3) In this articles, "Supreme Court" includes 'a Court which at any time before the commencement of the Second Proclamation (Tenth Amendment) Order, 1977, exercised jurisdiction as a High Court or Supreme Court in the territory now forming part of Bangladesh."

**References:**

The Constitution of the Peoples Republic of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Barrister M. Amir-UI Islam,

Paper presented at the Seminar entitled Judicial Reform and Independence of the Judiciary, Au  
Aug. 11, 2007.

**YES:** A YES score is earned if there is a formal process for selecting national level justices. This process should be public in the debating and confirmation stages. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

**NO:** A NO score is given if there is no formal process of selection or the process is conducted without public oversight. National-level judges are defined as judges who have powers that derive from a national law or constitution; are nominated/appointed by a national governmental body (head of state/government or national legislature); and/or are elected nationally.

33b. In practice, there are certain professional criteria required for the selection of national-level judges.

100 | 75 | **50** | 25 | 0

**References:**

Barrister M. Amir-UI Islam,  
Paper presented at the Seminar entitled Judicial Reform and Independence of the Judiciary, Au  
Aug. 11, 2007

SC to Rescue Nation from Any Crisis,  
The Daily Star,  
Aug. 12, 2007,  
<http://thedailystar.net/2007/08/12/d7081201011.htm>

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Asian Human Rights Commission, Hong Kong,  
Translation of Article published in the Daily Prothom Alo,  
Dec. 1, 2006  
<http://www.ahrchk.net/statements/mainfile.php/2006statements/874/>

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006  
[www.cgs-bu.com](http://www.cgs-bu.com)

**100:** National-level judges selected have relevant professional qualifications such as formal legal training, experience as a lower court judge or a career as a litigator.

**75:**

**50:** Most national-level judges selected meet these qualifications, with some exceptions.

**25:**

**0:** National-level judges are often unqualified due to lack of training or experience.

33c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

YES | NO

**References:**

The Constitution of the Peoples Republic of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007, at 8.00 p.m.

Justice Kazi Ebadul Hoque,  
Administration of Justice in Bangladesh,  
Dhaka, 2003.

Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000.

Barrister M. Amir-Ul Islam,  
Paper presented at the Seminar entitled Judicial Reform and Independence of the Judiciary, Au  
Aug. 11, 2007

SC to Rescue Nation from Any Crisis,  
The Daily Star,  
Aug. 12, 2007,  
<http://thedailystar.net/2007/08/12/d7081201011.htm>

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

**YES:** A YES score is earned if there is a formal process establishing a review of national-level judicial nominees by an agency independent from the body appointing the judges.

**NO:** A NO score is earned if there is no formal review. A NO score is earned if the review is conducted by a body directed by the body appointing the judges (such as review by the head of police if judges are appointed by the executive).

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### 34. Can members of the judiciary be held accountable for their actions?

79

34a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

YES | NO

**Comments:**

Article 94 (4) of the Constitution states that Subject to the provisions of this Constitution the chief justice and the other judges shall be independent in the exercise of their judicial functions”.

**References:**

The Constitution of the Peoples Republic of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>

Judicial Service Commission Rules, 2007

**YES:** A YES score is earned if there is a formal and mandatory process for judges to explain their decisions.

**NO:** A NO score is earned if justices are not required to explain decisions. A NO score is earned if there is a general exemption from explaining some decisions (such as national security).

34b. In practice, members of the national-level judiciary give reasons for their decisions.

100 | 75 | 50 | 25 | 0

**References:**

The Constitution of the Peoples Republic of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007, at 8.00 p.m.

Justice Kazi Ebadul Hoque,  
Administration of Justice in Bangladesh,  
Dhaka, 2003.

Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000.

Barrister M. Amir-Ul Islam,  
Paper presented at the Seminar entitled Judicial Reform and Independence of the Judiciary, Au  
Aug. 11, 2007

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

**100:** Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

**75:**

**50:** Judges are compelled to give substantial reasons for their decisions, but some exceptions exist. These may include special courts, such as military courts or tribunals.

**25:**

**0:** Judges commonly issue decisions without formal explanations.

34c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

YES | NO

**Comments:**

Article 96 of the Constitution of Bangladesh states that –

(1) Subject to the other provisions of this article, a judge shall hold office until he attains the age of 67 years.

(2) A judge shall not be removed from office except in accordance with the following provisions of this article.

(3) There shall be a Supreme Judicial Council, in this article referred to as the council, which shall consist of the chief justice of Bangladesh, and the two next senior judges:

Provided that if, at any time, the Council is inquiring into the capacity or conduct of a judge who is a member of the Council, or a member of the Council is absent or is unable to act due to illness or other cause, the judge who is next in seniority to those who are members of the Council shall act as such member.

(4) The function of the Council shall be-

(a) to prescribe a Code of Conduct to be observed by the judges; and

(b) to inquire into the capacity or conduct of a judge or of any other functionary who is not removable from office except in like manner as a judge.

(5) Where, upon any information received from the Council or from any other source, the president has reason to apprehend that a judge-

(a) may have ceased to be capable of properly performing the functions of his office by reason of physical or mental incapacity, or

(b) may have been guilty of gross misconduct, the president may direct the Council to inquire into the matter and report its finding.

(6) If, after making the inquiry, the Council reports to the president that in its opinion the Judge has ceased to be capable of properly performing the functions of his office or has been guilty of gross misconduct, the president shall, by order, remove the judge from office.

(7) For the purpose of an inquiry this article, the Council shall regulate its procedure and shall have, in respect of issue and execution of processes, the same power as the Supreme Court.”

**References:**

The Constitution of the Peoples Republic of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007, at 8.00 p.m.

Justice Kazi Ebadul Hoque,  
Administration of Justice in Bangladesh,  
Dhaka, 2003.

Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000.

Barrister M. Amir-Ul Islam,  
Paper presented at the Seminar entitled Judicial Reform and Independence of the Judiciary, Au  
Aug. 11, 2007

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

**YES:** A YES score is earned if there is a disciplinary agency (or equivalent mechanism) for the judicial system. A disciplinary agency is defined here as an agency or mechanism specifically mandated to investigate breaches of procedure, abuses of power or other failures of the judiciary.

**NO:** A NO score is earned if no agency or mechanism is specifically mandated to act as a disciplinary mechanism for the national-level judiciary.

34d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

YES | NO

**References:**

The Constitution of the Peoples Republic of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>

Judicial Service Commission Rules, 2007

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007, at 8.00 p.m.

Justice Kazi Ebadul Hoque,  
Administration of Justice in Bangladesh,  
Dhaka, 2003.

Code of Conduct of the Judges of the Supreme Court of Bangladesh,  
Dhaka, May 2000.

**YES:** A YES score is earned if there are formal rules establishing that the judicial disciplinary agency (or equivalent mechanism) is operationally independent from political interference by the executive, legislative and judicial branches.

**NO:** A NO score is earned if there are no formal rules establishing the independence of the judicial disciplinary agency (or equivalent mechanism). A NO score is given if the judicial disciplinary agency or equivalent mechanism function is carried out by an inherently subordinate organization, such as an executive ministry, legislative committee, or by an internal judiciary committee or council that can only act with the approval of judges themselves.

34e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

Corruption and politicization of judiciary is a key concern in Bangladesh which has led to decline accountability and public trust. It is alleged that the formation of Supreme Judicial Council often relies on external pressure.

On March 2007, the Supreme Judicial Council (SJC) was formed to investigate into controversial High Court (HC) judge Faisal Mahmud Faizee's alleged certificate scandal. It was formed after sending a presidential order to the Supreme Court via the law ministry. On March 19, 2007, the council sent its first reference to the president. On March 21, 2007, the president sent it back with recommendation for a Supreme Judicial Council probe but the council could not begin the inquiry as on March 19, 2007, Mr. Faizee filed a writ petition with the High Court against the Chittagong University syndicate's decision to cancel his LLB certificate. But on July 12, 2007, considering the image of apex court Mr. Faizee decided to step down his post and submitted resignation letter which was accepted and effected from July 12, 2007.

**References:**

Asian Human Rights Commission, Hong Kong,  
Translation of Article published in the Daily Prothom Alo  
Dec. 1, 2006,  
<http://www.ahrchk.net/statements/mainfile.php/2006statements/874/>

The Daily Prothom Alo, July 18, 2007.

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007.

Justice Kazi Ebadul Hoque, Administration of Justice in Bangladesh, Dhaka, 2003.

Barrister M. Amir-Ul Islam, "Judicial Reform and Independence of the Judiciary" Paper presented at the Seminar, Dhaka, Aug. 11, 2007

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007.

SC to Rescue Nation from Any Crisis, The Daily Star, Aug. 12, 2007,  
<http://thedailystar.net/2007/08/12/d7081201011.htm>

**100:** The judicial disciplinary agency (or equivalent mechanism) aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The judicial disciplinary agency (or equivalent mechanism) is fair in its application of this power.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The judicial disciplinary agency (or equivalent mechanism), though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The judicial disciplinary agency (or equivalent mechanism) rarely investigates on its own or cooperates in other agencies' investigations, or the judicial disciplinary agency (or equivalent mechanism) is partisan in its application of this power.

34f. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) imposes penalties on offenders.

**References:**

Bangladesh Judicial Service  
Formation of Service, Appointment, Promotion in the Service and Temporary Suspension and Removal Rules, 2007

Bangladesh Judicial Service  
Determination of Service Place, Controlling of Granting Leave, Maintaining Discipline and others Conditions of Employment Rules, 2007.

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006,  
[www.cgs-bu.com](http://www.cgs-bu.com)

Power and Participation Research Center (PPRC),  
Bangladesh Governance Report 2007, p-84-85  
Dhaka, 2007,

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007, at 8.00 p.m.

Justice Kazi Ebadul Hoque,  
Administration of Justice in Bangladesh,  
Dhaka, 2003.

Asian Human Rights Commission, Hong Kong,  
Translation of Article published in the Daily Prothom Alo  
Dec. 1, 2006,  
<http://www.ahrchk.net/statements/mainfile.php/2006statements/874/>

**100:** When rules violations are discovered, the judicial disciplinary agency (or equivalent mechanism) is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The judicial disciplinary agency (or equivalent mechanism) enforces rules, but is limited in its effectiveness. The judicial disciplinary agency (or equivalent mechanism) may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The judicial disciplinary agency (or equivalent mechanism) does not effectively penalize offenders. The judicial disciplinary agency (or equivalent mechanism) may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The judicial disciplinary agency (or equivalent mechanism) may be partisan in its application of power.

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35. Are there regulations governing conflicts of interest for the national-level judiciary?

25

35a. In law, members of the national-level judiciary are required to file an asset disclosure form.

YES | NO

**Comments:**

Article 14 of the Code of Conduct of the Judges of the Supreme Court states that A judge should disclose his assets and liabilities if, asked for, by the chief justice.” The spirit of this provision is often disregarded. There is no provision about publicly disclosing assets.

**References:**

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007, at 8.00 p.m.

Justice Kazi Ebadul Hoque,  
Administration of Justice in Bangladesh,  
Dhaka, 2003.

Code of Conduct of the Judges of the Supreme Court of Bangladesh,  
Dhaka, May 2000.

**YES:** A YES score is earned if all members of the national-level judiciary are required by law to file an asset disclosure form while in office, illustrating sources of income, stock holdings, and other assets. This form does not need to be publicly available to score a YES.

**NO:** A NO score is earned if any member of the national-level judiciary is not required to publicly disclose assets.

35b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

YES | NO

**Comments:**

Article 8 of the Code of Conduct of the Judges of the Supreme Court of Bangladesh states that A judge will not accept gifts or hospitality except from his family, close relatives and friends”.

**References:**

Code of Conduct of the Judges of the Supreme Court of Bangladesh,  
Dhaka, May 2000.

**YES:** A YES score is earned if there are formal guidelines regulating gifts and hospitality for members of the national-level judiciary.

**NO:** A NO score is earned if there are no guidelines or regulations with respect to gifts or hospitality offered to members of the national-level judiciary. A NO score is earned if the guidelines are general and do not specify what is and is not appropriate.

35c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

YES | **NO**

**References:**

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007, at 8.00 p.m.

Justice Kazi Ebadul Hoque,  
Administration of Justice in Bangladesh,  
Dhaka, 2003.

Code of Conduct of the Judges of the Supreme Court of Bangladesh,  
Dhaka, May 2000.

**YES:** A YES score is earned if there is a legal or regulatory requirement for independent auditing of national-level judiciary asset disclosures. The auditing is performed by an impartial third-party.

**NO:** A NO score is earned if there are no legal or regulatory requirements for the independent auditing of national-level judiciary asset disclosures or if such requirements exist but allow for self-auditing.

35d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

YES | **NO**

**Comments:**

Article 99 of the Constitution states that-

1) Except as provided in clause (2), a person who has held office as a judge otherwise than as an additional judge shall not, after his retirement or removal therefrom, plead or act before any court or authority or hold any office or profit in the service of the Republic not being a judicial or quasi-judicial office 60a[or the office of chief adviser or adviser].

(2) A person who has held office as a judge of the High Court Division may, after his retirement or removal therefrom, plead or act before the Appellate Division.”

But there is no provision/ regulation restricting post-government private sector employment for national-level judges.

**References:**

The Constitution of the Peoples Republic of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007, at 8.00 p.m.

Justice Kazi Ebadul Hoque,  
Administration of Justice in Bangladesh,  
Dhaka, 2003.

Code of Conduct of the Judges of the Supreme Court of Bangladesh,  
Dhaka, May 2000.

**YES:** A YES score is earned if there are regulations restricting national-level judges ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**NO:** A NO score is earned if no such restrictions exist.

35e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

Article 99.of the Constitution states that-

1) Except as provided in clause (2), a person who has held office as a judge otherwise than as an additional judge shall not, after his retirement or removal therefrom, plead or act before any court or authority or hold any office or profit in the service of the Republic not being a judicial or quasi-judicial office 60a[or the office of chief adviser or adviser].

(2) A person who has held office as a judge of the High Court Division may, after his retirement or removal therefrom, plead or act before the Appellate Division.”

But there is no provision/ regulation restricting post-government private sector employment for national-level judges.

**References:**

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007, at 8.00 p.m.

Justice Kazi Ebadul Hoque,  
Administration of Justice in Bangladesh,  
Dhaka, 2003.

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006,  
[www.cgs-bu.com](http://www.cgs-bu.com)

**100:** The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no or few cases of judges taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain cases, judges are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Judges routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

35f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

100 | 75 | 50 | 25 | 0

**References:**

Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000.

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007, at 8.00 p.m.

Justice Kazi Ebadul Hoque,  
Administration of Justice in Bangladesh,  
Dhaka, 2003.

**100:** The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to judges. Judges never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to members of the national-level judiciary are generally applied though exceptions exist. Some judges are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to members of the national-level judiciary are routinely ignored and unenforced. Judges routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

35g. In practice, national-level judiciary asset disclosures are audited.

100 | 75 | 50 | 25 | 0

**References:**

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007, at 8.00 p.m.

**100:** National-level judiciary asset disclosures are regularly audited using generally accepted auditing practices.

**75:**

**50:** National-level judiciary asset disclosures are audited, but audits are limited in some way, such as using inadequate auditing standards, or the presence of exceptions to disclosed assets.

**25:**

**0:** National-level judiciary asset disclosures are not audited, or the audits performed have no value. Audits may be performed by entities known to be partisan or biased in their practices.

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**36. Can citizens access the asset disclosure records of members of the national-level judiciary?**

0

36a. In law, citizens can access the asset disclosure records of members of the national-level judiciary.

YES | NO

**References:**

Code of Conduct of the Judges of the Supreme Court of Bangladesh,  
Dhaka, May 2000.

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007, at 8.00 p.m.

Justice Kazi Ebadul Hoque,  
Administration of Justice in Bangladesh,  
Dhaka, 2003.

**YES:** A YES score is earned if members of the national-level judiciary file an asset disclosure form that is, in law, accessible to the public (individuals, civil society groups or journalists).

**NO:** A NO score is earned if there is no asset disclosure for members of the national-level judiciary. A NO score is earned if the form is filed, but not available to the public.

36b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

100 | 75 | 50 | 25 | 0

**References:**

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007, at 8.00 p.m.

Justice Kazi Ebadul Hoque,  
Administration of Justice in Bangladesh,  
Dhaka, 2003.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

36c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

100 | 75 | 50 | 25 | 0

**References:**

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## III-4. Budget Processes

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### 37. Can the legislature provide input to the national budget?

75

37a. In law, the legislature can amend the budget.

**YES** | NO

**Comments:**

Article 91 of the constitution states that if in respect of any financial year it is found—(a) that the amount authorized to be expended for a particular service for the current financial year is insufficient or that a need has arisen for expenditure upon some new service not included in the annual financial for that year; or  
(b) that any money has been spent on a service during a financial year in excess of the amount granted for that service for that year;

the president shall have power to authorize expenditure from the Consolidated Fund whether or not it is charged by or under the Constitution upon that Fund and shall cause to be laid before Parliament a supplementary financial statement setting out the estimated amount of the expenditure or, as the case may be, an excess financial statement setting out the amount of the excess, and the provisions of article 87 to 90 shall (within the necessary adaptations) apply in relation to those statements as they apply in relation to the annual financial statement.

**References:**

Article 91 of the Constitution of the People's Republic of Bangladesh.

**YES:** A YES score is earned if the legislature has the power to add or remove items to the national government budget.

**NO:** A NO score is earned if the legislature can only approve but not change details of the budget. A NO score is earned if the legislature has no input into the budget process.

37b. In practice, significant public expenditures require legislative approval.

100 | 75 | 50 | 25 | 0

**References:**

Ministry of Finance, Government of Bangladesh,  
Budget 2005-2006, 2006-2007, 2007-2008, [http://www.mof.gov.bd/previous\\_budget/budget\\_2006/inbrief/inbrief\\_eng\\_contents.php](http://www.mof.gov.bd/previous_budget/budget_2006/inbrief/inbrief_eng_contents.php)

Government of the People's Republic of Bangladesh,  
Ministry of Finance, Finance Division,  
Bangladesh Economic Review 2007, [http://www.mof.gov.bd/economic/economic\\_review\\_bangla.php](http://www.mof.gov.bd/economic/economic_review_bangla.php)

Government of the People's Republic of Bangladesh,  
Ministry of Finance, Bangladesh Economic Review 2006.

Bangladesh Institute of Parliamentary Studies,  
Parliament and Public Spending in Bangladesh: Limits of Control.  
Dhaka, September 2000, P

Transparency International Bangladesh,  
Parliament Watch 2001-2006,  
Feb. 12, 2007,  
[http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401) (available in Bengali)

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha,  
Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** All significant government expenditures (defined as any project costing more than 1% of the total national budget), must be approved by the legislature. This includes defense and secret programs, which may be debated in closed hearings.

**75:**

**50:** Most significant government expenditures (as defined) are approved by the legislature, but some exceptions to this rule exist. This may include defense programs, an executive's personal budget, or other expenses.

**25:**

**0:** The legislature does not have the power to approve or disapprove large portions of the government budget, or the legislature does not exercise this power in a meaningful way.

37c. In practice, the legislature has sufficient capacity to monitor the budget process and provide input or changes.

100 | 75 | 50 | 25 | 0

**Comments:**

Bangladesh budget formulation is highly influenced by bureaucrats. There is no formal mechanism for ensuring citizen participation in the budget process or for mechanisms of accountability to citizens. In every fiscal year, the budget is presented by Finance minister to Parliament for discussion, although article 70 of the constitution prevents MPs from disagreeing with their own party. Growing civil society activism has created additional pressure on the government to be responsive after presenting the proposed/draft budget. (BRAC University, Dhaka, December, 2006, The State of Governance in Bangladesh).

**References:**

Transparency International Bangladesh, December 2006,  
Fahreen Alamgir, Tanvir Mahmud, Iftekharuzzaman, C  
orruption and Parliamentary Oversight: Primacy of the Political Will, [http://www.ti-  
bangladesh.org/Corruption&ParliamentaryOversight.pdf](http://www.ti-bangladesh.org/Corruption&ParliamentaryOversight.pdf)

Ministry of Finance, Government of Bangladesh,  
Budget 2005-2006, 2006-2007, 2007-2008, [http://www.mof.gov.bd/previous\\_budget/budget\\_2006/inbrief/inbrief\\_eng\\_contents.php](http://www.mof.gov.bd/previous_budget/budget_2006/inbrief/inbrief_eng_contents.php)

Government of the People's Republic of Bangladesh, Ministry of Finance, Finance Division, Bangladesh Economic Review  
2007, [http://www.mof.gov.bd/economic/economic\\_review\\_bangla.php](http://www.mof.gov.bd/economic/economic_review_bangla.php)

Government of the People's Republic of Bangladesh, Ministry of Finance,  
Bangladesh Economic Review 2006.

Bangladesh Institute of Parliamentary Studies,  
Parliament and Public Spending in Bangladesh: Limits of Control  
Dhaka, September 2000, P.

Transparency International Bangladesh,  
Parliament Watch 2001-2006,  
Feb. 12, 2007,  
[http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401) (available in Bengali)

Office of the Comptroller and Auditor General of Bangladesh,  
Audit Report,  
[http://www.cagbd.org/audit\\_report.php](http://www.cagbd.org/audit_report.php)

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha,  
Dhaka, Sept. 1, 2007, at 11.00 a.m.

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

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report, Bangladesh 2003.

Transparency International, Berlin, 2006,  
National Integrity Systems in South Asia.

**100:** Legislators benefit from a sufficient and qualified staff as well as adequate financial and physical resources. Lack of capacity is never a reason why legislators cannot carry out their duties effectively.

**75:**

**50:** Legislators have some staff and financial resources but are limited by a shortfall of resources to adequately perform all of their budgetary oversight functions. Legislators are occasionally overwhelmed by the volume of work to be performed.

**25:**

**0:** Legislators have little to no staff and virtually no financial resources with which to perform their budgetary oversight role. Lack of resources is a regular and systemic problem that cripples the performance of the legislature.

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## 38. Can citizens access the national budgetary process?

38a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).

100 | 75 | 50 | 25 | 0

**Comments:**

Bangladesh budget formulation is highly influenced by bureaucrats. There is no formal mechanism for ensuring citizen participation in the budget process or for mechanisms of accountability to citizens. In every fiscal year, the budget is presented by Finance minister to Parliament for discussion, although article 70 of the constitution prevents MPs from disagreeing with their own party. Growing civil society activism has created additional pressure on the government to be responsive after presenting the proposed/draft budget. (BRAC University, Dhaka, December, 2006, The State of Governance in Bangladesh).

**References:**

Government of the People's Republic of Bangladesh, Ministry of Finance, Finance Division, Bangladesh Economic Review 2007, [http://www.mof.gov.bd/economic/economic\\_review\\_bangla.php](http://www.mof.gov.bd/economic/economic_review_bangla.php)

Government of the People's Republic of Bangladesh, Ministry of Finance, Bangladesh Economic Review 2006.

Bangladesh Institute of Parliamentary Studies, Parliament and Public Spending in Bangladesh: Limits of Control Dhaka, September 2000, P.

Transparency International Bangladesh, Parliament Watch 2001-2006, Feb. 12, 2007, [http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401) (available in Bengali)

Office of the Comptroller and Auditor General of Bangladesh, Audit Report, [http://www.cagbd.org/audit\\_report.php](http://www.cagbd.org/audit_report.php)

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

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

Transparency International, Berlin, 2004, National Integrity Systems Country Study Report, Bangladesh 2003.

Transparency International, Berlin, 2006, National Integrity Systems in South Asia.

**100:** Budget debates are public and records of these proceedings are easily accessible. Authors of individual budget items can easily be identified. Nearly all budget negotiations are conducted in these official proceedings.

**75:**

**50:** There is a formal, transparent process for budget debate, but major budget modifications may be negotiated in separate, closed sessions. Some items, such as non-secret defense projects, may be negotiated in closed sessions. Authors of individual line items may be difficult to identify.

**25:**

0: Budget negotiations are effectively closed to the public. There may be a formal, transparent process, but most real discussion and debate happens in other, closed settings.

38b. In practice, citizens provide input at budget hearings.

100 | 75 | 50 | 25 | 0

**Comments:**

Bangladesh budget formulation is highly influenced by bureaucrats. There is no formal mechanism for ensuring citizen participation in the budget process or for mechanisms of accountability to citizens. In every fiscal year, the budget is presented by Finance minister to Parliament for discussion, although article 70 of the constitution prevents MPs from disagreeing with their own party. Growing civil society activism has created additional pressure on the government to be responsive after presenting the proposed/draft budget. (BRAC University, Dhaka, December, 2006, The State of Governance in Bangladesh).

**References:**

Transparency International Bangladesh, December 2006, Fahreen Alamgir, Tanvir Mahmud, Iftekharuzzaman, Corruption and Parliamentary Oversight: Primacy of the Political Will, <http://www.ti-bangladesh.org/Corruption&ParliamentaryOversight.pdf>

Ministry of Finance, Government of Bangladesh, Budget 2005-2006, 2006-2007, 2007-2008, [http://www.mof.gov.bd/previous\\_budget/budget\\_2006/inbrief/inbrief\\_eng\\_contents.php](http://www.mof.gov.bd/previous_budget/budget_2006/inbrief/inbrief_eng_contents.php)

Government of the People's Republic of Bangladesh, Ministry of Finance, Finance Division, Bangladesh Economic Review 2007, [http://www.mof.gov.bd/economic/economic\\_review\\_bangla.php](http://www.mof.gov.bd/economic/economic_review_bangla.php)

Government of the People's Republic of Bangladesh, Ministry of Finance, Bangladesh Economic Review 2006.

Bangladesh Institute of Parliamentary Studies, Parliament and Public Spending in Bangladesh: Limits of Control Dhaka, September 2000, P.

Transparency International Bangladesh, Parliament Watch 2001-2006, Feb. 12, 2007, [http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401) (available in Bengali)

Office of the Comptroller and Auditor General of Bangladesh, Audit Report, [http://www.cagbd.org/audit\\_report.php](http://www.cagbd.org/audit_report.php)

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

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

Transparency International, Berlin, 2004, National Integrity Systems Country Study Report, Bangladesh 2003.

Transparency International, Berlin, 2006, National Integrity Systems in South Asia.

**100:** Citizens, usually acting through CSOs, can provide information or commentary to the budget debate through a formal process. This information is essential to the process of evaluating budget priorities.

**75:**

**50:** Citizens or CSOs can provide input, but this information is often not relevant to budget decisions.

**25:**

**0:** Citizens or CSOs have no formal access to provide input to the budget debate.

38c. In practice, citizens can access itemized budget allocations.

100 | **75** | 50 | 25 | 0

**References:**

Transparency International Bangladesh, December 2006,  
Fahreen Alamgir, Tanvir Mahmud, Iftekharuzzaman, C  
orruption and Parliamentary Oversight: Primacy of the Political Will, <http://www.ti-bangladesh.org/Corruption&ParliamentaryOversight.pdf>

Ministry of Finance, Government of Bangladesh,  
Budget 2005-2006, 2006-2007, 2007-2008, [http://www.mof.gov.bd/previous\\_budget/budget\\_2006/inbrief/inbrief\\_eng\\_contents.php](http://www.mof.gov.bd/previous_budget/budget_2006/inbrief/inbrief_eng_contents.php)

Government of the People's Republic of Bangladesh, Ministry of Finance, Finance Division, Bangladesh Economic Review  
2007, [http://www.mof.gov.bd/economic/economic\\_review\\_bangla.php](http://www.mof.gov.bd/economic/economic_review_bangla.php)

Government of the People's Republic of Bangladesh, Ministry of Finance,  
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[http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401) (available in Bengali)

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Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha,  
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[www.cgs-bu.com](http://www.cgs-bu.com)

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report, Bangladesh 2003.

Transparency International, Berlin, 2006,  
National Integrity Systems in South Asia.

**100:** Citizens, journalists and CSOs can access itemized lists of budget allocations. This information is easily available and up to date.

**75:**

**50:** Citizens, journalists and CSOs can access itemized lists of budget allocations but this information may be difficult to access, incomplete or out of date.

**25:**

**0:** Citizens cannot access an itemized list of budget allocations, due to secrecy, prohibitive barriers or government inefficiency.

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### 39. In law, is there a separate legislative committee which provides oversight of public funds?

100

39. In law, is there a separate legislative committee which provides oversight of public funds?

YES

NO

#### Comments:

Article 91 of the constitution states that Parliament shall appoint from among its members the following standing committees, that is to say—

- (a) a Public Accounts Committee;
- (b) Committee of Privileges; and
- (c) such other standing committees as the rules of procedures of Parliament require.

The Public Accounts Committee is a very important parliamentary standing committee, which is directly responsible and authorized to scrutinize the accounts of the government and the report of the comptroller and auditor-general.

Article 233 of the Rule of Procedure of Parliament of the Peoples republic of Bangladesh states that :

“(1) There shall be a Committee on Public Accounts for the examination of accounts showing the appropriation of sums granted by the House for the expenditure of the [government], the annual finance accounts of the 58[Government] and such other accounts laid before the House as the Committee may think fit. [Upon examination of irregularities and lapses of Institutions, the Committee shall report to Parliament with recommendations of remedial measures.]

(2) In scrutinizing the Appropriation Accounts of the 2[Government] and the report of the comptroller and auditor-general thereon, it shall be the duty of the Committee to satisfy itself-

(a) that the moneys shown in the accounts as having been disbursed were legally available for, and applicable to, the service or purpose to which they have been applied or charged;

(b) that the expenditure conforms to the authority which governs it; and

(c) that every re-appropriation has been made in accordance with the provisions made in this behalf under rules framed by competent authority.

(3) It shall also be the duty of the Committee-

(a) to examine the statement of accounts showing the income and expenditure of state corporations, trading and manufacturing schemes, concerns and projects together with the balance-sheets and statements of profit and loss accounts which the president may have required to be prepared or are prepared under the provisions of the statutory rules regulating the financing of a particular corporation, trading or manufacturing scheme or concern or project and the report of the comptroller and auditor-general thereon;

(b) to examine the statement of accounts showing the income and expenditure of autonomous and semi-autonomous bodies, the audit of which may be conducted by the comptroller and auditor-general of Bangladesh either under the directions of the president or by a statute of Parliament; and

(c) to consider the report of the comptroller and auditor-general in cases where the president may have required him to conduct an audit of any receipts or to examine the accounts of stores and stocks.

(4) If any money has been spent on any service during a financial year in excess of the amount granted by the House for that purpose, the Committee shall examine with reference to the facts of each case the circumstances leading to such an excess and make such recommendation as it may deem fit.”

**References:**

Arts. 76, 91 of the Constitution of the Peoples Republic of Bangladesh.

Art. 234 of the Rule of Procedure of Parliament of the Peoples Republic of Bangladesh; <http://www.parliamentofbangladesh.org/rprocedure.htm>

**YES:** A YES score is earned if there is a dedicated legislative committee (or equivalent group located in the legislature) that oversees the expenditure of public funds.

**NO:** A NO score is earned if no such body exists within the legislature. A NO score is earned if there is a body executing this function but it is not part of the legislature (such as a separate supreme audit institution).

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#### 40. Is the legislative committee overseeing the expenditure of public funds effective?

50

40a. In practice, department heads regularly submit reports to this committee.

100 | 75 | **50** | 25 | 0

**Comments:**

Bangladesh budget formulation is highly influenced by bureaucrats. There is no formal mechanism for ensuring citizen participation in the budget process or for mechanisms of accountability to citizens. In ever fiscal year, the budget is presented by Finance minister to Parliament for discussion, although article 70 of the constitution prevents MPs from disagreeing with their own party. Bureaucrats receive expenditure forecast from line ministries, prepare projects for approval by the Executive Committee of the National Economic Council (ECNEC). Parliamentary standing committees have no opportunity to comment on the budget until it is presented in full before Parliament. Growing civil society activism has created additional pressure on the government to be responsive after presenting the proposed/draft budget. (Inserted from a study of BRAC University, Dhaka, December, 2006, The State of Governance in Bangladesh).

**References:**

Transparency International Bangladesh, December 2006, Fahreen Alamgir, Tanvir Mahmud, Iftekharuzzaman, Corruption and Parliamentary Oversight: Primacy of the Political Will, <http://www.ti-bangladesh.org/Corruption&ParliamentaryOversight.pdf>

Ministry of Finance, Government of Bangladesh, Budget 2005-2006, 2006-2007, 2007-2008, [http://www.mof.gov.bd/previous\\_budget/budget\\_2006/inbrief/inbrief\\_eng\\_contents.php](http://www.mof.gov.bd/previous_budget/budget_2006/inbrief/inbrief_eng_contents.php)

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BRAC University, Dhaka,  
The State of Governance in Bangladesh,  
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[www.cgs-bu.com](http://www.cgs-bu.com)

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report, Bangladesh 2003.

Transparency International, Berlin, 2006,  
National Integrity Systems in South Asia.

**100:** Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.

**75:**

**50:** Agency heads submit reports to a budget oversight committee, but these reports are flawed in some way. The reports may be inconsistently delivered, or lacking important details.

**25:**

**0:** There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

40b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

100 | 75 | **50** | 25 | 0

#### Comments:

As regards priority and urgency about the committees, the 1972 Constitution was very clear when the Article 76.1 provided that the committees be formed by the Parliament, at its first meeting in each session. This provision was later omitted under the Fourth Amendment Act of 195 Act II of 1975, s.11. Consequently, the time-bound nature of the Parliament's obligation was lost, as a result of which the formation of the committees has become a matter of goodwill, causing long delays, in some cases more than a year and a half. All standing committees are composed of 10 members, except for the Standing Committee on Public Accounts which has 15. There is no specific provision with regard to party-wise distribution in the composition, or about representation of the opposition in the committees, which is one of the most important means of making the committees vibrant and effective. The study shows the party-wise composition of the standing committees in the 8th Parliament, which may be justifiably argued to reflect the composition of the Parliament itself. However, there is no denying that such composition is not consistent with the underlying objective of ensuring lively, balanced and effective debate and investigation into allegations of corruption and other deviations from the rule. A TIB monitoring of the working of the

8th Bangladesh Parliament shows that most of committees were not able to meet the mandatory meeting requirement, which is a violation of Rules of Procedure. It was further observed that most of the standing committees (21) were formed after about 18 months of the first sitting of 8th parliament (May 12 and July 15, 2003). The committees were supposed to meet at least 41 and 39 times, respectively, according to the rules of procedure. Only about 13 percent or five out of 38 committees met 39 or more times, which means nearly 87 percent of the committees violated the rule. Also, in a meeting, the presence of the members of the standing committee was not satisfactory. The rate of attendance in meetings held were also not at par with the importance of the work of the Committees in the Committees on ministries the average number of members present was six persons, while in the public accounts committee, the average attendance of members were 8.73 (Inserted from a study of TIB, December 2006, <http://www.ti-bangladesh.org/Corruption&ParliamentaryOversight.pdf>)

The chairmen of different standing committees identified a number of reasons that did not allow the committees to emerge as real agents of accountability. Speaking at an open discussion, the chairmen of different committees identified non-cooperation of the ministers and high officials of various ministries as the main impediment. The chairman of the Standing Committee on the Communication Ministry, for instance, informed that his committee came under pressure from the government high-ups when it began to probe irregularities and corruption of the ministry. Some senior ministers even met the prime minister to amend the rules of procedure 247, he added. The chairman of the Standing Committee on Defense told the meeting Even though the Committee takes decisions and make recommendations in presence of ministers, the recommendation are not implemented. He termed the parliamentary committees as good-for-nothing. (Inserted from a study of TIB, December 2006, <http://www.ti-bangladesh.org/Corruption&ParliamentaryOversight.pdf>).

#### References:

Transparency International Bangladesh, December 2006,  
Fahreen Alamgir, Tanvir Mahmud, Iftexharuzzaman,  
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Dhaka, September 2000,

Transparency International Bangladesh,  
Parliament Watch 2001-2006,  
Feb. 12, 2007,  
[http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401) (available in Bengali)

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha,  
Dhaka, Sept. 1, 2007, at 11.00 a.m.

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

**100:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties in a roughly equitable distribution. All members of the committee — including opposition party members — are able to fully participate in the activities of the committee and influence the committee's work to roughly the same extent as any other member of the committee.

**75:**

**50:** The committee is comprised of legislators from both the ruling party (or parties) and opposition parties although the ruling party has a disproportionate share of committee seats. The chairperson of the committee may be overly influential and curb other members' ability to shape the committee's activities.

**25:**

**0:** The committee is dominated by legislators of the ruling party and/or the committee chairperson. Opposition legislators serving on the committee have in practice no way to influence the work of the committee.

40c. In practice, this committee is protected from political interference.

**Comments:**

In the 8th Parliament, all standing committees are composed of 10 members, except the Standing Committee on Public Accounts which has 15. There is no specific provision with regard to party-wise distribution in the composition, or about representation of the opposition in the committees, which is one of the most important means of making the committees vibrant and effective. The study shows the party-wise composition of the standing committees in the 8th Parliament, which may be justifiably argued to reflect the composition of the Parliament itself. However, there is no denying that such composition is not consistent with the underlying objective of ensuring lively, balanced and effective debate and investigation into allegations of corruption and other deviations from the rule. A TIB monitoring of the working of the 8th Bangladesh Parliament shows that most of committees were not able to meet the mandatory meeting requirement, which is a violation of Rules of Procedure. The chairmen of different standing committee identified a number of reasons that did not allow the committees to emerge as real agents of accountability. The Chairman of the Standing Committee on the Communication Ministry, for instance, informed that his committee came under pressure from the government high-ups when it began to probe irregularities and corruption of the ministry. Some senior ministers even met the prime minister to amend the rules of procedure 247, he added. The Chairman of the Standing Committee on Defence told the meeting Even though the Committee takes decisions and make recommendations in presence of ministers, the recommendation are not implemented. He termed the parliamentary committees as good-for-nothing. (Inserted from a study of TIB, December 2006, <http://www.ti-bangladesh.org/Corruption&ParliamentaryOversight.pdf>).

**References:**

Transparency International Bangladesh, December 2006, Fahreen Alamgir, Tanvir Mahmud, Iftexharuzzaman, Corruption and Parliamentary Oversight: Primacy of the Political Will, <http://www.ti-bangladesh.org/Corruption&ParliamentaryOversight.pdf>

Bangladesh Institute of Parliamentary Studies, Parliament and Public Spending in Bangladesh: Limits of Control. Dhaka, September 2000, Pa

Transparency International Bangladesh, Parliament Watch 2001-2006, Feb. 12, 2007, [http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401) (available in Bengali)

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

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

**100:** This committee operates independently of the political process, without incentive or pressure to render favorable judgments on politically sensitive issues. Investigations are rarely praised or criticized by political figures.

**75:**

**50:** This committee is usually independent but is sometimes influenced by negative or positive political incentives. This may include public praise or criticism by the government.

**25:**

**0:** This committee is commonly influenced by personal or political forces or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties that ultimately influence the committee's behavior and decision-making. Negative incentives may include threats, harassment or other abuses of power by the government.

40d. In practice, when necessary, this committee initiates independent investigations into financial irregularities.

**Comments:**

Available information and evidences on the work of the committees further reveals that most of the committees could not make any significant contribution in terms of investigation against corruption or other irregularities of different ministries under their jurisdiction. The chairmen of different standing committees identified a number of reasons that did not allow the committees to emerge as real agents of accountability. Speaking at an open discussion, the chairmen of different committees identified non-cooperation of the ministers and high officials of various ministries as the main impediment. The Chairman of the Standing Committee on the Communication Ministry, for instance, informed that his committee came under pressure from the government high-ups when it began to probe irregularities and corruption of the ministry. Some senior ministers even met the prime minister to amend the rules of procedure 247, he added. The Chairman of the Standing Committee on Defense told the meeting Even though the Committee takes decisions and make recommendations in presence of ministers, the recommendation are not implemented. He termed the parliamentary committees as good-for-nothing. (Inserted from a study of TIB, December 2006, <http://www.ti-bangladesh.org/Corruption&ParliamentaryOversight.pdf>).

**References:**

Transparency International Bangladesh, December 2006,  
Fahreen Alamgir, Tanvir Mahmud, Iftekharuzzaman, C  
orruption and Parliamentary Oversight: Primacy of the Political Will, <http://www.ti-bangladesh.org/Corruption&ParliamentaryOversight.pdf>

Bangladesh Institute of Parliamentary Studies,  
Parliament and Public Spending in Bangladesh: Limits of Control.  
Dhaka, September 2000, Pa

Transparency International Bangladesh,  
Parliament Watch 2001-2006,  
Feb. 12, 2007, [http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401) (available in Bengali)

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha,  
Dhaka, Sept. 1, 2007, at 11.00 a.m.

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

**100:** When irregularities are discovered, the committee is aggressive in investigating the government.

**75:**

**50:** The committee starts investigations, but is limited in its effectiveness. The committee may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The committee does not effectively investigate financial irregularities. The committee may start investigations but not complete them, or may fail to detect offenders. The committee may be partisan in its application of power.

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41. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

100

41a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.

YES | NO

**Comments:**

Rule 30 of The Government Servant (Conduct) Rules, 1979 states that – No Government servant shall bring, or attempt to bring, political or other outside influence, directly or indirectly, to bear on the government or any government servant in support, of any claim arising in connection with his employment as such.

**References:**

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**YES:** A YES score is earned if there are specific formal rules establishing that the civil service carry out its duties independent of political interference.

**NO:** A NO score is earned if there are no formal rules establishing an independent civil service.

41b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

YES | NO

**Comments:**

Rule 27 of The Government Servant (Conduct) Rules, 1979 states – No Government servant shall indulge in parochialism, favoritism, victimization and willful abuse of office.

Rule 27B of The Government Servant (Conduct) Rules, 1979 states that – (i) Where a Government servant while discharging his official duty, finds –

(a) that any person who is a member of his family or his first degree relative is interested in any matter pending with him, relating to any contract with any company or firm or to any other person;

(b) that any person who is a member of his family or his first degree relative is employed in such company or firm or under such person, he shall not deal with the matter and sent the same to his higher authority for decision.

Explanation – For the purpose of this rule, family and first-degree relatives include – wife, husband, parents, son, daughter, brother, sister and person wholly dependent upon the concerned government servant.

(ii) Where the spouse of a government servant is a member of any political party or involved in any political activity in any manner, the concerned government servant shall, at once, in writing, report it to the government.”

Rule 30 of the The Government Servant (Conduct) Rules, 1979 states that – No Government servant shall bring, or attempt to bring, political or other outside influence, directly or indirectly, to bear on the government or any government servant in support, of any claim arising in connection with his employment as such.”

**References:**

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

**YES:** A YES score is earned if there are specific formal rules prohibiting nepotism, cronyism, and patronage in the civil service. These should include competitive recruitment and promotion procedures as well as safeguards against arbitrary disciplinary actions and dismissal.

**NO:** A NO score is earned if no such regulations exist.

41c. In law, there is an independent redress mechanism for the civil service.

YES | NO

**References:**

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**YES:** A YES score is earned if there is a mechanism to which civil servants and applicants for the civil service can take grievances regarding civil service management actions. Civil servants are able to appeal the mechanism’s decisions to the judiciary.

**NO:** A NO score is earned if no such mechanism exists.

41d. In law, civil servants convicted of corruption are prohibited from future government employment.

YES | NO

**References:**

Rules 3, 4 of Chapter 3 of The Government Servants Discipline and Appeal Rules, 1985", Government of Bangladesh.

**YES:** A YES score is earned if there are specific rules prohibiting continued government employment following a corruption conviction.

**NO:** A NO score is earned if no such rules exist.

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## 42. Is the law governing the administration and civil service effective?

56

42a. In practice, civil servants are protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

Politicization has taken a heavy toll of our bureaucracy. Ministers try to influence the public officials to make administrative decision in their favor. Even the ministers or MPs threat with awful consequence the officials, if their demands are not met. Due to successive politicization in public administration, the incompetent people have been placed in different key point in our administration. The Bangladesh Governance Report 2007 conducted by PPRC states that various group of officers have been recruited into the civil service, without meeting the criteria for entering the service (page-84).

With the reference of the Bangladesh Observer published on July 22, 2006, the State of Governance in Bangladesh 2006 report described the politicization scenario in recruitment and promotion in civil administration. The report (p-55) mentioned that on July 13, 2006, the government promoted 153 deputy secretaries to the post of joint secretary, depriving around 100 eligible officers along with five additional secretaries promoted to the post of secretary.

**References:**

BRAC University, Centre for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006,  
[www.cgs-bu.com](http://www.cgs-bu.com)

Power and Participation Research Centre (PPRC), Bangladesh Governance Report 2007, p-84-85  
Dhaka, 2007

Transparency International Bangladesh, March 2007,  
Bangladesh Public Service Commission: A Diagnostic Study, w  
[www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh,  
Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Transparency International Bangladesh,  
Working Paper on Bangladesh Election Commission  
November 06, 2006,  
[www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Transparency International Bangladesh, May 2007, P  
Problems and Potentials of Chittagong Port: Follow-up Diagnostic Study, [http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401)

Transparency International Bangladesh, August, 2007, B  
Bangladesh Airlines: A Diagnostic Study, [http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401)

**100:** Civil servants operate independently of the political process, without incentive or pressure to render favorable treatment or policy decisions on politically sensitive issues. Civil servants rarely comment on political debates. Individual judgments are rarely praised or criticized by political figures. Civil servants can bring a case to the courts challenging politically-motivated firings.

**75:**

**50:** Civil servants are typically independent, yet are sometimes influenced in their judgments by negative or positive political or personal incentives. This may include favorable or unfavorable treatment by superiors, public criticism or praise by the government, or other forms of influence. Civil servants may bring a case to the judicial system challenging politically-motivated firings but the case may encounter delays or bureaucratic hurdles.

**25:**

**0:** Civil servants are commonly influenced by political or personal matters. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. Civil servants are unable to find a remedy in the courts for unjustified or politically-motivated firings.

42b. In practice, civil servants are appointed and evaluated according to professional criteria.

100 | 75 | **50** | 25 | 0

**Comments:**

Politicization has taken a heavy toll of our bureaucracy. Ministers try to influence the public officials to make administrative decision in their favor. Even the ministers or MPs threaten with awful consequences the officials, if their demands are not met. Due to successive politicization in public administration, the incompetent people have been placed in different key points in our administration. The Bangladesh Governance Report 2007 conducted by PPRC states that various groups of officers have been recruited into the civil service, without meeting the criteria for entering the service (page-84).

With the reference of the Bangladesh Observer published on July 22, 2006, the State of Governance in Bangladesh 2006 report described the politicization scenario in recruitment and promotion in civil administration. The report (p-55) mentioned that on July 13, 2006, the government promoted 153 deputy secretaries to the post of joint secretary, depriving around 100 eligible officers along with five additional secretaries promoted to the post of secretary.

**References:**

BRAC University, Centre for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006,  
[www.cgs-bu.com](http://www.cgs-bu.com)

Power and Participation Research Centre (PPRC), Bangladesh Governance Report 2007, p-84-85  
Dhaka, 2007

Transparency International Bangladesh, March 2007,  
Bangladesh Public Service Commission: A Diagnostic Study, w  
www.ti-bangladesh.org

Transparency International, Berlin, 2004,  
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Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh,  
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Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha,  
Dhaka, Sept. 1, 2007, at 11.00 a.m.

Transparency International Bangladesh,  
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November 06, 2006,  
www.ti-bangladesh.org

Transparency International Bangladesh, May 2007, P  
roblems and Potentials of Chittagong Port: Follow-up Diagnostic Study, [http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401)

Transparency International Bangladesh, August, 2007, B  
Bangladesh Airlines: A Diagnostic Study, ht  
tp://www.ti-bangladesh.org/index.php?page\_id=401

**100:** Appointments to the civil service and their professional evaluations are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments and professional assessments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments and professional assessments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

42c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

100 | 75 | **50** | 25 | 0

**Comments:**

Politicization has taken a heavy toll of our bureaucracy. Ministers try to influence the public officials to make administrative decision in their favor. Even the ministers or MPs threat with awful consequence the officials, if their demands are not met. Due to successive politicization in public administration, the incompetent people have been placed in different key point in our administration. The Bangladesh Governance Report 2007 conducted by PPRC states that various group of officers have been recruited into the civil service, without meeting the criteria for entering the service (page-84).

With the reference of the Bangladesh Observer published on July 22, 2006, the State of Governance in Bangladesh 2006 report described the politicization scenario in recruitment and promotion in civil administration. The report (p-55) mentioned that on July 13, 2006, the government promoted 153 deputy secretaries to the post of joint secretary, depriving around 100 eligible officers along with five additional secretaries promoted to the post of secretary.

**References:**

BRAC University, Centre for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006,  
www.cgs-bu.com

Power and Participation Research Centre (PPRC), Bangladesh Governance Report 2007, p-84-85  
Dhaka, 2007

Transparency International Bangladesh, March 2007,  
Bangladesh Public Service Commission: A Diagnostic Study, w  
www.ti-bangladesh.org

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh,  
Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha,  
Dhaka, Sept. 1, 2007, at 11.00 a.m.

Transparency International Bangladesh,  
Working Paper on Bangladesh Election Commission  
November 06, 2006,  
www.ti-bangladesh.org

Transparency International Bangladesh, May 2007, P  
roblems and Potentials of Chittagong Port: Follow-up Diagnostic Study, [http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401)

Transparency International Bangladesh, August, 2007, B  
Bangladesh Airlines: A Diagnostic Study, ht  
tp://www.ti-bangladesh.org/index.php?page\_id=401

**100:** Nepotism (favorable treatment of family members), cronyism (favorable treatment of friends and colleagues), and patronage (favorable treatment of those who reward their superiors) are actively discouraged at all levels of the civil service. Hirings, firings, and promotions are based on merit and performance.

**75:**

**50:** Nepotism, cronyism, and patronage are discouraged, but exceptions exist. Political leaders or senior officials sometimes appoint family member or friends to favorable positions in the civil service, or lend other favorable treatment.

**25:**

**0:** Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

42d. In practice, civil servants have clear job descriptions.

100 | 75 | 50 | 25 | 0

**References:**

Transparency International Bangladesh,  
Working Paper on Bangladesh Election Commission,  
Nov. 6, 2006, W  
www.ti-bangladesh.org

BRAC University, Centre for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
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www.cgs-bu.com

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Transparency International Bangladesh,  
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Transparency International Bangladesh, May 2007, P  
roblems and Potentials of Chittagong Port: Follow-up Diagnostic Study, [http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401)

Transparency International Bangladesh, August, 2007, B  
Bangladesh Airlines: A Diagnostic Study, ht  
tp://www.ti-bangladesh.org/index.php?page\_id=401

**100:** Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable means to map positions to both human capital requirements (including the position's authority and responsibilities) and base pay.

**75:**

**50:** Civil servants often have formal job descriptions, but exceptions exist. Some civil servants may not be part of the formal assignment of duties and compensations. Some job descriptions may not map clearly to pay or responsibilities in some cases.

**25:**

**0:** Civil servants do not have formal roles or job descriptions. If they do, such job descriptions have little or nothing to do with the position's responsibilities, authority, or pay.

42e. In practice, civil servant bonuses constitute only a small fraction of total pay.

100 | 75 | 50 | **25** | 0

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh,  
Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha,  
Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** Civil servant bonuses constitute no more than 10% of total pay and do not represent a major element of take-home pay.

**75:**

**50:** Civil servant bonuses are generally a small percentage of total take-home pay for most civil servants though exceptions exist where some civil servants' bonuses represent a significant part of total pay.

**25:**

**0:** Most civil servants receive bonuses that represent a significant amount of total take-home pay. In some cases bonuses represent the majority of total pay to civil servants.

42f. In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

100 | 75 | **50** | 25 | 0

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Transparency International Bangladesh, March 2007, Bangladesh Public Service Commission: A Diagnostic Study, [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Transparency International Bangladesh, Working Paper on Bangladesh Election Commission Nov. 6, 2006, W, [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Transparency International Bangladesh, May 2007, Problems and Potentials of Chittagong Port: Follow-up Diagnostic Study, [http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401)

Transparency International Bangladesh, August, 2007, Biman Bangladesh Airlines: A Diagnostic Study, [http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401)

**100:** The government publishes such a list on a regular basis.

**75:**

**50:** The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

**25:**

**0:** The government rarely or never publishes such a list, or when it does it is wholly incomplete.

42g. In practice, the independent redress mechanism for the civil service is effective.

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006, www.cgs-bu.com

Transparency International Bangladesh, March 2007, B  
Bangladesh Public Service Commission: A Diagnostic Study, www.ti-bangladesh.org

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Transparency International Bangladesh, , W  
Working Paper on Bangladesh Election Commission,  
Nov. 6, 2006  
www.ti-bangladesh.org

Transparency International Bangladesh, August, 2007, B  
Bangladesh Airlines: A Diagnostic Study, [http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401)

**100:** The independent redress mechanism for the civil service can control the timing and pace of its investigations without any input from the bodies that manage civil servants on a day-to-day basis.

**75:**

**50:** The independent civil service redress mechanism can generally decide what to investigate and when but is sometimes subject to pressure from the executive or the bodies that manage civil servants on a day-to-day basis on politically sensitive issues.

**25:**

**0:** The civil service redress mechanism must rely on approval from the executive or the bodies that manage civil servants on a day-to-day basis before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

42h. In practice, in the past year, the government has paid civil servants on time.

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

**100:** In the past year, no civil servants have been paid late.

**75:**

**50:** In the past year, some civil servants have been paid late.

**25:**

**0:** In the past year, civil servants have frequently been denied due pay.

42i. In practice, civil servants convicted of corruption are prohibited from future government employment.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** A system of formal blacklists and cooling off periods is in place for civil servants convicted of corruption. All civil servants are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some civil servants may not be affected by the system, or the prohibitions are sometimes not effective.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.

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### 43. Are there regulations addressing conflicts of interest for civil servants?

46

43a. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.

YES | NO

**Comments:**

Rule 27B of The Government Servant (Conduct) Rules, 1979 states that (Conflict of Interest) – (i) Where a government servant while discharging his official duty, finds –

(a) that any person who is a member of his family or his first degree relative is interested in any matter pending with him, relating to any contract with any company or firm or to any other person;

(b) that any person who is a member of his family or his first degree relative is employed in such company or firm or under such person, he shall not deal with the matter and send the same to his higher authority for decision.

Explanation – For the purpose of this rule family and first-degree relatives include – wife, husband, parents, son, daughter, brother, sister and person wholly dependent upon the concerned government servant.

(ii) Where the spouse of a government servant is a member of any political party or involved in any political activity in any manner, the concerned government servant shall, at once, in writing, report it to the government.

**References:**

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh

**YES:** A YES score is earned if there are requirements for civil servants to recuse themselves from policy decisions where their personal interests, including personal financial interests as well as those of their family and friends, are affected.

**NO:** A NO score exists if no such requirements exist in regulation or law.

43b. In law, there are restrictions for civil servants entering the private sector after leaving the government.

YES | NO

**Comments:**

There are no restrictions on post public service employment except few constitutional posts, such as comptroller and auditor general, chief election commissioner, judges.

**References:**

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh,  
Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha,  
Dhaka, Sept. 1, 2007, at 11.00 a.m.

**YES:** A YES score is earned if there are regulations restricting civil servants' ability to take positions in the private sector after leaving government that would present a conflict of interest, including positions that directly seek to influence their former government colleagues.

**NO:** A NO score is earned if no such restrictions exist.

43c. In law, there are regulations governing gifts and hospitality offered to civil servants.

YES | NO

**Comments:**

The government service rules provide for registration of gifts in an official manner (Rules 5-7 of The Government Servant (Conduct) Rules, 1979). There are no rules limiting the acceptance of hospitality.

Rule 5 of The Government Servant (Conduct) Rules, 1979 states that- (i) Save as otherwise provided in this rule, no Government servant shall, except with the previous sanction of the government, accept, or permit any member of his family to accept, from any person any gift the receipt of which will place him under any form of official obligation to the donor. If the offer of a gift cannot be refused without giving undue offence, it may be accepted and delivered to the government for decision as to its disposal.

(ii) If any question arises whether receipt of a gift places a government servant under any form of official obligation to the donor, the decision of the government thereon shall be final.

(iii) If any gift is offered by the head or representative of a foreign state the government servant concerned should attempt to avoid acceptance of such a gift, if he can do so without giving offence. If, however, he cannot do so he shall accept the gift and shall report its receipt to the Establishment Division for orders as to its disposal.

(iv) Secretaries to the government, or officers of equivalent status may accept gifts, offered abroad or within Bangladesh by institutions or officials dignitaries of foreign government of comparable or higher level provided that the value of the gift in each case does not exceed 500 taka (US\$7.27). If the gift is capable of being used in a government office or department or at official residence, it should be used, accordingly. If the gift cannot be so used, the government servant may retain it for his own use.

Rules 6 of The Government Servant (Conduct) Rules, 1979 states that – No Government servant shall, except with the approval of the president accept a foreign award, title or decoration.

Explanation.-For the purposes of this rule, the expression approval of president” means prior approval in ordinary cases and ex post facto approval in special cases where sufficient time is not available for obtaining prior approval.

Rules 7 of The Government Servant (Conduct) Rules, 1979 states that – (i) No Government servant shall encourage meetings to be held in his honour or presentation of addresses of which the main purpose is to praise him or any entertainment to be held in his honour.

(ii) Subject to the provisions of any general or special order of the government, a government servant may attend a fare-well entertainment of a substantially private and informal character held as a mark of regard to himself or to some other government servant, or to a person who has recently quitted the service of government, on the occasion of retirement from service or departure from a district or station of himself or such other government servant or person.”

**References:**

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

**YES:** A YES score is earned if there are formal guidelines regarding gifts and hospitality given to civil servants.

**NO:** A NO score is earned if there are no such guidelines or regulations.

43d. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100 | 75 | 50 | 25 | 0

**Comments:**

There are no restrictions on post public service employment except few constitutional posts, such as comptroller and auditor general, chief election commissioner, judges.

**References:**

Transparency International Bangladesh, March 2007,  
Bangladesh Public Service Commission: A Diagnostic Study, [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no or few cases of civil servants taking jobs in the private sector after leaving government where they directly lobby or seek to influence their former government colleagues without an adequate cooling off" period.

**75:**

**50:** The regulations are generally enforced though some exceptions exist. In certain sectors, civil servants are known to regularly take jobs in the private sector that entail directly lobbying or seeking to influence their former government colleagues. Cooling off periods are short and sometimes ignored.

**25:**

**0:** The regulations are rarely or never enforced. Civil servants routinely take jobs in the private sector following government employment that involve direct lobbying or influencing of former government colleagues. Cooling off periods are non-existent or never enforced.

43e. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** The regulations governing gifts and hospitality to civil servants are regularly enforced and sufficiently restrict the amounts of gifts and hospitality that can be given to civil servants. Civil servants never or rarely accept gifts or hospitality above what is allowed.

**75:**

**50:** The regulations governing gifts and hospitality to civil servants are generally applied though exceptions exist. Some civil servants in certain sectors are known to accept greater amounts of gifts and hospitality from outside interest groups or private sector actors than is allowed.

**25:**

**0:** The regulations governing gifts and hospitality to the civil service are routinely ignored and unenforced. Civil servants routinely accept significant amounts of gifts and hospitality from outside interest groups and actors seeking to influence their decisions.

43f. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.

100 | 75 | 50 | **25** | 0

**Comments:**

The conflict of interest rules are not strictly followed by public officials.

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

**100:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are routinely followed by most or all civil servants.

**75:**

**50:** The requirements that civil servants recuse themselves from policy decisions where their personal interests are affected are followed by most civil servants though exceptions exist. In certain sectors, civil servants are known to routinely participate in policy decisions where their personal interests are affected.

**25:**

**0:** Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

0

44a. In law, citizens can access the asset disclosure records of senior civil servants.

YES | **NO**

**Comments:**

Bangladesh has no "Right to Information" Act, but it has an "Official Secrecy Act."

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**YES:** A YES score is earned if laws or regulations guarantee that citizens can access the asset records of senior civil servants.

**NO:** A NO score is earned if senior civil servants do not file an asset disclosure. A NO score is earned if senior civil servants file an asset disclosure, but it is not available to the public.

44b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | **0**

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

44c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## IV-2. Whistle-blowing Measures

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45. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

75

45a. In law, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

**References:**

The Constitution of the Peoples Republic of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>

The Police Act of 1861.

The Police Regulation of Bengal (PRB), 1943.

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

Anti-Corruption Commission Act, 2004

Penal Code 1868

The Code of Civil Procedure, 1908

**YES:** A YES score is earned if there are specific laws against recrimination against public sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**NO:** A NO score is earned if there are no legal protections for public-sector whistleblowers.

45b. In practice, civil servants who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | **50** | 25 | 0

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** Public sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Public sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

45c. In law, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

YES | NO

**References:**

The Police Act of 1861.

The Police Regulation of Bengal (PRB), 1943.

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

Anti-Corruption Commission Act, 2004

Penal Code 1868

The Code of Civil Procedure, 1908

**YES:** A YES score is earned if there are specific laws against recrimination against private sector whistleblowers. This may include prohibitions on termination, transfer, harassment or other consequences.

**NO:** A NO score is earned if there are no legal protections for private-sector whistleblowers.

45d. In practice, private sector employees who report cases of corruption, graft, abuse of power, or abuse of resources are protected from recrimination or other negative consequences.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007, at 8.00 p.m.

Interview with Abdullah Al Mahmud, Chartered accountant, Haque Shah Alam Manshur & Co., Dhaka, Sept. 10, 2007, at 10.30 a.m. (over phone)

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** Private sector whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Private sector whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

25:

0: Private sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

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46. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

100

46. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

YES | NO

**Comments:**

On Feb. 22, 2007, the caretaker government appointed Lt.Gen.(Retd.) Hasan Mashhud Chowdhury as chairman and other two individuals as members, respectively, who are all known as men of high integrity and efficiency. Over 1,000 staff are working in the ACC. Already the caretaker government has amended the Anti-Corruption Act, 2004, and published the Anti-Corruption Commission Bidhimala (Rules), 2007, to strengthen the ACC.

Moreover, a high-powered National Coordination Committee (NCC) was constituted for leading the country-wide operation to curb corruption and major grievous offences who are announced by e-mail, phone and fax. On March 8, 2007, the caretaker government issued a gazette notification to give the legal shape to the NCC. In the NCC are all general officers commanding (GOCs), secretaries to Chief Advisor's office and the ACC, the chairman of NBR, director general of Central Intelligence Cell of NBR, and other top government officials.

**References:**

The Police Act of 1861.

The Police Regulation of Bengal (PRB), 1943.

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

Anti-Corruption Commission Act, 2004

Penal Code 1868

The Code of Civil Procedure, 1908

**YES:** A YES score is earned if there is a mechanism, or multiple mechanisms for multiple national government agencies, through which civil servants can report cases of graft, misuse of public funds, or corruption.

**NO:** A NO score is earned if no such mechanism (or equivalent series of mechanisms) exists.

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47. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

47a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**References:**

Shamim Ahmad  
The War of Corruption  
published in Dhaka Courier,  
March 16-22, 2007, vol.23 issue 34,  
[www.dhakacourier.net](http://www.dhakacourier.net)

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007, at 8.00 p.m.

**100:** The agency/entity has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency/entity has limited staff, a fact that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency/entity has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

47b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

100 | 75 | 50 | 25 | 0

**References:**

Ministry of Finance  
<http://www.mof.gov.bd/>

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007, at 8.00 p.m.

**100:** The agency/entity has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency/entity has a regular source of funding but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

47c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

100 | 75 | **50** | 25 | 0

**References:**

Transparency International Bangladesh, Dhaka 2001,  
Fact Finding Report on Bureau of Anti Corruption,  
[www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007, at 8.00 p.m.

**100:** The agency/entity acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

47d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

**References:**

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Interview with Abdullah Al Mahmud, Chartered accountant, Haque Shah Alam Manshur & Co., Dhaka, Sept. 10, 2007, at 10.30 a.m. (over phone)

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating the government or in cooperating with other agencies' investigations.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, reluctant to cooperate with other investigative agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate. The agency/entity may start investigations but not complete them, may refuse to cooperate with other investigative agencies, or may fail to detect offenders. The agency/entity may be partisan in its application of power.

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77  
IV-3. Procurement

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48. Is the public procurement process effective?

88

48a. In law, there are regulations addressing conflicts of interest for public procurement officials.

YES | NO

**References:**

Government of Bangladesh, Public Procurement Regulations 2003, , Bangladesh

Ministry of Planning, Government of the Peoples Republic of Bangladesh, March 2004, "The Procedures for Implementation of the Public Procurement Regulations 2003", p. 4-5.

**YES:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for public procurement officials. A YES score is earned if such regulations cover all civil servants, including procurement officials.

**NO:** A NO score is earned if no such rules exist.

48b. In law, there is mandatory professional training for public procurement officials.

YES | NO

**Comments:**

According to regulation 5 of the Procedures for Implementation of the Public Procurement Regulations 2003, all persons undertaking procurement using public funds should have received training in procurement, particularly in regard to the application of the Regulations, the procedures and Standard Tender Documents/the Standard Request for Proposals.

**References:**

Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh

Ministry of Planning, Government of the Peoples Republic of Bangladesh, March 2004, T The Procedures for Implementation of the Public Procurement Regulations 2003.

**YES:** A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process.

**NO:** A NO score is earned if there is no regular required training of public procurement officials or if training is sporadic, inconsistent, unrelated to procurement processes, or voluntary.

48c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

100 | 75 | 50 | 25 | 0

**Comments:**

The public procurement process is very slow. The average time from inviting of bids to awarding of contracts is 14 months. The average size of the bribe is 4 percent of the contract value (World Bank, 1999). Rules are often manipulated to fit particular providers. Conspiracy between political leaders, bureaucrats and the private person (e.g. contractor) in public contracting takes place in order to favor a particular bidder.

**References:**

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

World Bank, 1999, Bangladesh,  
The experience and perceptions of public officials, <http://www1.worldbank.org/publicsector/civilservice/countries/Bangladesh/bangladesh1113.pdf> ; <http://www.business-anti-corruption.com/normal.asp?pageid=49>

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

**100:** Regulations regarding conflicts of interest for procurement officials are aggressively enforced.

**75:**

**50:** Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.

**25:**

**0:** Conflict of interest regulations do not exist, or are consistently ineffective.

48d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

YES | NO

**Comments:**

Rule 13 of The Government Servant ( Conduct) Rules, 1979 states that Declaration of property – (i) Every government servant shall, at the time of entering government service, make a declaration to the government through the usual channel, of all immovable and movable properties, including shares, certificates, securities, insurance policies and jewellery having a total value of 50,000 taka (US\$728) or more belonging to, or held by, him or a member of his family and such declaration shall-

(a) state the district within which the property is situated,  
(b) show separately individual items of jewellery exceeding 50,000 taka in value, and  
(c) give such further information as the government may, by general or special order, require.

(ii) Every government servant shall, after every five years in the month of December submit to the government through usual channel, a return of his assets showing any increase or decrease of his property as shown in the declaration made under sub-rule (I) or in the last five years return, as the case may be,

(iii) The government may by order published in the official gazette, prescribe the manner for submission of the return of assets under this rule and the authority to which the return is to be submitted;

Rule 14 of The Government Servant ( Conduct) Rules, 1979 states that – A government servant shall disclose his liquid assets when required to do so by the Government.

The office of the CAG audit public accounts of the Republic, government agencies, public bodies and public companies having fifty percent or more government owned shares and report to the Parliament.

**References:**

Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh

Ministry of Planning, Government of the Peoples Republic of Bangladesh, March 2004, The Procedures for Implementation of the Public Procurement Regulations 2003.

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

Office of the Comptroller and Auditor General of Bangladesh  
<http://www.cagbd.org/about.php>

**YES:** A YES score is earned if there is a formal mandate to some agency to monitor the assets, incomes and spending habits of public procurement officials, such as an inspector general, or ombudsman.

**NO:** A NO score is earned if no such mandate exists.

48e. In law, major procurements require competitive bidding.

**YES** | NO

**References:**

Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh

Ministry of Planning, Government of the Peoples Republic of Bangladesh, March 2004, T  
The Procedures for Implementation of the Public Procurement Regulations 2003.

**YES:** A YES score is earned if all major procurements (defined as those greater than 0.5% of GDP) require competitive bidding.

**NO:** A NO score is earned if competitive bidding is not required by law or regulation for major procurement (greater than 0.5% OF GDP).

48f. In law, strict formal requirements limit the extent of sole sourcing.

**YES** | NO

**References:**

Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>

Ministry of Planning, Government of the Peoples Republic of Bangladesh, March 2004, T  
The Procedures for Implementation of the Public Procurement Regulations 2003.

**YES:** A YES score is earned if sole sourcing is limited to specific, tightly defined conditions, such as when a supplier is the only source of a skill or technology.

**NO:** A NO score is earned if there are no prohibitions on sole sourcing. A NO score is earned if the prohibitions on sole sourcing are general and unspecific.

48g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

YES | NO

**Comments:**

According to the Regulation 53 (1 &2), A tender may only complain to a Review Panel under Regulation 53, but a tender is not permitted to complain to a Review Panel if the Cabinet Committee on government purchase (CCGP) has made a decision for procurement award.”

**References:**

Regulation 53 of the Public Procurement Regulations 2003, Bangladesh.

**YES:** A YES score is earned if there is a formal appeal process for unsuccessful bidders.

**NO:** A NO score is earned if no such process exists.

48h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

YES | NO

**Comments:**

Subject to Regulation 50 (2), 50(3) and 50 (4) of the Public Procurement Regulations 2003, any tender who claims to have suffered loss or damage due to a breach of a duty imposed on a procuring entity by these regulations may complain in accordance with Regulations 51 and 53.

**References:**

Regulation 50, 51, 53 of the Public Procurement Regulations 2003, Bangladesh

Ministry of Planning, Government of the Peoples Republic of Bangladesh, March 2004,  
The Procedures for Implementation of the Public Procurement Regulations 2003.

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

Anti-Corruption Commission Act, 2004.

**YES:** A YES score is earned if unsuccessful bidders can use the courts to appeal a procurement decision.

**NO:** A NO score is earned if no such process exists.

48i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

YES | NO

**References:**

Regulation 15(3) of the Public Procurement Regulations 2003, Dhaka ,Government of Bangladesh.

**YES:** A YES score is earned if there are formal procurement blacklists, preventing convicted companies from doing business with the government.

**NO:** A NO score is earned if no such process exists.

48j. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

100 | 75 | 50 | 25 | 0

**Comments:**

There is no country-wide white or black list, but few departments keep records of reputed companies.

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

World Bank, 1999, Bangladesh,  
The experience and perceptions of public officials, <http://www1.worldbank.org/publicsector/civilservice/countries/Bangladesh/bangladesh1113.pdf> ; <http://www.business-anti-corruption.com/normal.asp?pageid=49>

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

**100:** A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.

**75:**

**50:** A system of formal blacklists and cooling off periods is in place, but the system has flaws. Some procurements or companies may not be affected by the system, or the prohibitions are sometimes not effective.

**25:**

**0:** There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.

## 49. Can citizens access the public procurement process?

88

49a. In law, citizens can access public procurement regulations.

YES | NO

### Comments:

According to the Regulation 8(1) of the Public Procurement Regulations 2003 The Regulations, the Procedures, User Guides and instructions including standard documents shall be made available to the public, both in paper format and on the CPTU website and shall be systematically maintained by the CPTU.”

### References:

Regulation 8(1) of the Public Procurement Regulations 2003, Bangladesh

**YES:** A YES score is earned if procurement rules are, by law, open to the public. These regulations are defined here as the rules governing the competitive procurement process.

**NO:** A NO score is earned if procurement rules are officially secret for any reason or if there are no procurement rules.

49b. In law, the government is required to publicly announce the results of procurement decisions.

YES | NO

### References:

Regulation 36 of the Public Procurement Regulations 2003, Bangladesh, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>

**YES:** A YES score is earned if the government is required to publicly post or announce the results of the public procurement process. This can be done through major media outlets or on a publicly-accessible government register or log.

**NO:** A NO score is earned if there is no requirement for the government to publicly announce the results of the public procurement process.

49c. In practice, citizens can access public procurement regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

The regulations and other rules on public procurement are available on the website. Everybody can download and print from the website easily, within a reasonable time and cost. <http://www.cptu.gov.bd/ProcurementPolicy.aspx>

**References:**

Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept.1, 2007, at 11.00 a.m.

Central Procurement Technical Unit, GOB,  
<http://www.cptu.gov.bd/ProcurementPolicy.aspx>

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

49d. In practice, citizens can access public procurement regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

The regulations and other rules on public procurement are available on the website. Everybody can download and print from the website easily, within a reasonable time and cost. <http://www.cptu.gov.bd/ProcurementPolicy.aspx>

**References:**

Central Procurement Technical Unit, GOB,  
<http://www.cptu.gov.bd/ProcurementPolicy.aspx>

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line. These records are defined here as the rules governing the competitive procurement process.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

49e. In practice, major public procurements are effectively advertised.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

**100:** There is a formal process of advertising public procurements. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some major procurements may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

**25:**

**0:** There is no formal process of advertising major public procurements or the process is superficial and ineffective.

49f. In practice, citizens can access the results of major public procurement bids.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

**100:** Records of public procurement results are publicly available through a formal process.

**75:**

**50:** Records of public procurements are available, but there are exceptions to this practice. Some information may not be available, or some citizens may not be able to access information.

**25:**

**0:** This information is not available to the public through an official process.

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## IV-4. Privatization

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### 50. Is the privatization process effective?

83

50a. In law, all businesses are eligible to compete for privatized state assets.

**YES** | NO

#### References:

Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>

**YES:** A YES score is earned if all businesses are equally eligible to compete for privatized assets. A YES score is still earned if the government did not privatize any state-owned assets during the study period.

**NO:** A NO score is earned if any group of businesses (other than those blacklisted due to corruption charges) is excluded by law.

50b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

YES | NO

**References:**

Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>

Board of Investment, Government of Bangladesh,  
<http://www.boi.gov.bd/privatization.php>

Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>

Ministry of Planning, Government of the Peoples Republic of Bangladesh, March 2004,  
The Procedures for Implementation of the Public Procurement Regulations 2003.

**YES:** A YES score is earned if there are specific formal regulations defining and regulating conflicts of interest between official public duty and private interests for privatization officials. A YES score is earned if such regulations cover all civil servants, including privatization officials.

**NO:** A NO score is earned if there are no such formal regulations.

50c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

100 | 75 | **50** | 25 | 0

**References:**

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

**100:** Regulations regarding conflicts of interest for privatization officials are aggressively enforced.

**75:**

**50:** Conflict of interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from the regulations.

**25:**

**0:** Conflict of interest regulations do not exist, or are consistently ineffective.

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51. Can citizens access the terms and conditions of privatization bids?

51a. In law, citizens can access privatization regulations.

YES | NO

**References:**

Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>

Board of Investment, Government of Bangladesh,  
<http://www.boi.gov.bd/privatization.php>

**YES:** A YES score is earned if privatization rules (defined here as the rules governing the competitive privatization process) are, by law, open to the public. Even if privatization is infrequent or rare, the most recent privatization should be used as the basis for scoring this indicator.

**NO:** A NO score is earned if privatization rules are officially secret for any reason or if there are no privatization rules.

51b. In practice, privatizations are effectively advertised.

100 | 75 | 50 | 25 | 0

**Comments:**

According to the Regulation 8(1) of the Public Procurement Regulations 2003 The Regulations, the Procedures, User Guides and instructions including standard documents shall be made available to the public, both in paper format and on the CPTU website and shall be systematically maintained by the CPTU. The names of the sectors to be privatized are available on the website of the Privatization commission Bangladesh and announced in the newspaper...

**References:**

Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>

Board of Investment, Government of Bangladesh,  
<http://www.boi.gov.bd/privatization.php>

Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

**100:** There is a formal process of advertising privatizations. This may include a government website, newspaper advertising, or other official announcements. All major procurements are advertised in this way. Sufficient time is allowed for bidders to respond to advertisements.

**75:**

**50:** There is a formal process of advertisement but it is flawed. Some privatizations may not be advertised, or the advertising process may not be effective. The time between advertisements and bidding may be too short to allow full participation.

25:

0: There is no formal process of advertising privatizations or the process is superficial and ineffective.

51c. In law, the government is required to publicly announce the results of privatization decisions.

YES | NO

**Comments:**

The name of the sectors to be privatized are posted on the website.

**References:**

Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>

Board of Investment, Government of Bangladesh,  
<http://www.boi.gov.bd/privatization.php>

**YES:** A YES score is earned if the government is required to publicly post or announce the results of the privatization process. This can be done through major media outlets or on a publicly-accessible government register or log.

**NO:** A NO score is earned if there is no requirement for the government to publicly announce the results of the privatization process.

51d. In practice, citizens can access privatization regulations within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

All rules and procedure of privatization are available on the website of the Privatized Commission Bangladesh. Again, according to the Regulation 8(1) of the Public Procurement Regulations 2003 The Regulations, the Procedures, User Guides and instructions including standard documents shall be made available to the public, both in paper format and on the CPTU website and shall be systematically maintained by the CPTU.

**References:**

Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>

Board of Investment, Government of Bangladesh,  
<http://www.boi.gov.bd/privatization.php>

Government of Bangladesh, Public Procurement Regulations 2003, Bangladesh, <http://www.cptu.gov.bd/ProcurementPolicy.aspx>

Ministry of Planning, Government of the Peoples Republic of Bangladesh, March 2004, The Procedures for Implementation of the Public Procurement Regulations 2003.

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept.1, 2007, at 11.00 a.m.

**100:** Records (defined here as the rules governing the competitive privatization process) are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

51e. In practice, citizens can access privatization regulations at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

All rules and procedure of privatization are available on the website of the Privatized Commission Bangladesh. Again, according to the Regulation 8(1) of the Public Procurement Regulations 2003 The Regulations, the Procedures, User Guides and instructions including standard documents shall be made available to the public, both in paper format and on the CPTU website and shall be systematically maintained by the CPTU.

**References:**

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Privatization Commission Bangladesh, Government of Bangladesh, <http://www.bangladeshonline.com/pb/>

Board of Investment, Government of Bangladesh, <http://www.boi.gov.bd/privatization.php>

**100:** Records (defined here as the rules governing the competitive privatization process) are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

## V-1. National Ombudsman

52. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

52. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

YES | NO

**Comments:**

Although in the Bangladesh constitution there is a provision to establish the office of ombudsman, no initiative was made to introduce this institution until 1980, when late President Ziaur Rahman took initiative to establish the office of Ombudsman. Accordingly, an act was passed by the then Parliament. Unfortunately, no government made this law effective by establishing an office of the ombudsman.

In 2002, after 21 years, the Ombudsman Act was made effective, but an earlier decision of updating the act was ignored. Till date, the office of the ombudsman has not come into being.

In the context of emerging needs and success of other countries, Bangladesh has set up a national sector, the Tax Ombudsman office, in July 2006.

**References:**

Article 77 of the Constitution of Bangladesh states that Parliament may, by Law, provide for the establishment of the office of Ombudsman." Article 77(2) states: "The ombudsman shall exercise such powers and perform such functions as parliament may, by Law, determine, including the power to investigate any action taken by a ministry, a public officer or a statutory public authority."

<http://www.pmo.gov.bd/constitution/index.htm>

<http://www.thedailystar.net/2007/07/10/d707101501125.htm>

[www.ti-bangladesh.org/Ombudsman150507.pdf](http://www.ti-bangladesh.org/Ombudsman150507.pdf)

**YES:** A YES score is earned if there is a specific agency or set of agencies whose primary mandate is to investigate the actions of government on the behalf of common citizens. This agency or set of agencies should be specifically charged with seeking out and documenting abuses of power.

**NO:** A NO score is earned if no such agency or set of agencies exists, or that function is a secondary concern of a larger body, such as the legislature.

53. Is the national ombudsman effective?

5

53a. In law, the ombudsman is protected from political interference.

YES | NO

**Comments:**

The Ombudsman Act, 1980, confines the powers of the Ombudsman to investigate only certain types of actions of a ministry, a public officer or a statutory public authority. Besides these particular types of actions the Ombudsman cannot, under the present Act, investigate into any other matters.

Sections 3, 4 and 5 of the Act are respectively provisions relating to the establishment of the office of the Ombudsman, the term of the office of Ombudsman and the remuneration, etc., of the Ombudsman. There is no provision in the Act debarring the Ombudsman from holding any other office of profit or any other office in the service of the Republic during the tenure of his office as Ombudsman or after he ceases to hold office as Ombudsman. A provision to this effect is necessary in order to guarantee his independence. (It is inserted from the report of Bangladesh Law Commission on the Ombudsman Act, 1980. For more details please read the report of the Bangladesh Law Commission on the Ombudsman Act, 1980, [www.lawcommissionbangladesh.org/reports/31.pdf](http://www.lawcommissionbangladesh.org/reports/31.pdf))

**References:**

Bangladesh Law Commission, Report on Ombudsman Act 1980, July 9, 2000, [www.lawcommissionbangladesh.org/reports/31.pdf](http://www.lawcommissionbangladesh.org/reports/31.pdf)

**YES:** A YES score is earned only if the agency (or set of agencies) has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

53b. In practice, the ombudsman is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

Article 77(1,2,3) of the constitution states that Parliament may, by law, provide for the establishment of the office of Ombudsman. The Ombudsman shall exercise such powers and perform such functions as Parliament may, by law, determine, including the power to investigate, any action taken by a ministry, a public officer or a Statutory public authority. The Ombudsman shall prepare an annual report concerning the discharge of his functions, and such report shall be laid before Parliament.

Although in the Bangladesh constitution there is a provision to establish the office of ombudsman, no initiative was made to introduce this. In 2002, the Ombudsman Act was made effective, but an earlier decision of updating this act was ignored. Till date, the office of the ombudsman has not come into being.

Bangladesh set up a national sector, the Tax Ombudsman office, in July 2006. The Tax Ombudsman is working with only four staff members, while 37 positions are vacant till date. The office of the Tax Ombudsman remains fully dependent on the government, both operationally and financially (source: Iftekharuzzaman, Transparency International Bangladesh, 15 May, 2007, Ombudsman for Good Governance in Bangladesh: Why Now, and How? [www.ti-bangladesh.org/Ombudsman150507.pdf](http://www.ti-bangladesh.org/Ombudsman150507.pdf))

**References:**

The report of the Bangladesh Law Commission on the Ombudsman Act, 1980, July 9, 2000, [www.lawcommissionbangladesh.org/reports/31.pdf](http://www.lawcommissionbangladesh.org/reports/31.pdf))

Iftekharuzzaman, Transparency International Bangladesh, Ombudsman for Good Governance in Bangladesh: Why Now, and How? May 15, 2007, [www.ti-bangladesh.org/Ombudsman150507.pdf](http://www.ti-bangladesh.org/Ombudsman150507.pdf)

**100:** This agency (or set of agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information. .

**75:**

**50:** This agency (or set of agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include public criticism or praise by the government. The ombudsman may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or set of agencies) is commonly influenced by political or personal incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The ombudsman cannot compel the government to reveal sensitive information.

53c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

Article 77(1,2,3) of the constitution states that Parliament may, by law, provide for the establishment of the office of Ombudsman. The Ombudsman shall exercise such powers and perform such functions as Parliament may, by law, determine, including the power to investigate, any action taken by a ministry, a public officer or a Statutory public authority. The Ombudsman shall prepare an annual report concerning the discharge of his functions, and such report shall be laid before Parliament.

Although in the Bangladesh constitution there is a provision to establish the office of ombudsman, no initiative was made to introduce this. In 2002, the Ombudsman Act was made effective, but an earlier decision of updating the act was ignored. Till date, the office of the ombudsman has not come into being.

**References:**

Transparency International Bangladesh,  
Ombudsman for Good Governance in Bangladesh: Why Now, and How?  
May 15, 2007,  
[www.ti-bangladesh.org/Ombudsman150507.pdf](http://www.ti-bangladesh.org/Ombudsman150507.pdf)

The report of the Bangladesh Law Commission on the Ombudsman Act, 1980,  
July 9, 2000,  
[www.lawcommissionbangladesh.org/reports/31.pdf](http://www.lawcommissionbangladesh.org/reports/31.pdf)

Md. Awal Hossain, lecturer, Department of Public Administration, University of Rajshahi.  
Bangladesh, Ombudsman for Bangladesh: Theory and Reality,  
unpan1.un.org/intradoc/groups/public/documents/UNPAN/UNPAN014483.pdf

**100:** The director of the ombudsman (or directors of multiple agencies) serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the ombudsman (or directors of multiple agencies) serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the ombudsman (or directors of multiple agencies) can be removed at the will of political leadership.

53d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.

100 | 75 | 50 | **25** | 0

**Comments:**

Article 77(1,2,3) of the constitution states that Parliament may, by law, provide for the establishment of the office of Ombudsman. The Ombudsman shall exercise such powers and perform such functions as Parliament may, by law, determine, including the power to investigate, any action taken by a ministry, a public officer or a Statutory public authority. The Ombudsman shall prepare an annual report concerning the discharge of his functions, and such report shall be laid before Parliament.

Although in the Bangladesh constitution there is a provision to establish the office of ombudsman, no initiative was made to introduce this. In 2002, the Ombudsman Act was made effective, but an earlier decision of updating this act was ignored. Till date, the office of the ombudsman has not come into being.

Bangladesh set up a national sector, the Tax Ombudsman office, in July 2006. The Tax Ombudsman is working with only four staff members, while 37 positions are vacant till date. The office of the Tax Ombudsman remains fully dependent on the government, both operationally and financially (source: Iftekharuzzaman, Transparency International Bangladesh, May 15, 2007, Ombudsman for Good Governance in Bangladesh: Why Now, and How? [www.ti-bangladesh.org/Ombudsman150507.pdf](http://www.ti-bangladesh.org/Ombudsman150507.pdf))

**References:**

The report of the Bangladesh Law Commission on the Ombudsman Act, 1980, July 9, 2000, [www.lawcommissionbangladesh.org/reports/31.pdf](http://www.lawcommissionbangladesh.org/reports/31.pdf))

Transparency International Bangladesh, Ombudsman for Good Governance in Bangladesh: Why Now, and How? 15 May, 2007, [www.ti-bangladesh.org/Ombudsman150507.pdf](http://www.ti-bangladesh.org/Ombudsman150507.pdf)

Md. Awal Hossain, lecturer, Department of Public Administration, University of Rajshahi. Bangladesh, Ombudsman for Bangladesh: Theory and Reality, [unpan1.un.org/intradoc/groups/public/documents/UNPAN/UNPAN014483.pdf](http://unpan1.un.org/intradoc/groups/public/documents/UNPAN/UNPAN014483.pdf)

**100:** The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The ombudsman agency (or agencies) has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The ombudsman agency (or agencies) has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

53e. In practice, agency appointments support the independence of the ombudsman agency (or agencies).

**Comments:**

Article 77(1,2,3) of the constitution states that Parliament may, by law, provide for the establishment of the office of Ombudsman. The Ombudsman shall exercise such powers and perform such functions as Parliament may, by law, determine, including the power to investigate, any action taken by a ministry, a public officer or a Statutory public authority. The Ombudsman shall prepare an annual report concerning the discharge of his functions, and such report shall be laid before Parliament.

Although in the Bangladesh constitution there is a provision to establish the office of ombudsman, no initiative was made to introduce this. In 2002, the Ombudsman Act was made effective, but an earlier decision of updating this act was ignored. Till date, the office of the ombudsman has not come into being.

Bangladesh set up a national sector, the Tax Ombudsman office, in July 2006. The Tax Ombudsman is working with only four staff members, while 37 positions are vacant till date. The office of the Tax Ombudsman remains fully dependent on the government, both operationally and financially (source: Iftekharuzzaman, Transparency International Bangladesh, May 15, 2007, Ombudsman for Good Governance in Bangladesh: Why Now, and How? [www.ti-bangladesh.org/Ombudsman150507.pdf](http://www.ti-bangladesh.org/Ombudsman150507.pdf))

**References:**

The report of the Bangladesh Law Commission on the Ombudsman Act, 1980, July 9, 2000, [www.lawcommissionbangladesh.org/reports/31.pdf](http://www.lawcommissionbangladesh.org/reports/31.pdf)

Transparency International Bangladesh,  
Ombudsman for Good Governance in Bangladesh: Why Now, and How?  
May, 15, 2007,  
[www.ti-bangladesh.org/Ombudsman150507.pdf](http://www.ti-bangladesh.org/Ombudsman150507.pdf)

Md. Awal Hossain, lecturer, Department of Public Administration, University of Rajshahi.  
Bangladesh, Ombudsman for Bangladesh: Theory and Reality,  
[unpan1.un.org/intradoc/groups/public/documents/UNPAN/UNPAN014483.pdf](http://unpan1.un.org/intradoc/groups/public/documents/UNPAN/UNPAN014483.pdf)

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

53f. In practice, the ombudsman agency (or agencies) receives regular funding.

**Comments:**

Article 77(1,2,3) of the constitution states that Parliament may, by law, provide for the establishment of the office of Ombudsman. The Ombudsman shall exercise such powers and perform such functions as Parliament may, by law, determine, including the power to investigate, any action taken by a ministry, a public officer or a Statutory public authority. The Ombudsman shall prepare an annual report concerning the discharge of his functions, and such report shall be laid before Parliament.

Although in the Bangladesh constitution there is a provision to establish the office of ombudsman, no initiative was made to introduce this. In 2002, the Ombudsman Act was made effective, but an earlier decision of updating this act was ignored. Till date, the office of the ombudsman has not come into being.

Bangladesh set up a national sector, the Tax Ombudsman office, in July 2006. The Tax Ombudsman is working with only four staff members, while 37 positions are vacant till date. The office of the Tax Ombudsman remains fully dependent on the government, both operationally and financially (source: Iftekharuzzaman, Transparency International Bangladesh, May 15, 2007, Ombudsman for Good Governance in Bangladesh: Why Now, and How? [www.ti-bangladesh.org/Ombudsman150507.pdf](http://www.ti-bangladesh.org/Ombudsman150507.pdf))

**References:**

The report of the Bangladesh Law Commission on the Ombudsman Act, 1980, July 9, 2000, [www.lawcommissionbangladesh.org/reports/31.pdf](http://www.lawcommissionbangladesh.org/reports/31.pdf))

Transparency International Bangladesh, May 15, 2007  
Ombudsman for Good Governance in Bangladesh: Why Now, and How? [www.ti-bangladesh.org/Ombudsman150507.pdf](http://www.ti-bangladesh.org/Ombudsman150507.pdf)

Md. Awal Hossain, lecturer, Department of Public Administration, University of Rajshahi. Bangladesh, Ombudsman for Bangladesh: Theory and Reality, [unpan1.un.org/intradoc/groups/public/documents/UNPAN/UNPAN014483.pdf](http://unpan1.un.org/intradoc/groups/public/documents/UNPAN/UNPAN014483.pdf)

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

53g. In practice, the ombudsman agency (or agencies) makes publicly available reports.

100 | 75 | 50 | 25 | 0

**Comments:**

Article 77(1,2,3) of the constitution states that Parliament may, by law, provide for the establishment of the office of Ombudsman. The Ombudsman shall exercise such powers and perform such functions as Parliament may, by law, determine, including the power to investigate, any action taken by a ministry, a public officer or a Statutory public authority. The Ombudsman shall prepare an annual report concerning the discharge of his functions, and such report shall be laid before Parliament.

Although in the Bangladesh constitution there is a provision to establish the office of ombudsman, no initiative was made to introduce this. In 2002, the Ombudsman Act was made effective, but an earlier decision of updating this act was ignored. Till date, the office of the ombudsman has not come into being.

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**References:**

The report of the Bangladesh Law Commission on the Ombudsman Act, 1980,

July 9, 2000,  
[www.lawcommissionbangladesh.org/reports/31.pdf](http://www.lawcommissionbangladesh.org/reports/31.pdf))

Transparency International Bangladesh,  
May 15, 2007  
Ombudsman for Good Governance in Bangladesh: Why Now, and How? [www.ti-bangladesh.org/Ombudsman150507.pdf](http://www.ti-bangladesh.org/Ombudsman150507.pdf)

Md. Awal Hossain, lecturer, Department of Public Administration, University of Rajshahi.  
Bangladesh, Ombudsman for Bangladesh: Theory and Reality,  
[unpan1.un.org/intradoc/groups/public/documents/UNPAN/UNPAN014483.pdf](http://unpan1.un.org/intradoc/groups/public/documents/UNPAN/UNPAN014483.pdf)

**100:** The agency (or agencies) makes regular, publicly available, substantial reports either to the legislature or directly to the public outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

53h. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

Article 77(1,2,3) of the constitution states that Parliament may, by law, provide for the establishment of the office of Ombudsman. The Ombudsman shall exercise such powers and perform such functions as Parliament may, by law, determine, including the power to investigate, any action taken by a ministry, a public officer or a Statutory public authority. The Ombudsman shall prepare an annual report concerning the discharge of his functions, and such report shall be laid before Parliament.

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**References:**

The report of the Bangladesh Law Commission on the Ombudsman Act, 1980,  
July 9, 2000,  
[www.lawcommissionbangladesh.org/reports/31.pdf](http://www.lawcommissionbangladesh.org/reports/31.pdf))

Transparency International Bangladesh,  
May 15, 2007  
Ombudsman for Good Governance in Bangladesh: Why Now, and How? [www.ti-bangladesh.org/Ombudsman150507.pdf](http://www.ti-bangladesh.org/Ombudsman150507.pdf)

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**100:** The agency aggressively starts investigations — or participates fully with cooperating agencies' investigations — into judicial misconduct. The agency is fair in its application of this power.

**75:**

**50:** The agency will start or cooperate in investigations, but often relies on external pressure to set priorities, or has limited effectiveness when investigating. The agency, though limited in effectiveness, is still fair in its application of power.

**25:**

**0:** The agency rarely investigates on its own or cooperates in other agencies' investigations, or the agency is partisan in its application of this power.

53i. In practice, when necessary, the national ombudsman (or equivalent agency or agencies) imposes penalties on offenders.

100 | 75 | 50 | 25 | 0

**Comments:**

Article 77(1,2,3) of the constitution states that Parliament may, by law, provide for the establishment of the office of Ombudsman. The Ombudsman shall exercise such powers and perform such functions as Parliament may, by law, determine, including the power to investigate, any action taken by a ministry, a public officer or a Statutory public authority. The Ombudsman shall prepare an annual report concerning the discharge of his functions, and such report shall be laid before Parliament.

Although in the Bangladesh constitution there is a provision to establish the office of ombudsman, no initiative was made to introduce this. In 2002, the Ombudsman Act was made effective, but an earlier decision of updating this act was ignored. Till date, the office of the ombudsman has not come into being.

Bangladesh set up a national sector, the Tax Ombudsman office, in July 2006. The Tax Ombudsman is working with only four staff members, while 37 positions are vacant till date. The office of the Tax Ombudsman remains fully dependent on the government, both operationally and financially (source: Iftekharuzzaman, Transparency International Bangladesh, May 15, 2007, Ombudsman for Good Governance in Bangladesh: Why Now, and How? [www.ti-bangladesh.org/Ombudsman150507.pdf](http://www.ti-bangladesh.org/Ombudsman150507.pdf))

**References:**

The report of the Bangladesh Law Commission on the Ombudsman Act, 1980, July 9, 2000, [www.lawcommissionbangladesh.org/reports/31.pdf](http://www.lawcommissionbangladesh.org/reports/31.pdf))

Transparency International Bangladesh, May 15, 2007 Ombudsman for Good Governance in Bangladesh: Why Now, and How? [www.ti-bangladesh.org/Ombudsman150507.pdf](http://www.ti-bangladesh.org/Ombudsman150507.pdf)

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**100:** When rules violations are discovered, the agency is aggressive in penalizing offenders or in cooperating with other agencies who penalize offenders.

**75:**

**50:** The agency enforces rules, but is limited in its effectiveness. The agency may be slow to act, unwilling to take on politically powerful offenders, resistant to cooperating with other agencies, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency does not effectively penalize offenders. The agency may make judgments but not enforce them, does not cooperate with other agencies in enforcing penalties, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

53j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

**Comments:**

Although in the Bangladesh constitution there is a provision to establish the office of ombudsman, no initiative was made to introduce this. In 2002, the Ombudsman Act was made effective, but an earlier decision of updating this act was ignored. Till date, the office of the ombudsman has not come into being.

Bangladesh set up a national sector, the Tax Ombudsman office, in July 2006. The Tax Ombudsman is working with only four staff members, while 37 positions are vacant till date. The office of the Tax Ombudsman remains fully dependent on the government, both operationally and financially (source: Ifteharuzzaman, Transparency International Bangladesh, May 15, 2007, Ombudsman for Good Governance in Bangladesh: Why Now, and How? [www.ti-bangladesh.org/Ombudsman150507.pdf](http://www.ti-bangladesh.org/Ombudsman150507.pdf))

**References:**

The report of the Bangladesh Law Commission on the Ombudsman Act, 1980, July 9, 2000, [www.lawcommissionbangladesh.org/reports/31.pdf](http://www.lawcommissionbangladesh.org/reports/31.pdf)

Transparency International Bangladesh, May 15, 2007

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Md. Awal Hossain, lecturer, Department of Public Administration, University of Rajshahi. Bangladesh, Ombudsman for Bangladesh: Theory and Reality, [unpan1.un.org/intradoc/groups/public/documents/UNPAN/UNPAN014483.pdf](http://unpan1.un.org/intradoc/groups/public/documents/UNPAN/UNPAN014483.pdf)

**100:** Ombudsman's reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, ombudsman's reports are acted on, though some exceptions may occur for politicallly sensitive issues, or particularly resistant agencies.

**25:**

**0:** Ombudsman reports are often ignored, or given superficial attention. Ombudsman reports do not lead to policy changes.

53k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Article 77(1,2,3) of the constitution states that Parliament may, by law, provide for the establishment of the office of Ombudsman. The Ombudsman shall exercise such powers and perform such functions as Parliament may, by law, determine, including the

power to investigate, any action taken by a ministry, a public officer or a Statutory public authority. The Ombudsman shall prepare an annual report concerning the discharge of his functions, and such report shall be laid before Parliament.

Although in the Bangladesh constitution there is a provision to establish the office of ombudsman, no initiative was made to introduce this. In 2002, the Ombudsman Act was made effective, but an earlier decision of updating this act was ignored. Till date, the office of the ombudsman has not come into being.

**References:**

The report of the Bangladesh Law Commission on the Ombudsman Act, 1980, July 9, 2000, [www.lawcommissionbangladesh.org/reports/31.pdf](http://www.lawcommissionbangladesh.org/reports/31.pdf)

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**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

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## 54. Can citizens access the reports of the ombudsman?

33

54a. In law, citizens can access reports of the ombudsman(s).

YES | NO

**Comments:**

Article 77(3) of the constitution states that the Ombudsman shall prepare an annual report concerning the discharge of his functions, and such report shall be laid before Parliament.

Although in the Bangladesh constitution there is a provision to establish the office of ombudsman, no initiative was made to introduce this. In 2002, the Ombudsman Act was made effective, but an earlier decision of updating this act was ignored. Till date, the office of the ombudsman has not come into being.

**References:**

Article 77 (3) of the Constitution of the People's Republic of Bangladesh.

**YES:** A YES score is earned if all ombudsman reports are publicly available.

**NO:** A NO score is earned if any ombudsman reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute the reports.

54b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

Article 77(1,2,3) of the constitution states that Parliament may, by law, provide for the establishment of the office of Ombudsman. The Ombudsman shall exercise such powers and perform such functions as Parliament may, by law, determine, including the power to investigate, any action taken by a ministry, a public officer or a Statutory public authority. The Ombudsman shall prepare an annual report concerning the discharge of his functions, and such report shall be laid before Parliament.

Although in the Bangladesh constitution there is a provision to establish the office of ombudsman, no initiative was made to introduce this. In 2002, the Ombudsman Act was made effective, but an earlier decision of updating this act was ignored. Till date, the office of the ombudsman has not come into being.

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The report of the Bangladesh Law Commission on the Ombudsman Act, 1980, July 9, 2000, [www.lawcommissionbangladesh.org/reports/31.pdf](http://www.lawcommissionbangladesh.org/reports/31.pdf)

Transparency International Bangladesh,  
Ombudsman for Good Governance in Bangladesh: Why Now, and How?  
May 15, 2007,  
[www.ti-bangladesh.org/Ombudsman150507.pdf](http://www.ti-bangladesh.org/Ombudsman150507.pdf)

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Bangladesh, Ombudsman for Bangladesh: Theory and Reality,  
[unpan1.un.org/intradoc/groups/public/documents/UNPAN/UNPAN014483.pdf](http://unpan1.un.org/intradoc/groups/public/documents/UNPAN/UNPAN014483.pdf)

**100:** Reports are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

54c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

Article 77(1,2,3) of the constitution states that Parliament may, by law, provide for the establishment of the office of Ombudsman. The Ombudsman shall exercise such powers and perform such functions as Parliament may, by law, determine, including the power to investigate, any action taken by a ministry, a public officer or a Statutory public authority. The Ombudsman shall prepare an annual report concerning the discharge of his functions, and such report shall be laid before Parliament.

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[www.ti-bangladesh.org/Ombudsman150507.pdf](http://www.ti-bangladesh.org/Ombudsman150507.pdf)

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**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving reports imposes a major financial burden on citizens. Reports costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## V-2. Supreme Audit Institution

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55. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

100

55. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

YES | NO

**Comments:**

The Office of the CAG is administratively under the executive branch, but is functionally independent. The basic structure of the CAG was inherited from the British system following the Exchequer and Audit Department Act, 1866, of the United Kingdom. The office of the Auditor-General was created under the Government of India Act, 1935.

**References:**

The Constitution of The People's Republic of Bangladesh provides independence to the office of the Comptroller & Auditor General (CAG). Article 127 (1 & 2) of The Constitution of the People's Republic of Bangladesh states that There shall be a Comptroller and Auditor-General of Bangladesh (hereinafter referred to as the Auditor General) who shall be appointed by the president. Subject to the provisions of this constitution and of any law made by Parliament, the conditions of service of the Auditor-General shall be such as the President may, by order, determine."

The Supreme Audit Institution i.e., Office of the Comptroller and Auditor General of Bangladesh was created in 1973. For more details, please visit, <http://www.cagbd.org/>

**YES:** A YES score is earned if there is a specific agency whose primary mandate is to audit and track the movement of money through the government. This agency should be specifically charged to investigate and document the misuse of funds. A system of agencies located in each department is equivalent.

**NO:** A NO score is earned if no such agency exists, or that function is a secondary concern of a larger body, such as the executive.

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## 56. Is the supreme audit institution effective?

69

56a. In law, the supreme audit institution is protected from political interference.

**YES** | NO

**Comments:**

Article 128 (4) of Bangladesh Constitution states that The Auditor-General, in the exercise of his functions under clauses (1), shall not be subject to the direction or control of any other person or authority."

Article 129 (2) of the Bangladesh Constitution states that "The Auditor-General shall not be removed from his office except in like manner and on the like ground as a judge of the Supreme Court."

**References:**

Arts. 127, 128(4), 129 (2) of the Constitution of the People's Republic of Bangladesh.

**YES:** A YES score is earned only if the agency has some formal organizational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

56b. In practice, the head of the audit agency is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**References:**

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

The Constitution of the Peoples Republic of Bangladesh.

Transparency International, Germany, 2004,  
National Integrity Systems: Country Study Report, Bangladesh 2003.

Transparency International Bangladesh,  
Fact Finding Report on Comptroller & Auditor General Office,  
December 2002,  
[www.ti-bangladesh.org](http://www.ti-bangladesh.org)

**100:** The director of the agency serves a defined term and cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director of the agency serves a defined term, but can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director of the agency can be removed at the will of political leadership.

56c. In practice, the audit agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**References:**

Transparency International Bangladesh,  
Fact Finding Report on Comptroller & Auditor General Office, December 2002, [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Nizam Uddin, Ph.D, Bangladesh Institute of Parliamentary Studies,  
Parliament and Public Spending in Bangladesh: Limits of Control, Sep  
tember 2000.

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Transparency International, Germany, 2004,  
National Integrity Systems: Country Study Report, Bangladesh 2003.

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

56d. In practice, audit agency appointments support the independence of the agency.

100 | 75 | 50 | **25** | 0

**References:**

Transparency International Bangladesh,  
Fact Finding Report on Comptroller & Auditor General Office, December 2002, [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Nizam Uddin, Ph.D, Bangladesh Institute of Parliamentary Studies,  
Parliament and Public Spending in Bangladesh: Limits of Control, September 2000.

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Transparency International, Germany, 2004,  
National Integrity Systems: Country Study Report, Bangladesh 2003.

**100:** Appointments to the agency are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

56e. In practice, the audit agency receives regular funding.

**100** | 75 | 50 | 25 | 0

**References:**

Ministry of Finance, Government of the People's Republic of Bangladesh,  
National Budget 2007-2007, 2006-2007, [http://www.mof.gov.bd/budget/combined\\_demand/CD\\_contents\\_E.php](http://www.mof.gov.bd/budget/combined_demand/CD_contents_E.php)

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

56f. In practice, the audit agency makes regular public reports.

100 | **75** | 50 | 25 | 0

**References:**

Transparency International Bangladesh,  
Fact Finding Report on Comptroller & Auditor General Office, December 2002, [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Nizam Uddin, Ph.D, Bangladesh Institute of Parliamentary Studies,  
Parliament and Public Spending in Bangladesh: Limits of Control, September 2000.

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Transparency International, Germany, 2004,  
National Integrity Systems: Country Study Report, Bangladesh 2003.

**100:** The agency makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency makes publicly available reports to the legislature and/or to the public directly that are sometimes delayed or incomplete.

**25:**

**0:** The agency makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

56g. In practice, the government acts on the findings of the audit agency.

**Comments:**

The Public Accounts Committee is a very important parliamentary standing committee, which is directly responsible and authorized to scrutinize the accounts of the government and the report of the Comptroller and Auditor-General. A report of TIB entitled Corruption and Parliamentary Oversight: Primacy of the Political Will revealed that from the first Parliament of Bangladesh to April 2004, Public Accounts Committees were able to discuss only 20.7 percent of the audit reports. Between July 2003 and February 2005, the PAC were able to discuss 149 audit objections.

**References:**

Transparency International Bangladesh,  
Corruption & Parliamentary Oversight: Primacy of the Political Will", [http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401)

Transparency International Bangladesh,  
Parliament Watch 2001-2006,  
Feb. 12, 2007,  
[http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401) (available in Bengali)

Office of the Comptroller and Auditor General of Bangladesh, Audit Report, [http://www.cagbd.org/audit\\_report.php](http://www.cagbd.org/audit_report.php)

Transparency International Bangladesh, Fact-Finding Report on CAG and PAC,  
Sept. 21, 2002,  
<http://www.ti-bangladesh.org/research/ffecag.htm>

**100:** Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

**75:**

**50:** In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

**25:**

**0:** Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

56h. In practice, the audit agency is able to initiate its own investigations.

**References:**

Transparency International Bangladesh,  
Fact Finding Report on Comptroller & Auditor General Office, December 2002, [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Nizam Uddin, Ph.D, Bangladesh Institute of Parliamentary Studies,  
Parliament and Public Spending in Bangladesh: Limits of Control, Sep  
tember 2000.

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha,  
Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** The supreme audit institution can control the timing and pace of its investigations without any input from the executive or legislature.

**75:**

**50:** The supreme audit institution can generally decide what to investigate, and when, but is subject to pressure from the executive or legislature on politically sensitive issues.

**25:**

**0:** The supreme audit institution must rely on approval from the executive or legislature before initiating investigations. Politically sensitive investigations are almost impossible to move forward on.

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## 57. Can citizens access reports of the supreme audit institution?

50

57a. In law, citizens can access reports of the audit agency.

**YES** | NO

### Comments:

Each year the CAG of Bangladesh publishes a number of reports including budget performance of the national accounts and the annual finance accounts of the government. The Public Accounts Committee, a select body of Parliament, discusses these reports and then provides necessary directives and recommendations to the executive branch. Source: Shamsuzzaman, Mohammad, Rahman, Niaz, International Journal of Government Auditing, April 2003, Audit profile: Office of the Comptroller and Auditor-General of Bangladesh; [http://findarticles.com/p/articles/mi\\_qa3662/is\\_200304/ai\\_n9231976](http://findarticles.com/p/articles/mi_qa3662/is_200304/ai_n9231976)

### References:

Article 132 of the Constitution of Bangladesh provides that "The reports of the Auditor-General relating to the public accounts of the Republic shall be submitted to the president, who shall cause them to be laid before Parliament." After all, it is a public document.

**YES:** A YES score is earned if all supreme auditor reports are available to the general public.

**NO:** A NO score is earned if any auditor reports are not publicly available. This may include reports made exclusively to the legislature or the executive, which those bodies may choose not to distribute.

57b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | **25** | 0

**References:**

Transparency International Bangladesh,  
Fact Finding Report on Comptroller & Auditor General Office, December 2002, [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Nizam Uddin, Ph.D, Bangladesh Institute of Parliamentary Studies,  
Parliament and Public Spending in Bangladesh: Limits of Control, September 2000.

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Transparency International, Germany, 2004,  
National Integrity Systems: Country Study Report, Bangladesh 2003.

**100:** Reports are available on-line, or records can be obtained within two days. Reports are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Reports take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Reports take more than a month to acquire. In some cases, most reports may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

57c. In practice, citizens can access the audit reports at a reasonable cost.

100 | 75 | 50 | **25** | 0

**References:**

Transparency International Bangladesh,  
Fact Finding Report on Comptroller & Auditor General Office, December 2002, [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

Nizam Uddin, Ph.D, Bangladesh Institute of Parliamentary Studies,  
Parliament and Public Spending in Bangladesh: Limits of Control, September 2000.

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Transparency International, Germany, 2004,  
National Integrity Systems: Country Study Report, Bangladesh 2003.

**100:** Reports are free to all citizens, or available for the cost of photocopying. Reports can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Reports impose a financial burden on citizens, journalists or CSOs. Retrieving reports may require a visit to a specific office, such as a regional or national capital.

**25:**

0: Retrieving reports imposes a major financial burden on citizens. Report costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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## 73 V-3. Taxes and Customs

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58. In law, is there a national tax collection agency?

100

58. In law, is there a national tax collection agency?

YES | NO

**Comments:**

The National Board of Revenue (NBR) is the central authority for tax administration in Bangladesh. It was established by President's Order No. 76 of 1972. Administratively, it is under the Internal Resources Division (IRD) of the Ministry of Finance (MoF)

The NBR is responsible for the collection of all these taxes. Major tax laws in Bangladesh are the Customs Act, 1969, Income Tax Ordinance, 1984, and the VAT Act, 1991. Travel Tax Act, 2003, Provisional Collection of Taxes Act, 1931 complements Customs and VAT collection.

<http://www.nbr-bd.org/nbrweb/AboutUS/AboutUs.htm>

**References:**

President's Order No. 76 of 1972

The Finance Act, 1987,

<http://www.sai.uni-heidelberg.de/workgroups/bdlaw/1987-a27.htm>

Taxes Act, 1931 (XVI of 1931)

**YES:** A YES score is earned if there is a national agency formally mandated to collect taxes.

**NO:** A NO score is earned if that function is spread over several agencies, or does not exist. A NO score is earned if national government ministries can collect taxes independently.

---

59. Is the tax collection agency effective?

88

59a. In practice, the tax collection agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**Comments:**

Under the overall control of IRD, NBR administers the Excise, VAT, Customs and Income-Tax services consisting of 3,434 officers of various grades and 10,195 supporting staff positions (Approved set-up was on Feb. 9, 2000).

**References:**

National Board of Revenue, <http://www.nbr-bd.org/nbrweb/AboutUS/AboutUs.htm>

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

59b. In practice, the tax agency receives regular funding.

100 | 75 | 50 | 25 | 0

**References:**

Ministry of Finance

<http://www.mof.gov.bd/>

National Bureau of Revenue

[http://www.nbr-bd.org/tax\\_introducion.asp](http://www.nbr-bd.org/tax_introducion.asp)

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

---

60. In practice, are tax laws enforced uniformly and without discrimination?

60. In practice, are tax laws enforced uniformly and without discrimination?

100 | 75 | **50** | 25 | 0

**References:**

Interview with Mr. Motiur Rahman, Joint commissioner, Customs House, Rajshahi, Aug. 25, 2007, Dhaka.

Center for Governance, BRAC University, Bangladesh,  
The State of Governance in Bangladesh 2006, p-33-35,  
[www.cgs-bu.com](http://www.cgs-bu.com)

**100:** Tax laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade tax law than another.

**75:**

**50:** Tax laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade tax law. Some arbitrary and discriminatory tax rules exist.

**25:**

**0:** Tax law is unequally applied. Some groups of citizens are consistently more or less likely to evade tax law than others. Tax regulations are, as a rule, written to be discriminatory and/or arbitrary.

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61. In law, is there a national customs and excise agency?

100

61. In law, is there a national customs and excise agency?

**YES** | NO

**Comments:**

The National Board of Revenue (NBR) is the central authority for tax administration in Bangladesh. It was established by President's Order No. 76 of 1972. (<http://www.nbr-bd.org/nbrweb/AboutUS/AboutUs.htm>). Bangladesh Customs is working under the umbrella of the NBR, which is the apex body for direct and indirect tax revenue in Bangladesh. There are four customs houses and 30 active land customs stations for import and export activities and for passenger movement across Bangladesh (<http://www.nbr-bd.org/nbrweb/CustomsFiles/Station.htm>). Customs Department collects customs duty, supplementary duty etc.

**References:**

President's Order No. 76 of 1972  
Customs Act, 1969

**YES:** A YES score is earned if there is an agency formally mandated to collect excises and inspect customs.

**NO:** A NO score is earned if that function is spread over several agencies, or does not exist.

## 62. Is the customs and excise agency effective?

75

62a. In practice, the customs and excise agency has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

### Comments:

In TIB study (May 2007) entitled Problems and Potentials of Chittagong Port: Follow-up Diagnostic Study” revealed that 33.3 percent in Chittagong customs are vacant posts. Like any other regional and head office of Bangladesh Customs, Chittagong Customs office lacks educated, experienced and efficient manpower, which is essential for operating this highly technology-dependent environment. It was found that many officials working in Chittagong Customs House cannot verify import-export documents without the direct cooperation of C&F agents and cannot operate computers by running ASYCUDA++ software.

### References:

Transparency International Bangladesh,  
Follow-up Diagnostic Study on Chittagong Port, entitled Problems and Potentials of Chittagong Port: Follow-up Diagnostic Study”,  
May 12, 2007,  
[http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401)

Bangladesh Customs

<http://www.nbr-bd.org/nbrweb/CustomsFiles/CustomsHomePage.asp>

**100:** The agency has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the customs and excise agency receives regular funding.

100 | 75 | 50 | 25 | 0

**References:**

Ministry of Finance  
National Budget,  
[http://www.mof.gov.bd/budget/afs/afs\\_eng\\_contents.php](http://www.mof.gov.bd/budget/afs/afs_eng_contents.php)

Monthly Report on Fiscal Year, (April FY 2006-2007) (Provisional), Ministry of Finance, Finance Division.

Bangladesh Economic Review 2007 (available in Bengali on the website) [http://www.mof.gov.bd/economic/economic\\_review\\_bangla.php](http://www.mof.gov.bd/economic/economic_review_bangla.php)

**100:** The agency has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

---

**63. In practice, are customs and excise laws enforced uniformly and without discrimination?**

50

63. In practice, are customs and excise laws enforced uniformly and without discrimination?

100 | 75 | **50** | 25 | 0

**Comments:**

Corruption has taken an institutional form in the offices of the Customs Department of Bangladesh. Everybody assumes that no job can be done here on time without bribery or tips. Even the customs laws and regulations are enforced with discrimination. A TIB study (May, 2007) entitled Problems and Potentials of Chittagong port: A Follow-up Diagnostic Study" revealed that among the consignments of CRF commodities brought between the periods July 2005 – February 2006 and July 2006 – February 2007, the total number of consignments imported through false declarations revealed through manual examination was 490. During the same period, the customs authorities detected 695 incidents of false declarations by examining the CRF certificates. This took place by mutual understanding between importers, PSI agency and Customs officials, who accepted bribes.

**References:**

Transparency International Bangladesh  
Problems and Potentials of Chittagong port: A Follow-up Diagnostic Study ,  
May 12, 2007,  
[http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401).

Centre for Governance Studies, BRAC UNIVERSITY, BANGLADESH,  
The State of Governance in Bangladesh 2006, p-33-34, 44  
December 2006,  
[www.cgs-bu.com](http://www.cgs-bu.com)

Dissecting Public Sector Corruption in Bangladesh: Issues and Problems of Control, Public Organization Review,  
A Global Journal,  
Netherlands, 2004  
<http://www.springerlink.com/content/p673p2h1181562w7/>

**100:** Customs and excise laws (which may be economically unfair as written) are enforced consistently for all citizens. No general group of citizens is more or less likely to evade customs than another.

**75:**

**50:** Customs and excise laws are generally enforced consistently, but some exceptions exist. For example, some groups may occasionally evade customs requirements.

**25:**

**0:** Customs and excise laws are unequally applied. Some groups of citizens are consistently more or less likely to evade customs and excise laws than others.

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## V-4. State-Owned Enterprises

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64. In law, is there an agency or equivalent mechanism overseeing state-owned companies?

100

64. In law, is there an agency or equivalent mechanism overseeing state-owned companies?

YES | NO

**Comments:**

Every public department and/or companies are controlled by their line ministries. Besides, there is the office of Comptroller and Auditor General and Standing Committee on Public Accounts who are responsible to monitor all state-owned organizations, including ministries.

Article 18 (1-4) of the Bangladesh Constitution states that The public accounts of the Republic and of all courts of law and all authorities and officers of the government shall be audited and reported on by the Auditor-General and for that purpose he or any person authorised by him in that behalf shall have access to all records, books, vouchers, documents, cash, stamps, securities, stores or other government property in the possession of any person in the service of the Republic. (2) Without prejudice to the provisions of clause (1), if it is prescribed by law in the case of any body corporate directly established by law, the accounts of that body corporate shall be audited and reported on by such person as may be so prescribed. (3) Parliament may by law require the Auditor-General to exercise such functions, in addition to those specified in clause (1), as such law may prescribe, and until provision is made by law under this clause the President may, by order, make such provision. (4) The Auditor-General, in the exercise of this function under clause (1), shall not be subject to the direction or control of any other person or authority.

Article 76 (1) of the Constitution states that Parliament shall appoint from among its members the following standing committees, that is to say- (a) a public accounts committee (PAC); (b) committee of privileges; and (c) such other standing committees as the rules of procedure of Parliament require. The PAC is directly responsible and authorized to scrutinize the Appropriation Accounts of the government and the report of the Comptroller and Auditor-General thereon. The Rules of Procedure provides that in doing so, it shall be the duty of the Committee to satisfy itself –

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

It shall also be the duty of the Committee –

- a) to examine the statement of accounts showing the income and expenditure of state corporations, trading and manufacturing schemes, concerns and projects together with the

balance-sheets and statements of profit and loss accounts which the President may have required to be prepared or are prepared under the provisions of the statutory rules regulating the financing of a particular corporation, trading or manufacturing scheme or concern or project and the report of the Comptroller and Auditor-General thereon;

b) to examine the statement of accounts showing the income and expenditure of autonomous and semi-autonomous bodies, the audit of which may be conducted by the Comptroller and Auditor-General of Bangladesh either under the directions of the president or by a statute of Parliament; and

c) to consider the report of the Comptroller and Auditor-General in cases where the president may have required him to conduct an audit of any receipts or to examine the accounts of stores and stocks.”

**References:**

The Constitution of the Peoples Republic of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>

**YES:** A YES score is earned if there is an agency or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. State-owned companies are defined as companies owned in whole or in part by the government.

**NO:** A NO score is earned if this function does not exist.

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## 65. Is the agency or equivalent mechanism overseeing state-owned companies effective?

40

65a. In law, the agency or equivalent mechanism overseeing state-owned companies is protected from political interference.

YES | **NO**

**Comments:**

Politization has taken a heavy toll on our bureaucracy. Ministers try to influence the public officials to make administrative decisions in their favor. Even the ministers or MPs threat with awful consequence the officials, if their demands are not met.

**References:**

Office of the Comptroller and Auditor General of Bangladesh  
<http://www.cagbd.org/about.php>

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60  
Dhaka, December 2006,  
[www.cgs-bu.com](http://www.cgs-bu.com)

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007 at 10.30 a.m. (over phone).

Transparency International Bangladesh, August, 2007,  
Biman Bangladesh Airlines: A Diagnostic Study, [http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401)

**YES:** A YES score is earned only if the agency or equivalent mechanism has some formal operational independence from the government. A YES score is earned even if the entity is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency or equivalent mechanism is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department.

65b. In practice, the agency or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept.1, 2007, at 11.00 a.m.

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007 at 10.30 a.m. (over phone).

**100:** The agency or equivalent mechanism has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

**25:**

**0:** The agency or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

65c. In practice, the agency or equivalent mechanism overseeing state-owned companies receives regular funding.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6,, 2007 at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Transparency International Bangladesh, August, 2007, Biman Bangladesh Airlines: A Diagnostic Study, [http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401)

**100:** The the agency or equivalent mechanism has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The the agency or equivalent mechanism has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

65d. In practice, when necessary, the agency or equivalent mechanism overseeing state-owned companies independently initiates investigations.

100 | 75 | **50** | 25 | 0

**References:**

Office of the Comptroller and Auditor General of Bangladesh  
<http://www.cagbd.org/about.php>

BRAC University, Centre for Governance Studies, Dhaka,  
The State of Governance in Bangladesh 2006, p-53-60  
December 2006,  
[www.cgs-bu.com](http://www.cgs-bu.com)

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6,, 2007 at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Transparency International Bangladesh, August, 2007, Biman Bangladesh Airlines: A Diagnostic Study, [http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401)

**100:** When irregularities are discovered, the agency or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

**75:**

**50:** The agency or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

65e. In practice, when necessary, the agency or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

100 | 75 | **50** | 25 | 0

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Transparency International Bangladesh, August, 2007,  
Biman Bangladesh Airlines: A Diagnostic Study, [http://www.ti-bangladesh.org/index.php?page\\_id=401](http://www.ti-bangladesh.org/index.php?page_id=401)

Office of the Comptroller and Auditor General of Bangladesh  
<http://www.cagbd.org/about.php>

BRAC University, Centre for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006,  
[www.cgs-bu.com](http://www.cgs-bu.com)

World Bank, 1999, Bangladesh,  
The experience and perceptions of public officials, <http://www1.worldbank.org/publicsector/civilservice/countries/Bangladesh/bangladesh1113.pdf> ; <http://www.business-anti-corruption.com/normal.asp?pageid=49>

**100:** When rules violations are discovered, the agency or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

**75:**

**50:** The agency or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency may be partisan in its application of power.

66a. In law, citizens can access the financial records of state-owned companies.

YES | **NO**

**References:**

The Official Secrets Act, 1923

The Government Servants (Conduct) Rules, 1979, Government of Bangladesh.

The Government Servants Discipline and Appeal Rules, 1985, Government of Bangladesh.

**YES:** A YES score is earned if the financial information of all state-owned companies is required by law to be public. State-owned companies are defined as companies owned in whole or in part by the government.

**NO:** A NO score is earned if any category of state-owned company is exempt from this rule, or no such rules exist.

66b. In practice, the financial records of state-owned companies are regularly updated.

100 | 75 | **50** | 25 | 0

**References:**

Office of the Comptroller and Auditor General of Bangladesh

<http://www.cagbd.org/about.php>

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006,  
[www.cgs-bu.com](http://www.cgs-bu.com)

World Bank, 1999, Bangladesh,

The experience and perceptions of public

officials, <http://www1.worldbank.org/publicsector/civilservice/countries/Bangladesh/bangladesh1113.pdf> ; <http://www.business-anti-corruption.com/normal.asp?pageid=49>

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh,  
Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha,  
Dhaka, Sept. 1, 2007, at 11.00 a.m.

Ministry of Finance, Government of Bangladesh

<http://www.mof.gov.bd/>

**100:** State-owned companies always disclose financial data, which is generally accurate and up to date.

**75:**

**50:** State-owned companies disclose financial data, but it is flawed. Some companies may misstate financial data, or file the information behind schedule.

**25:**

**0:** Financial data is not available, or is consistently superficial or otherwise of no value.

66c. In practice, the financial records of state-owned companies are audited according to international accounting standards.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Abdullah Al Mahmud, Chartered accountant, Haque Shah Alam Manshur & Co., Dhaka, Sept.10, 2007, at 10.30 a.m. (over phone).

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards.

**75:**

**50:** Financial records of state-owned companies are regularly audited, but exceptions may exist. Some companies may use flawed or deceptive accounting procedures, or some companies may be exempted from this requirement.

**25:**

**0:** State-owned companies are not audited, or the audits have no functional value. The auditors may collude with the companies in providing misleading or false information to the public.

66d. In practice, citizens can access the financial records of state-owned companies within a reasonable time period.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Abdullah Al Mahmud, Chartered accountant, Haque Shah Alam Manshur & Co., Dhaka, Sept.10, 2007, at 10.30 a.m. (over phone).

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** Records are available on-line, or records can be obtained within two days. Records are uniformly available; there are no delays for politically sensitive information.

**75:**

**50:** Records take around two weeks to obtain. Some delays may be experienced.

**25:**

**0:** Records take more than a month to acquire. In some cases, most records may be available sooner, but there may be persistent delays in obtaining politically sensitive records.

66e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

100 | 75 | 50 | **25** | 0

**References:**

Interview with Abdullah Al Mahmud, Chartered accountant, Haque Shah Alam Manshur & Co., Dhaka, Sept.10, 2007, at 10.30 a.m. (over phone).

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** Records are free to all citizens, or available for the cost of photocopying. Records can be obtained at little cost, such as by mail, or on-line.

**75:**

**50:** Records impose a financial burden on citizens, journalists or CSOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or CSOs trying to access this information.

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57  
V-5. Business Licensing and Regulation

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67. Are business licenses available to all citizens?

69

67a. In law, anyone may apply for a business license.

YES | NO

**References:**

The Constitution of the Peoples Republic of Bangladesh, [http://en.wikipedia.org/wiki/Constitution\\_of\\_Bangladesh](http://en.wikipedia.org/wiki/Constitution_of_Bangladesh)

The Local Government (Union Parishads) Ordinance, 1983

**YES:** A YES score is earned if no particular group or category of citizens is excluded from applying for a business license, when required. A YES score is also earned if basic business licenses are not required.

**NO:** A NO score is earned if any group of citizens are categorically excluded from applying for a business license, when required

67b. In law, a complaint mechanism exists if a business license request is denied.

YES | NO

**References:**

The Constitution of the People s Republic of Bangladesh, [http://en.wikipedia.org/wiki/Constitution\\_of\\_Bangladesh](http://en.wikipedia.org/wiki/Constitution_of_Bangladesh)

The Local Government (Union Parishads) Ordinance, 1983

The Company Act 1994

**YES:** A YES score is earned if there is a formal process for appealing a rejected license.

**NO:** A NO score is earned if no such mechanism exists.

67c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007 at 10.30 a.m. (over phone).

Interview with Abdullah Al Mahmud, Chartered accountant, Haque Shah Alam Manshur & Co., Dhaka, Sept.10, 2007, at 10.30 a.m. (over phone).

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** Licenses are not required, or licenses can be obtained within roughly one week.

**75:**

**50:** Licensing is required and takes around one month. Some groups may be delayed up to a three months

**25:**

**0:** Licensing takes more than three months for most groups. Some groups may wait six months to one year to get necessary licenses.

67d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

100 | 75 | **50** | 25 | 0

**Comments:**

To get a business license, official cost is not expensive but bureaucracy, inconsistent rules & regulations and corruption increases cost.

**References:**

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007 at 10.30 a.m.

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

The World Bank & IFC, Doing Business in 2006, <http://www.doingbusiness.org/>

**100:** Licenses are not required, or licenses are free. Licenses can be obtained at little cost to the organization, such as by mail, or on-line.

**75:**

**50:** Licenses are required, and impose a financial burden on the organization. Licenses may require a visit to a specific office, such as a regional or national capital.

**25:**

**0:** Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.

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68. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

68a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

YES | NO

**References:**

The Constitution of the People s Republic of Bangladesh, [http://en.wikipedia.org/wiki/Constitution\\_of\\_Bangladesh](http://en.wikipedia.org/wiki/Constitution_of_Bangladesh)

The Local Government (Union Parishads) Ordinance, 1983

The Company Act 1994

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007, at 8.00 p.m.

Brick Klin License Regulations, 1989, Dhaka, Bangladesh.

Department of Environment, GOB  
<http://www.doe-bd.org/>

**YES:** A YES score is earned if basic regulatory requirements for meeting public health standards are publicly accessible and transparent.

**NO:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

68b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

YES | NO

**References:**

The Constitution of the People s Republic of Bangladesh, [http://en.wikipedia.org/wiki/Constitution\\_of\\_Bangladesh](http://en.wikipedia.org/wiki/Constitution_of_Bangladesh)

The Local Government (Union Parishads) Ordinance, 1983

The Company Act 1994

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007, at 8.00 p.m.

Brick Klin License Regulations, 1989, Dhaka, Bangladesh.

**YES:** A YES score is earned if basic regulatory requirements for meeting public environmental standards are publicly accessible and transparent.

**NO:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

68c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

YES | NO

**References:**

The Constitution of the People s Republic of Bangladesh, [http://en.wikipedia.org/wiki/Constitution\\_of\\_Bangladesh](http://en.wikipedia.org/wiki/Constitution_of_Bangladesh)

The Local Government (Union Parishads) Ordinance, 1983

The Company Act 1994

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Dhaka, Aug. 17, 2007, at 8.00 p.m.

Brick Klin License Regulations, 1989, Dhaka, Bangladesh.

Department of Environment, GOB  
<http://www.doe-bd.org/>

**YES:** A YES score is earned if basic regulatory requirements for meeting public safety standards are publicly accessible and transparent.

**NO:** A NO score is earned if such requirements are not made public or are otherwise not transparent.

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69. Does government effectively enforce basic health, environmental, and safety standards on businesses?

25

69a. In practice, business inspections by government officials to ensure public health standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** Business inspections by the government to ensure that public health standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public health standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public health standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

69b. In practice, business inspections by government officials to ensure public environmental standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** Business inspections by the government to ensure that public environmental standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public environmental standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public environmental standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

69c. In practice, business inspections by government officials to ensure public safety standards are being met are carried out in a uniform and even-handed manner.

100 | 75 | 50 | 25 | 0

**References:**

Interview with Md. Motiur Rahman, Joint commissioner (Customs), Chittagong Customs House, Bangladesh, Aug. 18, 2007

Interview with A K Azad Khan, deputy director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Sept. 1, 2007, at 11.00 a.m.

**100:** Business inspections by the government to ensure that public safety standards are being met are designed and carried out in such a way as to ensure comprehensive compliance by all businesses with transparent regulatory requirements.

**75:**

**50:** Business inspections by the government to ensure public safety standards are met are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

**25:**

**0:** Business inspections to ensure that public safety standards are met are routinely carried out by government officials in an ad hoc, arbitrary fashion designed to extract extra payments from businesses in exchange for favorable treatment.

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Category VI. Anti-Corruption and Rule of Law

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## VI-1. ~~77~~ Anti-Corruption Law

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70. Is there legislation criminalizing corruption?

100

70a. In law, attempted corruption is illegal.

**YES** | NO

**References:**

(1) Art. 161 of the Criminal Law Amendment Act 1958

(2) Arts. 161,162,163 of Penal Code 1860 (Act XLV of 1860)

**YES:** A YES score is earned if corruption laws include attempted acts.

**NO:** A NO score is earned if this is not illegal.

70b. In law, extortion is illegal.

**YES** | NO

**References:**

Art. 403 of The Criminal Law Amendment Act 1958

**YES:** A YES score is earned if corruption laws include extortion. Extortion is defined as demanding favorable treatment (such as a bribe) to withhold a punishment.

**NO:** A NO score is earned if this is not illegal.

70c. In law, offering a bribe (i.e. active corruption) is illegal.

**YES** | NO

**References:**

(1) Section 4 of the Prevention of Corruption Act, 1947

**YES:** A YES score is earned if offering a bribe is illegal.

**NO:** A NO score is earned if this is not illegal.

70d. In law, receiving a bribe (i.e. passive corruption) is illegal.

**YES** | NO

**References:**

- {1) Art. 161 of the Criminal Law Amendment Act 1958
- (2) Arts. 161-163 of the Penal Code 1860

**YES:** A YES score is earned if receiving a bribe is illegal.

**NO:** A NO score is earned if this is not illegal.

70e. In law, bribing a foreign official is illegal.

**YES** | NO

**References:**

- (1) Art. 161 of the Criminal Law Amendment Act, 1958
- (2) Section 171 B (1,2,3) of the Penal Code, 1860

**YES:** A YES score is earned if bribing a foreign official is illegal.

**NO:** A NO score is earned if this is not illegal.

70f. In law, using public resources for private gain is illegal.

**YES** | NO

**References:**

Art. 5 (1) D, 5(2) of the Prevention of Corruption Act, 1947

**YES:** A YES score is earned if using public resources for private gain is illegal.

**NO:** A NO score is earned if this is not illegal.

70g. In law, using confidential state information for private gain is illegal.

**YES** | NO

**References:**

Sectiona 3,4,5,8 of the Official Secrets Act, 1923

**YES:** A YES score is earned if using confidential state information for private gain is illegal.

**NO:** A NO score is earned if this is not illegal.

70h. In law, money laundering is illegal.

**YES** | NO

**References:**

- (1) The Money Laundering Prevention Law, 2002
- (2) Penal Code 1860 (XLV of 1860)
- (3) Foreign Exchange Regulation Act, 1947 (VII of 1947)

**YES:** A YES score is earned if money laundering is illegal. Money laundering is defined as concealing the origin of funds to hide wrongdoing or avoid confiscation.

**NO:** A NO score is earned if this is not illegal.

70i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

**YES** | NO

**References:**

- (1) Section 13 (a,b,c) of the Criminal Law Amendment Act, 1958
- (2) Sections 161-166, 168, 217,218, 420, 465-471, 477(A) of the Penal Code 1860
- (3) The Prevention of Corruption Act, 1947

**YES:** A YES score is earned if organized crime is illegal.

**NO:** A NO score is earned if this is not illegal.

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71. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

100

71. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

YES | NO

**References:**

Anti-Corruption Commission (ACC)

<http://www.icac.org.hk/news/issue20eng/button4.htm>

<http://www.voanews.com/bangla/archive/2004-08/a-2004-08-16-3-Anti.cfm>

**YES:** A YES score is earned if an agency is specifically mandated to address corruption. A YES score is earned if there are several agencies or entities with specific roles in fighting corruption, including special prosecutorial entities.

**NO:** A NO score is earned if no agency (or group of agencies/entities) is specifically mandated to prevent or prosecute corruption.

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72. Is the anti-corruption agency effective?

81

72a. In law, the anti-corruption agency (or agencies) is protected from political interference.

YES | NO

**Comments:**

Article 3(2) of the Anti-Corruption Commission Act 2004 states that the Commission shall be independent and impartial”.

**References:**

Anti-Corruption Commission Act 2004

[www.unpan1.un.org/intradoc/groups/public/documents/APCITY/UNPAN019089.pdf](http://www.unpan1.un.org/intradoc/groups/public/documents/APCITY/UNPAN019089.pdf)

**YES:** A YES score is earned only if the agency (or agencies) has some formal organizational or operational independence from the government. A YES score is earned even if the agency/agencies is legally separate but in practice staffed by partisans.

**NO:** A NO score is earned if the agency (or agencies) is a subordinate part of any government ministry or agency, such as the Department of Interior or the Justice Department, in such a way that limits its operational independence.

72b. In practice, the anti-corruption agency (or agencies) is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Commission (ACC) is now more active, effective and non-partisan than ever before. Due to political influenced and lack of commitment and capacity of the former chairman and commissioner of the ACC, Justice Sultan Hossain Khan, people began to wonder about the effectiveness and necessity of ACC. On Feb. 22, 2007, the caretaker government appointed Lt.Gen.(Retd.) Hasan Mashhud Chowdhury as a chairman and other two individuals as members, who are all known as men of high integrity and efficiency. The caretaker government had already amended the Anti-Corruption Act, 2004, and published the Anti-Corruption Commission Bidhimala (Rules), 2007 to strengthen the ACC. Moreover, a high-powered National Coordination Committee (NCC) was constituted for leading the country-wide operation to curb corruption and major grievous offences. On March 8, 2007, the caretaker government issued a gazette notification to give the legal shape to the NCC.

A large number of high-profile politicians, businessman, bureaucrats, including two former prime minister and about 200 former ministers, political leaders, MPs, bureaucrats, members & chairmen of different city corporations, had been questioned or detained, awaiting trial. Some have already received sentences and/or fines.

However, they are still dependent on the government for budget and recruitment, therefore the government can exercise a strong influence.

**References:**

The Daily Star,  
July 5, 2007  
<http://thedailystar.net/2007/07/05/d7070501011.htm>

The Daily Star,  
Aug. 14, 2007,  
<http://thedailystar.net/2007/08/14/d7081401075.htm>

Chief Advisors Office, Government of the Peoples Republic of Bangladesh, Address to the Nation by the Honorable Chief Adviser of the non-party Caretaker Government Dr. Fakhruddin Ahmed, Dhaka, Sunday, Jan. 21, 2007,  
<http://www.cao.gov.bd/>

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007, at 8.00 p.m.

Shamim Ahmad  
The War of Corruption  
published in Dhaka Courier,  
March 16-22, 2007, vol.23 issue 34,  
[www.dhakacourier.net](http://www.dhakacourier.net)

**100:** This agency (or agencies) operates independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Investigations can operate without hindrance from the government, including access to politically sensitive information. .

**75:**

**50:** This agency (or agencies) is typically independent, yet is sometimes influenced in its work by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government, political appointments, or

other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** This agency (or agencies) is commonly influenced by political or personal incentives. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power. The agency (or agencies) cannot compel the government to reveal sensitive information.

72c. In practice, the head of the anti-corruption agency (or agencies) is protected from removal without relevant justification.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Commission (ACC) is now more active, effective and non-partisan than ever before. Due to political influenced and lack of commitment and capacity of the former chairman and commissioner of the ACC, Justice Sultan Hossain Khan, people began to wonder about the effectiveness and necessity of ACC. On Feb. 22, 2007, the caretaker government appointed Lt.Gen.(Retd.) Hasan Mashhud Chowdhury as a chairman and other two individuals as members, who are all known as men of high integrity and efficiency. The caretaker government had already amended the Anti-Corruption Act, 2004, and published the Anti-Corruption Commission Bidhimala (Rules), 2007 to strengthen the ACC.

**References:**

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Mr. Ishtiaq Ahmed, Staff reporter, The Daily Shamokal , Bangladesh, Aug. 12, 2007

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007, at 8.00 p.m.

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March 16-22, 2007, vol.23 issue 34,  
[www.dhakacourier.net](http://www.dhakacourier.net)

**100:** The director(s) cannot be removed without a significant justification through a formal process, such as impeachment for abuse of power.

**75:**

**50:** The director(s) can in some cases be removed through a combination of official or unofficial pressure.

**25:**

**0:** The director(s) can be removed at the will of political leadership.

72d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

**Comments:**

The Anti-Corruption Commission (ACC) is now more active, effective and non-partisan than ever before. Due to political influenced and lack of commitment and capacity of the former chairman and commissioner of the ACC, Justice Sultan Hossain Khan, people began to wonder about the effectiveness and necessity of ACC. On Feb. 22, 2007, the caretaker government appointed Lt.Gen.(Retd.) Hasan Mashhud Chowdhury as a chairman and other two individuals as members, who are all known as men of high integrity and efficiency. The caretaker government had already amended the Anti-Corruption Act, 2004, and published the Anti-Corruption Commission Bidhimala (Rules), 2007 to strengthen the ACC. Moreover, a high-powered National Coordination Committee (NCC) was constituted for leading the country-wide operation to curb corruption and major grievous offences. On March 8, 2007, the caretaker government issued a gazette notification to give the legal shape to the NCC.

A large number of high-profile politicians, businessman, bureaucrats, including two former prime minister and about 200 former ministers, political leaders, MPs, bureaucrats, members & chairmen of different city corporations, had been questioned or detained, awaiting trial. Some have already received sentences and/or fines.

**References:**

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[www.dhakacourier.net](http://www.dhakacourier.net)

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest arising from personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

72e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

**Comments:**

The Anti-Corruption Commission (ACC) is now more active, effective and non-partisan than ever before. Due to political influenced and lack of commitment and capacity of the former chairman and commissioner of the ACC, Justice Sultan Hossain Khan, people began to wonder about the effectiveness and necessity of ACC. On Feb. 22, 2007, the caretaker government appointed Lt.Gen.(Retd.) Hasan Mashhud Chowdhury as a chairman and other two individuals as members, who are all known as men of high integrity and efficiency. The caretaker government had already amended the Anti-Corruption Act, 2004, and published the Anti-Corruption Commission Bidhimala (Rules), 2007 to strengthen the ACC. Moreover, a high-powered National Coordination Committee (NCC) was constituted for leading the country-wide operation to curb corruption and major grievous offences. On March 8, 2007, the caretaker government issued a gazette notification to give the legal shape to the NCC.

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[www.dhakacourier.net](http://www.dhakacourier.net)

**100:** The agency (or agencies) has staff sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

72f. In practice, the anti-corruption agency (or agencies) receives regular funding.

**References:**

Ministry of Finance, Combined Demand for Grants 2007-2008,  
GOB, [http://www.mof.gov.bd/budget/combined\\_demand/67\\_memo\\_comments\\_revenue0708\\_e.pdf](http://www.mof.gov.bd/budget/combined_demand/67_memo_comments_revenue0708_e.pdf)

**100:** The agency (or agencies) has a predictable source of funding that is fairly consistent from year to year. Political considerations are not a major factor in determining agency funding.

**75:**

**50:** The agency (or agencies) has a regular source of funding, but may be pressured by cuts, or threats of cuts to the agency budget. Political considerations have an effect on agency funding.

**25:**

**0:** The agency's funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

72g. In practice, the anti-corruption agency (or agencies) makes regular public reports.

100 | 75 | 50 | 25 | 0

**References:**

BBC news, Q &A: Bangladesh Crisis, 3 September 2007, [http://news.bbc.co.uk/1/hi/world/south\\_asia/6255773.stm](http://news.bbc.co.uk/1/hi/world/south_asia/6255773.stm)

The daily Star,  
Aug. 14, 2007  
<http://thedailystar.net/2007/08/14/d7081401075.htm>

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal , Bangladesh,  
Aug. 12, 2007

**100:** The agency (or agencies) makes regular, publicly available, substantial reports to the legislature and/or to the public directly outlining the full scope of its work.

**75:**

**50:** The agency (or agencies) makes publicly available reports to the legislature that are sometimes delayed or incomplete.

**25:**

**0:** The agency (or agencies) makes no reports of its activities, or makes reports that are consistently out of date, unavailable to the public, or insubstantial.

72h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

100 | 75 | 50 | 25 | 0

**Comments:**

The Anti-Corruption Commission (ACC) is now more active, effective and non-partisan than ever before. Due to political influenced and lack of commitment and capacity of the former chairman and commissioner of the ACC, Justice Sultan Hossain Khan, people began to wonder about the effectiveness and necessity of ACC. On Feb. 22, 2007, the caretaker government appointed Lt.Gen.(Retd.) Hasan Mashhud Chowdhury as a chairman and other two individuals as members, who are all known as men of high integrity and efficiency. The caretaker government had already amended the Anti-Corruption Act, 2004, and published the Anti-Corruption Commission Bidhimala (Rules), 2007 to strengthen the ACC. Moreover, a high-powered National Coordination Committee (NCC) was constituted for leading the country-wide operation to curb corruption and major grievous offences. On March 8, 2007, the caretaker government issued a gazette notification to give the legal shape to the NCC.

A large number of high-profile politicians, businessman, bureaucrats, including two former prime minister and about 200 former ministers, political leaders, MPs, bureaucrats, members & chairmen of different city corporations, had been questioned or detained, awaiting trial. Some have already received sentences and/or fines.

However, they are still dependent on the government for budget and recruitment, therefore the government can exercise a strong influence.

On March 29, 2007, the ACC filed a case against former Housing and Public Works Minister Mirza Abbas and 11 engineers and officials of Rajuk and Public Works Department (PWD) for selling 18 abandoned houses at lower prices. Some were already sentenced by the time of this writing, while many, including a few dozen top politicians, are still awaiting trial.

**References:**

The Daily Star,  
Feb. 19, 2007

BBC news, Q &A: Bangladesh Crisis,  
Sept. 3, 2007,  
[http://news.bbc.co.uk/1/hi/world/south\\_asia/6255773.stm](http://news.bbc.co.uk/1/hi/world/south_asia/6255773.stm)

The Daily Star,  
Feb. 5, 2007 & Feb. 19, 2007

The New Nation  
12 Former Ministers, MPs took Tk 32 cr extortion money,  
May 31, 2007,  
[http://nation.ittefaq.com/artman/publish/article\\_36493.shtml](http://nation.ittefaq.com/artman/publish/article_36493.shtml)

The Daily Star,  
March 30, 2007  
<http://thedailystar.net/2007/03/30/d7033001097.htm>

The Daily Star,  
July 05, 2007  
<http://thedailystar.net/2007/07/05/d7070501011.htm>

The daily Star,  
Aug. 14, 2007  
<http://thedailystar.net/2007/08/14/d7081401075.htm>

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007 at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

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March 16-22, 2007, vol.23 issue 34,  
[www.dhakacourier.net](http://www.dhakacourier.net)

**100:** The agency (or agencies) has powers to gather information, including politically sensitive information. The agency (or agencies) can question suspects, order arrests and bring suspects to trial (or rely on related agencies or law enforcement authorities to perform such functions).

**75:**

**50:** The agency (or agencies) has most of the powers needed to carry out its mandate with some exceptions.

**25:**

**0:** The agency (or agencies) lacks significant powers which limit its effectiveness.

72i. In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100 | 75 | 50 | 25 | 0

**Comments:**

On March 29, 2007, the ACC filed a case against former Housing and Public Works Minister Mirza Abbas and 11 engineers and officials of Rajuk and Public Works Department (PWD) for selling 18 abandoned houses at lower prices. Some were already sentenced by the time of this writing, while many, including a few dozen top politicians, are still awaiting trial.

A large number of high-profile politicians, businessman, bureaucrats, including two former prime minister and about 200 former ministers, political leaders, MPs, bureaucrats, members & chairmen of different city corporations, had been questioned or detained, awaiting trial. Some have already received sentences and/or fines.

**References:**

The Daily Star,  
Feb. 19, 2007

BBC news, Q &A: Bangladesh Crisis,  
Sept. 3, 2007,  
[http://news.bbc.co.uk/1/hi/world/south\\_asia/6255773.stm](http://news.bbc.co.uk/1/hi/world/south_asia/6255773.stm)

The Daily Star,  
Feb. 5, 2007 & Feb. 19, 2007

The New Nation  
12 Former Ministers, MPs took Tk 32 cr extortion money,  
May 31, 2007,  
[http://nation.ittefaq.com/artman/publish/article\\_36493.shtml](http://nation.ittefaq.com/artman/publish/article_36493.shtml)

The Daily Star,  
March 30, 2007  
<http://thedailystar.net/2007/03/30/d7033001097.htm>

The Daily Star,  
July 05, 2007  
<http://thedailystar.net/2007/07/05/d7070501011.htm>

The daily Star,  
Aug. 14, 2007  
<http://thedailystar.net/2007/08/14/d7081401075.htm>

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007 at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Shamim Ahmad,  
The War of Corruption

**100:** When irregularities are discovered, the agency (or agencies) is aggressive in investigating the government or in cooperating with other investigative agencies.

**75:**

**50:** The agency (or agencies) starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency (or agencies) may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency (or agencies) does not effectively investigate or does not cooperate with other investigative agencies. The agency (or agencies) may start investigations but not complete them, or may fail to detect offenders. The agency (or agencies) may be partisan in its application of power.

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### 73. Can citizens access the anti-corruption agency?

63

73a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | **50** | 25 | 0

#### References:

The Daily Star,  
Feb. 5, 2007 & Feb. 19, 2007

The New Nation  
12 Former Ministers, MPs took Tk 32 cr extortion money,  
May 31, 2007,  
[http://nation.ittefaq.com/artman/publish/article\\_36493.shtml](http://nation.ittefaq.com/artman/publish/article_36493.shtml)

The Daily Star,  
March 30, 2007  
<http://thedailystar.net/2007/03/30/d7033001097.htm>

The Daily Star,  
July 05, 2007  
<http://thedailystar.net/2007/07/05/d7070501011.htm>

The daily Star,  
Aug. 14, 2007  
<http://thedailystar.net/2007/08/14/d7081401075.htm>

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007 at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007 at 8.00 p.m.

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

**100:** The agency (or agencies) acts on complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency (or agencies) acts on complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency (or agencies) cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take more than three months to resolve. Serious abuses are not investigated with any urgency.

73b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | **75** | 50 | 25 | 0

**Comments:**

The Anti-Corruption Commission is now more active, effective and non-partisan than ever before. Due to political influence and lack of commitment and capacity of former chairman and commissioner of the ACC, Justice Sultan Hossain Khan, people began to wonder about the effectiveness and necessity of ACC.

**References:**

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007 at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007 at 8.00 p.m.

Interview with Mr. Ishtiaq Ahmed, staff reporter, The Daily Shamokal, Bangladesh,  
Aug. 12, 2007

Shamim Ahmad  
The War of Corruption  
published in Dhaka Courier,  
March 16-22, 2007, vol.23 issue 34,  
[www.dhakacourier.net](http://www.dhakacourier.net)

**100:** Whistleblowers can report abuses of power without fear of negative consequences. This may be due to robust mechanisms to protect the identity of whistleblowers, or may be due to a culture that encourages disclosure and accountability.

**75:**

**50:** Whistleblowers are sometimes able to come forward without negative consequences, but in other cases, whistleblowers are punished for disclosing, either through official or unofficial means.

**25:**

**0:** Whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

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## 81 VI-3. Rule of Law

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74. Is there an appeals mechanism for challenging criminal judgments?

50

74a. In law, there is a general right of appeal.

**YES** | NO

**References:**

The Constitution of the Peoples Republic of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>

Judicial Service Commission Rules, 2007

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007 at 8.00 p.m.

Justice Kazi Ebadul Hoque, Administration of Justice in Bangladesh, Dhaka, 2003.

Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000.

Barrister M. Amir-Ul Islam,  
Paper presented at the Seminar entitled Judicial Reform and Independence of the Judiciary, Aug. 11, 2007.

RCBM filed a Public Interest Litigation against the Government of Bangladesh, <http://hrcbmdfw.org/blogs/bangladesh/archive/2006/04/16/314.aspx>

**YES:** A YES score is earned if there is a formal process of appeal for challenging criminal judgments.

**NO:** A NO score is earned if there is no such process.

74b. In practice, appeals are resolved within a reasonable time period.

100 | 75 | 50 | 25 | 0

**Comments:**

There is a huge pending case both in lower and high court which take long time for disposal of cases and increases the expenditure through official and unofficial payment. Besides, politicization of judiciary has led to decline governmental accountability and public trust.

**References:**

Transparency International, Berlin 2007,  
Bangladesh: Justice in disarray, Global Corruption Report 2007, [http://www.transparency.org/publications/gcr/download\\_gcr#2](http://www.transparency.org/publications/gcr/download_gcr#2)

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006,  
www.cgs-bu.com

Power and Participation Research Center (PPRC), Dhaka, 2007,  
Bangladesh Governance Report 2007, p-84-85

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007, at 8.00 p.m.

Justice Kazi Ebadul Hoque, Administration of Justice in Bangladesh, Dhaka, 2003.

**100:** Appeals are acted upon quickly. While some backlog is expected and inevitable, appeals are acknowledged promptly and cases move steadily towards resolution.

**75:**

**50:** Appeals are generally acted upon quickly but with some exceptions. Some appeals may not be acknowledged, and simple cases may take years to resolve.

**25:**

**0:** Most appeals are not resolved in a timely fashion. Appeals may go unacknowledged for months or years and simple cases may never be resolved.

74c. In practice, citizens can use the appeals mechanism at a reasonable cost.

100 | 75 | 50 | 25 | 0

**Comments:**

There is a huge pending case both in lower and high court which takes long time for disposal of cases and increases the expenditure through official and unofficial payment. The complicated nature also provokes corruption.

**References:**

Transparency International, Berlin 2007, Global Corruption Report 2007, [http://www.transparency.org/publications/gcr/download\\_gcr#2](http://www.transparency.org/publications/gcr/download_gcr#2)

BRAC University, Center for Governance Studies, The State of Governance in Bangladesh 2006, p-53-60, Dhaka, December 2006, www.cgs-bu.com

Power and Participation Research Center (PPRC), Dhaka, 2007, Bangladesh Governance Report 2007, p-84-85.

Transparency International, Berlin, 2004, National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with G M Kader, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007, at 8.00 p.m.

Justice Kazi Ebadul Hoque, Administration of Justice in Bangladesh, Dhaka, 2003.

**100:** In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments.

**75:**

**50:** In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments.

**25:**

**0:** The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments.

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**75. In practice, do judgments in the criminal system follow written law?**

50

75. In practice, do judgments in the criminal system follow written law?

100 | 75 | **50** | 25 | 0

**References:**

Transparency International, Berlin 2007,

Bangladesh: Justice in disarray, Global Corruption Report 2007, [http://www.transparency.org/publications/gcr/download\\_gcr#2](http://www.transparency.org/publications/gcr/download_gcr#2)

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006,  
[www.cgs-bu.com](http://www.cgs-bu.com)

Power and Participation Research Center (PPRC), Dhaka, 2007,  
Bangladesh Governance Report 2007, p-84-85

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007, at 8.00 p.m.

Justice Kazi Ebadul Hoque, Administration of Justice in Bangladesh, Dhaka, 2003.

**100:** Judgments in the criminal system are made according to established legal code and conduct. There are no exceptional cases in which individuals are treated by a separate process. Political interference, bribery, cronyism or other flaws are rarely factors in judicial outcomes.

**75:**

**50:** Judgments in the criminal system usually follow the protocols of written law. There are sometimes exceptions when political concerns, corruption or other flaws in the system decide outcomes.

**25:**

**0:** Judgments in the criminal system are often decided by factors other than written law. Bribery and corruption in the criminal judicial process are common elements affecting decisions.

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76. In practice, are judicial decisions enforced by the state?

50

76. In practice, are judicial decisions enforced by the state?

100 | 75 | **50** | 25 | 0

**References:**

Transparency International, Berlin 2007,  
Bangladesh: Justice in disarray, Global Corruption Report 2007, [http://www.transparency.org/publications/gcr/download\\_gcr#2](http://www.transparency.org/publications/gcr/download_gcr#2)

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006,  
www.cgs-bu.com

Power and Participation Research Center (PPRC), Dhaka, 2007,  
Bangladesh Governance Report 2007, p-84-85

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007, at 8.00 p.m.

Justice Kazi Ebadul Hoque, Administration of Justice in Bangladesh, Dhaka, 2003.

**100:** Judicial decisions are enforced quickly regardless of what is being decided or who is appearing before the court. Failure to comply brings penalties enforced by the state.

**75:**

**50:** Judicial decisions are generally enforced by the state, with some exceptions. Certain areas of law may be ignored, or certain parties appearing before the courts may evade or delay enforcement.

**25:**

**0:** Judicial decisions are often ignored. The state lacks the will or capacity to consistently enforce these decisions.

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## 77. Is the judiciary able to act independently?

88

77a. In law, the independence of the judiciary is guaranteed.

**YES** | NO

### References:

The Constitution of the Peoples Republic of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>

Judicial Service Commission Rules, 2007

Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000.

**YES:** A YES score is earned if there are formal rules establishing that the judiciary is independent from political interference by the executive and legislative branches. Independence include financial issues (drafting, allocation, and managing the budget of the courts ).

**NO:** A NO score is earned if there are no formal rules establishing an independent judiciary.

77b. In practice, national-level judges are protected from political interference.

100 | 75 | **50** | 25 | 0

**References:**

Barrister M. Amir-UI Islam,  
Paper presented at the Seminar entitled Judicial Reform and Independence of the Judiciary,  
Aug. 11, 2007.

The Daily Star,  
SC to Rescue Nation from Any Crisis,  
Aug. 12, 2007  
<http://thedailystar.net/2007/08/12/d7081201011.htm>

RCBM filed a Public Interest Litigation against the Government of  
Bangladesh, <http://hrbmdfw.org/blogs/bangladesh/archive/2006/04/16/314.aspx>

Asian Human Rights Commission, Hong Kong,  
(Translation of Article published in the Daily Prothom Alo dated Dec. 1,  
.2006), <http://www.ahrchk.net/statements/mainfile.php/2006statements/874/>

Transparency International, Berlin 2007,  
Bangladesh: Justice in disarray, Global Corruption Report 2007, [http://www.transparency.org/publications/gcr/download\\_gcr#2](http://www.transparency.org/publications/gcr/download_gcr#2)

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006,  
[www.cgs-bu.com](http://www.cgs-bu.com)

Power and Participation Research Center (PPRC),  
Bangladesh Governance Report 2007, p-84-85  
Dhaka, 2007,

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

**100:** National level judges operate independently of the political process, without incentive or pressure to render favorable judgments in politically sensitive cases. Judges never comment on political debates. Individual judgments are rarely praised or criticized by political figures.

**75:**

**50:** National level judges are typically independent, yet are sometimes influenced in their judgments by negative or positive political incentives. This may include favorable or unfavorable treatment by the government or public criticism. Some judges

may be demoted or relocated in retaliation for unfavorable decisions.

**25:**

**0:** National level judges are commonly influenced by politics and personal biases or incentives. This may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include demotion, pay cuts, relocation, threats or harassment.

77c. In law, there is a transparent and objective system for distributing cases to national-level judges.

**YES** | NO

**References:**

The Constitution of the Peoples Republic of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>  
Judicial Service Commission Rules, 2007

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Justice Kazi Ebadul Hoque, Administration of Justice in Bangladesh, Dhaka, 2003.

Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000  
Bangladesh Judicial Service (Formation of Service, Appointment, Promotion in the Service and Temporary Suspension and Removal) Rules, 2007

Bangladesh Judicial Service (Determination of Service Place, Controlling of Granting Leave, Maintaining Discipline and others Conditions of Employment) Rules, 2007.

**YES:** A YES score is earned if there is an objective system that is transparent to the public that equitably or randomly assigns cases to individual judges. The executive branch does not control this process.

**NO:** A NO score is earned if the case assignment system is non-transparent or subjective where judges themselves have influence over which cases they adjudicate. A NO score is also earned if the executive branch controls this process.

77d. In law, national-level judges are protected from removal without relevant justification.

**YES** | NO

**References:**

The Constitution of the Peoples Republic of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>

Judicial Service Commission Rules, 2007

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Justice Kazi Ebadul Hoque, Administration of Justice in Bangladesh, Dhaka, 2003.

**YES:** A YES score is earned if there are specific, formal rules for removal of a justice. Removal must be related to abuse of power or other offenses related to job performance.

**NO:** A NO score is earned if justices can be removed without justification, or for purely political reasons. A NO score is earned if the removal process is not transparent, or not based on written rules.

## 78. Are judges safe when adjudicating corruption cases?

100

78a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.

YES | NO

### Comments:

On Nov. 14, 2005, two judges were killed in a bomb explosion in the town of Jhalokathi, Bangladesh by the JMB (Muslim Militant). JMB are blamed for a series of bomb blasts that targeted courts and government establishments across Bangladesh in order to establish Muslim religious rule in the country. Apart from this incidence, no judges were killed or physically harmed because of adjudicating corruption cases or any other reasons.

### References:

Asian Human Rights Commission, Hong Kong,  
Translation of Article published in the Daily Prothom Alo dated Dec. 1,  
2006, <http://www.ahrchk.net/statements/mainfile.php/2006statements/874/>

Security Watch Online version provided by the International Relations and Security Network:  
A public service of the Center for Security Studies at ETH Zurich, November  
14,2005, [http://www.isn.ethz.ch/securitywatch/details\\_print.cfm?id=13517](http://www.isn.ethz.ch/securitywatch/details_print.cfm?id=13517)

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007, at 8.00 p.m.

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006,  
[www.cgs-bu.com](http://www.cgs-bu.com)

**YES:** A YES score is earned if there were no documented cases of judges being assaulted because of their involvement in a corruption case during the specific study period. YES is a positive score.

**NO:** A NO score is earned if there were any documented cases of assault to a judge related to his/her participation in a corruption trial. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

78b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

YES | NO

**Comments:**

On Nov. 14, 2005, two judges were killed in a bomb explosion in the town of Jhalokathi, Bangladesh by the JMB (Muslim Militant). JMB are blamed for a series of bomb blasts that targeted courts and government establishments across Bangladesh in order to establish Muslim religious rule in the country. Apart from this incidence, no judges were killed or physically harmed because of adjudicating corruption cases or any other reasons.

**References:**

Transparency International, Berlin 2007,  
Bangladesh: Justice in disarray, Global Corruption Report 2007, [http://www.transparency.org/publications/gcr/download\\_gcr#2](http://www.transparency.org/publications/gcr/download_gcr#2)

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Security Watch Online version provided by the International Relations and Security Network:  
A public service of the Center for Security Studies at ETH Zurich, November  
14, 2005, [http://www.isn.ethz.ch/securitywatch/details\\_print.cfm?id=13517](http://www.isn.ethz.ch/securitywatch/details_print.cfm?id=13517)

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007, at 8.00 p.m.

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006,  
[www.cgs-bu.com](http://www.cgs-bu.com)

**YES:** A YES score is earned if there were no documented cases of judges being killed related to their involvement in a corruption case during the study period. YES is a positive score.

**NO:** A NO score is earned if there were any documented cases where a judge was killed because of his/her participation in a corruption trial. The relationship between a mysterious death and a judge's involvement in a case may not be clear, however the burden of proof here is low. If it is a reasonable assumption that a judge was killed in relation to his or her work on corruption issues, then the indicator is scored as a NO. Corruption is defined broadly to include any abuses of power, not just the passing of bribes.

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79. Do citizens have equal access to the justice system?

68

79a. In practice, judicial decisions are not affected by racial or ethnic bias.

**References:**

Transparency International, Berlin 2007,  
 Bangladesh: Justice in disarray, Global Corruption Report 2007, [http://www.transparency.org/publications/gcr/download\\_gcr#2](http://www.transparency.org/publications/gcr/download_gcr#2)

Transparency International, Berlin, 2004,  
 National Integrity Systems Country Study Report: Bangladesh 2003.

Security Watch Online version provided by the International Relations and Security Network:  
 A public service of the Center for Security Studies at ETH Zurich, November  
 14, 2005, [http://www.isn.ethz.ch/securitywatch/details\\_print.cfm?id=13517](http://www.isn.ethz.ch/securitywatch/details_print.cfm?id=13517)

Interview with G M Kader, former member of Parliament (MP),  
 Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
 Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme  
 Court of Bangladesh,  
 Dhaka, Aug. 17, 2007, at 8.00 p.m.

BRAC University, Center for Governance Studies,  
 The State of Governance in Bangladesh 2006, p-53-60,  
 Dhaka, December 2006,  
[www.cgs-bu.com](http://www.cgs-bu.com)

**100:** Judicial decisions are not affected by racial or ethnic bias.

**75:**

**50:** Judicial decisions are generally not affected by racial or ethnic bias, with some exceptions. Some groups may be occasionally discriminated against, or some groups may occasionally receive favorable treatment.

**25:**

**0:** Judicial decisions are regularly distorted by racial or ethnic bias. Some groups consistently receive favorable or unfavorable treatment by the courts.

79b. In practice, women have full access to the judicial system.

**References:**

Barrister M. Amir-Ul Islam,  
 Paper presented at the Seminar entitled Judicial Reform and Independence of the Judiciary,  
 Aug. 11, 2007.

The Daily Star,  
 SC to Rescue Nation from Any Crisis,

August 12, 2007, <http://thedailystar.net/2007/08/12/d7081201011.htm>

Asian Human Rights Commission, Hong Kong,  
Translation of Article published in the Daily Prothom Alo from Dec. 1, 2006  
<http://www.ahrchk.net/statements/mainfile.php/2006statements/874/>

Transparency International, Berlin 2007,  
Bangladesh: Justice in disarray, Global Corruption Report 2007, [http://www.transparency.org/publications/gcr/download\\_gcr#2](http://www.transparency.org/publications/gcr/download_gcr#2)

Security Watch Online version provided by the International Relations and Security Network:  
A public service of the Center for Security Studies at ETH Zurich, November  
14, 2005, [http://www.isn.ethz.ch/securitywatch/details\\_print.cfm?id=13517](http://www.isn.ethz.ch/securitywatch/details_print.cfm?id=13517)

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Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme  
Court of Bangladesh,  
Dhaka, Aug. 17, 2007, at 8.00 p.m.

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006,  
[www.cgs-bu.com](http://www.cgs-bu.com)

**100:** Women enjoy full and equal status in the eyes of the courts. There are no exceptions or practices in which women are treated differently by the judicial system. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

**75:**

**50:** Women generally have use of the judicial system, with some exceptions. In some cases, women may be limited in their access to courts, or gender biases may affect court outcomes. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

**25:**

**0:** Women generally have less access to the courts than men. Court decisions are commonly distorted by gender bias. Women may have to go through intermediaries to interact with the court, or are unable to present evidence. For this indicator, discrimination against women should reflect specific biases that confront women in the justice system as opposed to difficulties resulting from broader socio-economic disadvantages or discrimination against women.

79c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.

YES | NO

**References:**

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme  
Court of Bangladesh,  
Dhaka, Aug. 17, 2007, at 8.00 p.m.

The Constitution of the Peoples Republic of Bangladesh, <http://www.bangla2000.com/Bangladesh/constitution.html>

Judicial Service Commission Rules, 2007

The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

Justice Kazi Ebadul Hoque,  
Administration of Justice in Bangladesh,  
Dhaka, 2003.

Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000

**YES:** A YES score is earned if the government is required by law to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

**NO:** A NO score is earned if there is no legal requirement for the government to provide impoverished defendants with legal counsel to defend themselves against criminal charges.

79d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.

100 | 75 | **50** | 25 | 0

**References:**

Justice Kazi Ebadul Hoque,  
Administration of Justice in Bangladesh,  
Dhaka, 2003.

Transparency International, Berlin 2007

Bangladesh: Justice in disarray, Global Corruption Report 2007, [http://www.transparency.org/publications/gcr/download\\_gcr#2](http://www.transparency.org/publications/gcr/download_gcr#2)

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007 at 8.00 p.m.

**100:** State-provided legal aid is basic, but well-trained and effective in representing the rights of impoverished defendants.

**75:**

**50:** State-provided legal aid is available, but flawed. Legal aid may be unavailable to some impoverished defendants. Legal aid/public defenders may be sometimes unable or unwilling to competently represent all defendants.

**25:**

**0:** State-provided legal aid is unavailable to most impoverished defendants. State legal aid/public defenders may be consistently incompetent or unwilling to fairly represent all defendants.

79e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

**References:**

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006  
www.cgs-bu.com

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Transparency International, Berlin 2007  
Bangladesh: Justice in disarray, Global Corruption Report 2007, [http://www.transparency.org/publications/gcr/download\\_gcr#2](http://www.transparency.org/publications/gcr/download_gcr#2)

Interview with G M Kader, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007 at 8.00 p.m.

**100:** In most cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance.

**75:**

**50:** In some cases, the legal system is an affordable option to middle class citizens seeking to redress a grievance. In other cases, the cost is prohibitive.

**25:**

**0:** The cost of engaging the legal system prevents middle class citizens from filing suits.

79f. In practice, a typical small retail business can afford to bring a legal suit.

100 | 75 | 50 | 25 | 0

**References:**

RCBM filed a Public Interest Litigation against the Government of Bangladesh, <http://hrcbmdfw.org/blogs/bangladesh/archive/2006/04/16/314.aspx>

Asian Human Rights Commission, Hong Kong,  
Translation of Article published in the Daily Prothom Alo, Dec. 1,  
2006 <http://www.ahrchk.net/statements/mainfile.php/2006statements/874/>

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006  
www.cgs-bu.com

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Transparency International, Berlin 2007  
Bangladesh: Justice in disarray, Global Corruption Report 2007, [http://www.transparency.org/publications/gcr/download\\_gcr#2](http://www.transparency.org/publications/gcr/download_gcr#2)

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Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh,  
Dhaka, Aug. 17, 2007 at 8.00 p.m.

**100:** In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance.

**75:**

**50:** In some cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. In other cases, the cost is prohibitive.

**25:**

**0:** The cost of engaging the legal system prevents small businesses from filing suits.

79g. In practice, all citizens have access to a court of law, regardless of geographic location.

100 | **75** | 50 | 25 | 0

#### References:

Asian Human Rights Commission, Hong Kong,  
Translation of Article published in the Daily Prothom Alo, Dec. 1,  
2006 <http://www.ahrchk.net/statements/mainfile.php/2006statements/874/>

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006  
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Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Transparency International, Berlin 2007  
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Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP), Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Interview with Manzil Murshid, executive president of Human Rights and Peace for Bangladesh (HRPB) & advocate of Supreme Court of Bangladesh, Dhaka, Aug. 17, 2007 at 8.00 p.m.

**100:** Courtrooms are always accessible to citizens at low cost, either through rural courthouses or through a system of traveling magistrates.

**75:**

**50:** Courts are available to most citizens. Some citizens may be unable to reach a courtroom at low cost due to location.

**25:**

**0:** Courts are unavailable to some regions without significant travel on the part of citizens.

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## VI-4. Law Enforcement

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### 80. Is the law enforcement agency (i.e. the police) effective?

42

80a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | **50** | 25 | 0

**Comments:**

Politization has taken a heavy toll of our bureaucracy. Ministers try to influence the public officials to make administrative decisions in their favor. Even the ministers or MPs threat with awful consequence the officials if their demands are not met. Due to successive politization in public administration, the incompetent people have been placed in different key points in our administration.

The Bangladesh Governance Report 2007" conducted by PPRC states that various group of officers have been recruited into the civil service without meeting the criteria for entering the service (page-84).

With the reference of the Bangladesh Observer the State of Governance in Bangladesh 2006 report described the politization scenario in recruitment and promotion in civil administration.

**References:**

Power and Participation Research Center (PPRC),  
Bangladesh Governance Report 2007  
Dhaka, 2007

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Transparency International, Berlin 2007  
Bangladesh: Justice in disarray, Global Corruption Report 2007, [http://www.transparency.org/publications/gcr/download\\_gcr#2](http://www.transparency.org/publications/gcr/download_gcr#2)

**100:** Appointments to the agency (or agencies) are made based on professional qualifications. Individuals appointed are free of conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed usually do not have clear political party affiliations.

**75:**

**50:** Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

**25:**

**0:** Appointments are often based on political considerations. Individuals appointed often have conflicts of interest due to personal loyalties, family connections or other biases. Individuals appointed often have clear party loyalties.

80b. In practice, the law enforcement agency (or agencies) has a budget sufficient to carry out its mandate.

100 | 75 | **50** | 25 | 0

**Comments:**

The operational allocation including vehicle, travel cost and stationary are not sufficient compared to actual costs, and thus unofficial transactions are encouraged. A research on Police Station by TIB revealed that in the metropolitan police stations, supplies of stationery covered about nine percent of the needs.

**References:**

UNDP, Bangladesh,  
External interference obstructs police performance: Public Attitude Baseline Survey  
Feb. 14, 2007,  
[www.undp.org.bd](http://www.undp.org.bd)

Transparency International Bangladesh,  
Diagnostic Study on Police Station  
Dhaka 2004

Power and Participation Research Center (PPRC),  
Bangladesh Governance Report 2007  
Dhaka, 2007

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006  
[www.cgs-bu.com](http://www.cgs-bu.com)

**100:** The agency (or agencies) has a budget sufficient to fulfill its basic mandate.

**75:**

**50:** The agency (or agencies) has limited budget, generally considered somewhat insufficient to fulfill its basic mandate.

**25:**

**0:** The agency (or agencies) has no budget or an obviously insufficient budget that hinders the agency's ability to fulfill its mandate.

80c. In practice, the law enforcement agency is protected from political interference.

100 | 75 | 50 | 25 | 0

**Comments:**

Politization has taken a heavy toll of our bureaucracy. Ministers try to influence the public officials to make administrative decisions in their favor. Even the ministers or MPs threat with awful consequence the officials if their demands are not met. Due to successive politization in public administration, the incompetent people have been recruited in the police department.

**References:**

Transparency International Bangladesh, March 2007,  
Bangladesh Public Service Commission: A Diagnostic Study, [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

UNDP, Bangladesh,  
External interference obstructs police performance: Public Attitude Baseline Survey  
Feb. 14, 2007,  
[www.undp.org.bd](http://www.undp.org.bd)

Transparency International Bangladesh,  
Diagnostic Study on Police Station  
Dhaka 2004

Power and Participation Research Center (PPRC),  
Bangladesh Governance Report 2007  
Dhaka, 2007

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006  
[www.cgs-bu.com](http://www.cgs-bu.com)

**100:** The agency (or agencies) operates independently of the political process and has operational independence from the government. All laws can be enforced regardless of the status of suspects or the sensitivity of the investigation.

**75:**

**50:** The agency (or agencies) is typically independent, yet is sometimes influenced in its investigations or enforcement actions by negative or positive political incentives. This may include favorable or unfavorable public criticism by the government or other forms of influence. The agency (or agencies) may not be provided with some information needed to carry out its investigations.

**25:**

**0:** The investigative and enforcement work of the agency (or agencies) is commonly influenced by political actors or the government. These may include conflicting family relationships, professional partnerships, or other personal loyalties. Negative incentives may include threats, harassment or other abuses of power by the government.

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## 81. Can law enforcement officials be held accountable for their actions?

75

81a. In law, there is an independent mechanism for citizens to complain about police action.

YES | NO

### References:

Anti-Corruption Commission Act, 2004

Ministry of Home Affairs, Bangladesh

**YES:** A YES score is earned if there is a formal process or mechanism by which citizens can complain about police actions. A YES score is earned if a broader mechanism such as the national ombudsman, human rights commission, or anti-corruption agency has jurisdiction over the police.

**NO:** A NO score is earned if there is no such mechanism

81b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen's complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

### References:

Transparency International Bangladesh, March 2007,  
Bangladesh Public Service Commission: A Diagnostic Study, [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

UNDP, Bangladesh,  
External interference obstructs police performance: Public Attitude Baseline Survey  
Feb. 14, 2007,  
[www.undp.org.bd](http://www.undp.org.bd)

Transparency International Bangladesh,  
Diagnostic Study on Police Station  
Dhaka 2004

Power and Participation Research Center (PPRC),  
Bangladesh Governance Report 2007  
Dhaka, 2007

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006  
[www.cgs-bu.com](http://www.cgs-bu.com)

**100:** The agency/entity responds to complaints quickly. While some backlog is expected and inevitable, complaints are acknowledged promptly and investigations into serious abuses move steadily towards resolution. Citizens with simple issues can expect a resolution within a month.

**75:**

**50:** The agency/entity responds to complaints quickly, with some exceptions. Some complaints may not be acknowledged, and simple issues may take more than two months to resolve.

**25:**

**0:** The agency/entity cannot resolve complaints quickly. Complaints may be unacknowledged for more than a month, and simple issues may take three to six months to resolve. Serious abuses are not investigated with any urgency.

81c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

**YES** | NO

**Comments:**

The Home Ministry preserves the power to issue administrative rules and regulations on police personnel and operations. Under this authority, in May 2007, Counter Intelligence Unit (CIU) has been established in Police Headquarters under the direct supervision of Inspector General of Police (IGP) in order to check corruption. The main task is to collect information against corrupt police officials across the country and to send that information to CIU.

**References:**

The Police Act of 1861.

The Police Regulation of Bengal (PRB), 1943.

Anti-Corruption Commission Act, 2004

**YES:** A YES score is earned if there is an agency/entity specifically mandated to investigate corruption-related activity within law enforcement. This agency/entity may be internal to the police department (provided it has a degree of independence, such as an internal affairs unit) or part of a broader national mechanism such as the national ombudsman, human rights commission, or anti-corruption agency.

**NO:** A NO score is earned if no such agency/entity exists.

81d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

100 | 75 | **50** | 25 | 0

**Comments:**

Politization has taken a heavy toll in our police department. Ministers try to influence the public officials to make administrative decisions in their favor. Even the ministers or MPs threat with awful consequences the officials if their demands are not met. But now the situation has changed, and some reform program have already been initiated. In May 2007, Counter Intelligence Unit (CIU) has been established in Police Headquarters under the direct supervision of Inspector General of Police (IGP) in order to

check corruption. In 2007, within few months, about 1,500 police personnel have been punished for corruption and negligence to provide service(s).

**References:**

The Daily Manab Jamin,  
Dhaka, May 20, 2007.

Transparency International, Berlin, 2004,  
National Integrity Systems Country Study Report: Bangladesh 2003.

Interview with Lt. Col. (Rtd.) Farouque Khan, former member of Parliament (MP),  
Dhaka, Sept. 6, 2007, at 10.30 a.m. (over phone).

Transparency International Bangladesh, March 2007,  
Bangladesh Public Service Commission: A Diagnostic Study, [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60,  
Dhaka, December 2006  
[www.cgs-bu.com](http://www.cgs-bu.com)

**100:** When irregularities are discovered, the agency/entity is aggressive in investigating government law enforcement officials or in cooperating with other investigative agencies.

**75:**

**50:** The agency/entity starts investigations, but is limited in its effectiveness or is reluctant to cooperate with other investigative agencies. The agency/entity may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

**25:**

**0:** The agency/entity does not effectively investigate or does not cooperate with other investigative agencies. The agency may start investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

81e. In law, law enforcement officials are not immune from criminal proceedings.

YES | NO

**References:**

The Police Act of 1861.

The Police Regulation of Bengal (PRB), 1943.

The Penal Code 1868, GOB

The Code of Civil Procedure, 1908, GOB

Anti-Corruption Commission Act, 200, GOB

**YES:** A YES score is earned if law enforcement officers are fully accountable for their actions under the law and can be investigated and prosecuted for their actions.

**NO:** A NO score is earned if law enforcement enjoys any special protection from criminal investigation or prosecution.

81f. In practice, law enforcement officials are not immune from criminal proceedings.

100 | 75 | **50** | 25 | 0

**Comments:**

Politization has taken a heavy toll in our police department. Ministers try to influence the public officials to make administrative decisions in their favor. Even the ministers or MPs threat with awful consequences the officials if their demands are not met. But now the situation has changed, and some reform program have already been initiated. In May 2007, Counter Intelligence Unit (CIU) has been established in Police Headquarters under the direct supervision of Inspector General of Police (IGP) in order to check corruption. In 2007, within few months, about 1,500 police personnel have been punished for corruption and negligence to provide service(s).

**References:**

BRAC University, Center for Governance Studies,  
The State of Governance in Bangladesh 2006, p-53-60  
Dhaka, December 2006,  
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Transparency International Bangladesh, Dhaka 2004,  
Diagnostic Study on Police Station, [www.ti-bangladesh.org](http://www.ti-bangladesh.org)

The Daily Manab Jamin,  
Dhaka, May 20, 2007.

Power and Participation Research Center (PPRC),  
Bangladesh Governance Report 2007  
Dhaka, 2007,

**100:** Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

**75:**

**50:** Law enforcement is generally subject to criminal investigation but exceptions may exist where criminal actions are overlooked by the police or prosecutors. Some crimes may be exempt from prosecution, such as actions taken in the line of duty.

**25:**

**0:** Law enforcement enjoys a general protection from most criminal investigation. This may be due to a formal immunity or an informal understanding that the law enforcement community protects itself.

