Overall Score:

70 - Weak

Legal Framework Score:

90 - Strong

Actual Implementation Score:

51 - Very Weak

Category 1. Non-Governmental Organizations, Public Information and Media

1.1. Anti-Corruption Non-Governmental Organizations

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

100

01a. In law, citizens have a right to form NGOs focused on anti-corruption or good governance.

Yes | No

Comments:
There are a number of laws which allow people to form NGOs focused on anti-corruption or good governance.

References:
(1) The Societies Registration Act of 1861;
(2) The Trust Act of 1882;
(3) The Companies Act of 1913;

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. Non-governmental organizations (NGOs) are defined here as any organized group that is separate from the state working on issues of governance, transparency, and/or anti-corruption.

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.

01b. In law, anti-corruption/good governance NGOs are free to accept funding from any foreign or domestic sources.

Yes | No

Comments:
Any registered NGOs are entitled to accept funding from foreign or domestic sources with prior approval from the concerned authority.
References:  
The Foreign Contributions (Regulation) Ordinance, 1982 (Ordinance No. XXXI of 1982), Bangladesh

Yes: A YES score is earned if anti-corruption/good governance NGOs 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 NGOs focused on anti-corruption or good governance.

01c. In law, anti-corruption/good governance NGOs are required to disclose their sources of funding.

Yes | No

Comments:  
The NGOs, including the anti-corruption/ good governance CSOs, are required to disclose their sources of funding.

References:
1. The Bangladesh Bank (Regulation Rules: Section 4(4): 1978;  
2. The Foreign Contributions (Regulation) Ordinance, 1982;  

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

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

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

75

02a. In practice, the government does not create barriers to the organization of new anti-corruption/good governance NGOs.

100 | 75 | 50 | 25 | 0

Comments:  
A significant number of civil society organizations focused on promoting good governance or anti-corruption — e.g. Transparency International Bangladesh (TIB), Manusher Jonno Foundation, IGS, Progoti, Jatri, Odhikar — are now operating their activities in Bangladesh. Few of them are newly registered. Besides, few local NGOs are also working to promote good governance at grassroots level. Before operating their activities, they must register, but they faced various barriers and harassment.

References:
4. The Daily Star, ‘JS swipes at TIB’, July 8, 2009,  
5. Manusher Jonno Foundation,  
   http://www.manusherjonno.org/
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010

100: NGOs 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: NGOs 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 NGO. Some unofficial barriers, such as harassment of minority groups, may occur.

25:

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

02b. In practice, anti-corruption/good governance NGOs actively engage in the political and policymaking process.

Comments:
Despite civil society involvement in a few policy reform processes, the government is reluctant to implement the initiatives. In few cases, the government reacts negatively on civil society’s criticism.

Civil society organizations (corruption/good governance focused) are engaged with the government in a number of issues — like enactment and implementation of the right to information act, political financing, effective parliamentary democracy & oversight, effective anti-corruption commission, national health policy, public procurement rules, NGO governance, integrity in tax and customs, etc. For example, TIB was engaged in catalyzing a number of policy reform initiatives, e.g. provided input to the draft National Health Policy, draft National Education Policy, national budget and public procurement rules. Besides, TIB and other like-minded CSOs were involved in implementing the right to information act effectively. For example, “Manusher Jonno Foundation” organized a seminar entitled “One year of Right to Information (RTI) Act: present status and future plan of work”, where the Information Minister was present as chief guest. However, these initiatives are rarely implemented by the government.

References:
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
7. One World South Asia Home, Bangladesh: Political will missing on RTI

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

75:

50: Anti-corruption/good governance NGOs are active, but may not be relevant to political decisions or the policymaking process. Those NGOs 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 NGOs are effectively prohibited from engaging in the political process. Those NGOs are unwilling to take positions on political issues. They are not relevant to changes in public opinion.
02c. In practice, no anti-corruption/good governance NGOs have been shut down by the government for their work on corruption-related issues during the study period.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

**References:**
1. Transparency International Bangladesh, Annual Report 2009, Dhaka,
2. One World South Asia Home, Bangladesh: Political will missing on RTI implementation, March 30, 2010, [http://southasia.oneworld.net/todaysheadlines/bangladesh-political-will-missing-on-rti-implementation](http://southasia.oneworld.net/todaysheadlines/bangladesh-political-will-missing-on-rti-implementation)
7. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010

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3. Are anti-corruption/good governance NGO activists safe when working on corruption issues?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
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</table>

**Comments:**
No civil society activist working on anti-corruption have been imprisoned but their activities were heavily criticized by the government. For example, after Transparency International Bangladesh released the Parliament Watch 2009 report, the ruling party reacted negatively to it. “Initially, the Chief Whip and later the Leader of the House spent nearly 23 minutes together in an effort to ridicule TIB’s findings. TIB defended its findings firmly” (TIB, Annual Report 2009, p-14). The Chief Whip questioned TIB’s jurisdiction to prepare ‘Parliament Watch 2009’ report (the Daily Star).

**References:**
1. Transparency International Bangladesh, Annual Report 2009, Dhaka,
2. One World South Asia Home, Bangladesh: Political will missing on RTI implementation, March 30, 2010, [http://southasia.oneworld.net/todaysheadlines/bangladesh-political-will-missing-on-rti-implementation](http://southasia.oneworld.net/todaysheadlines/bangladesh-political-will-missing-on-rti-implementation)


7. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010

Yes: A YES score is earned if there were no NGO 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.

| 03b. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been physically harmed. |
|---|---|
| Yes | No |

Comments: No civil society activist working on anti-corruption have been imprisoned but their activities were heavily criticized by the government. For example, after Transparency International Bangladesh released the Parliament Watch 2009 report, the ruling party reacted negatively to it. “Initially, the Chief Whip and later the Leader of the House spent nearly 23 minutes together in an effort to ridicule TIB’s findings. TIB defended its findings firmly” (TIB, Annual Report 2009, p-14). The Chief Whip questioned TIB’s jurisdiction to prepare ‘Parliament Watch 2009’ report (the Daily Star).

References:
1. Transparency International Bangladesh, Annual Report 2009, Dhaka,
2. One World South Asia Home, Bangladesh: Political will missing on RTI implementation, March 30, 2010, http://southasia.oneworld.net/todaysheadlines/bangladesh-political-will-missing-on-rti-implementation
7. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010

Yes: A YES score is earned if there were no documented cases of NGO 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.
03c. In practice, in the past year, no anti-corruption/good governance NGO activists working on corruption issues have been killed.

Yes | No

Comments:
No civil society activist working on anti-corruption have been imprisoned but their activities were heavily criticized by the government. For example, after Transparency International Bangladesh released the Parliament Watch 2009 report, the ruling party reacted negatively to it. "Initially, the Chief Whip and later the Leader of the House spent nearly 23 minutes together in an effort to ridicule TIB's findings. TIB defended its findings firmly" (TIB, Annual Report 2009, p-14). The Chief Whip questioned TIB's jurisdiction to prepare 'Parliament Watch 2009' report (the Daily Star).

References:
1. Transparency International Bangladesh, Annual Report 2009, Dhaka,
2. One World South Asia Home, Bangladesh: Political will missing on RTI implementation, March 30, 2010, http://southasia.oneworld.net/today HEADLINES/bangladesh-political-will-missing-on-rti-implementation
7. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010

Yes: A YES score is earned if there were no documented cases of NGO 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?

75

04a. 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:
1. Article 38 of the Constitution of the People's Republic of Bangladesh
2. The Bangladesh Labor Act of 2006 (BLA)
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.

04b. In practice, citizens are able to organize into trade unions.

100 | 75 | 50 | 25 | 0

Comments:
Trade unions are very common in Bangladesh, but their activities are not allowed with EPZ. They have been active so far, but sometimes political leaders use them for personal gain instead of protecting workers' right.

References:
1. International Trade Union Confederation, 2010

2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010

100: Trade unions are common and are an important part of 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.

1.2. Media’s Ability to Report on Corruption

5. Are media and free speech protected?

100

05a. In law, freedom of the media is guaranteed.

Yes | No

References:
Article 39 (2) (b) of the Constitution of Bangladesh

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.

<table>
<thead>
<tr>
<th>05b. In law, freedom of speech is guaranteed.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
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</tbody>
</table>

**References:**
Article 39 of the Constitution of the People’s Republic of Bangladesh

**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.

6. Are citizens able to form print media entities?

<table>
<thead>
<tr>
<th>06a. In practice, the government does not create barriers to form a print media entity.</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
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</table>

**Comments:**
Bangladesh media enjoy much freedom of expression, in general. The government also does not create barriers for establishing print media entities. However, the procedures are complicated, politically influenced and time consuming. Besides, it is alleged that lobbying with the ruling party is essential in most cases to get permission for a license. Also, the costs of getting a license vary from person to person.

**References:**
1. Ministry of Information, Government of Bangladesh
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

**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.

<table>
<thead>
<tr>
<th>06b. In law, where a print media license is necessary, there is an appeals mechanism if a license is denied or revoked.</th>
</tr>
</thead>
</table>
Yes | No

**Comments:**
Under constitutional mandate, the High Court Division can scrutinize the legality or propriety of any action/decision of public officials or statutory body and give directives/order.

**References:**
2. Article 102 of the Constitution of Bangladesh.

<table>
<thead>
<tr>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
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</table>

**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.

**06c. In practice, where necessary, citizens can obtain a print media license within a reasonable time period.**

<table>
<thead>
<tr>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
</tr>
</thead>
</table>

**Comments:**
Bangladesh media enjoy much freedom of expression, in general. The government also does not create barriers for establishing print media entities. However, the procedures are complicated, politically influenced and time consuming. Besides, it is alleged that lobbying with the ruling party is essential in most cases to get permission for a license. Also, the costs of getting a license vary from person to person.

**References:**
1. Ministry of Information, Government of Bangladesh
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

<table>
<thead>
<tr>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
</tr>
</thead>
</table>

**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.

**06d. In practice, where necessary, citizens can obtain a print media license at a reasonable cost.**

<table>
<thead>
<tr>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
</tr>
</thead>
</table>

**Comments:**
Bangladesh media enjoy much freedom of expression, in general. The government also does not create barriers for establishing print media entities. However, the procedures are complicated, politically influenced and time consuming. Besides, it is alleged that lobbying with the ruling party is essential in most cases to get permission for a license. Also, the costs of getting a license vary from person to person.

**References:**
1. Ministry of Information, Government of Bangladesh
7. Are citizens able to form broadcast (radio and TV) media entities?

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>Licenses are not required or can be obtained at minimal cost to the organization. Licenses can be obtained on-line or through the mail.</td>
</tr>
<tr>
<td>75</td>
<td>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.</td>
</tr>
<tr>
<td>50</td>
<td>Licenses are required, and impose a major financial burden on the organization. Licensing costs are prohibitive to the organization.</td>
</tr>
<tr>
<td>25</td>
<td>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.</td>
</tr>
<tr>
<td>0</td>
<td>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.</td>
</tr>
</tbody>
</table>

Comments:
There are different laws including the Wireless Telegraphy Act, 1885, the Telegraph Act, 1933 and Bangladesh Telecommunications Regulatory Commission (BTRC) Act, 2001, Establishment and Operation of F.M. Radio Center Under Non-Government Ownership Policy-2010 (Gazetted), Community Radio Policy-2008, etc. to allocate frequency for and oversee technological aspects of the radio and television channels.

The government of Bangladesh is promoting a wider coverage of information through TV and radio. In line with this, the present government is very keen to establish more private TV and radio channels. In general, the procedures are complicated, time consuming and politically influenced. At present, 13 private satellites television channels are operating and another 10 satellite channels received licenses to operate. Besides, four private radio channels are operating. The government also approved the licenses of 12 private community radio channels on April 22, 2010, and of another two on May 20, 2010 (Ministry of Information, GOB). It is alleged that a good connection with the ruling party is a pre-condition to obtain a license. For example, few owners and directors of recently established TV and radio channels are known as influential persons in the ruling party (ies): Channel-9 owner is a relative of a minister, Independent Television owner is an "adviser" in a ruling party, Mohona TV owner is a ruling party MP, Bijoy TV is a former mayor and ruling party activist.

(Source: Chris Forrester (2009). Regarding the TV licensing in Bangladesh, 'Broadbandindia' magazine argued that "without the so-called 'political blessing' it is very difficult to get any license").

References:
1. Ministry of Information, Government of Bangladesh
07b. In law, where a broadcast (radio and TV) media license is necessary, there is an appeals mechanism if a license is denied or revoked.

Yes | No

References:
1. Article 102 of the Constitution of Bangladesh
2. The Bangladesh Telecommunication (Amendment) Act, 2006, Feb. 16, 2006, Bangladesh Gazette
3. National Telecommunication Policy, Bangladesh
5. 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.

07c. 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 government of Bangladesh is promoting a wider coverage of information through TV and radio. In line with this, the present government is very keen to establish more private TV and radio channels. In general, the procedures are complicated, time consuming and politically influenced. It takes six months to year(s).

References:
1. Ministry of Information, Government of Bangladesh
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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.

07d. In practice, where necessary, citizens can obtain a broadcast (radio and TV) media license at a reasonable cost.
Comments:
There are different laws including the Wireless Telegraphy Act, 1885, the Telegraph Act, 1933 and Bangladesh Telecommunications Regulatory Commission (BTRC) Act, 2001, Establishment and Operation of F.M. Radio Center Under Non-Government Ownership Policy-2010 (Gazetted), Community Radio Policy-2008, etc. to allocate frequency for and oversee technological aspects of the radio and television channels.

The government of Bangladesh is promoting a wider coverage of information through TV and radio. In line with this, the present government is very keen to establish more private TV and radio channels. In general, the procedures are complicated, time consuming and politically influenced. At present, 13 private satellites television channels are operating and another 10 satellite channels received licenses to operate. Besides, four private radio channels are operating. The government also approved the licenses of 12 private community radio channels on April 22, 2010, and of another two on May 20, 2010 (Ministry of Information, GOB). It is alleged that a good connection with the ruling party is a pre-condition to obtain a license. For example, few owners and directors of recently established TV and radio channels are known as influential persons in the ruling party (ies): Channel-9 owner is a relative of a minister, Independent Television owner is an ‘adviser’ in a ruling party, Mohona TV owner is a ruling party MP, Bijoy TV is a former mayor and ruling party activist.

(Source: Chris Forrester (2009). Regarding the TV licensing in Bangladesh, ‘Broadbandindia’ magazine argued that “without the so-called ‘political blessing’ it is very difficult to get any license”.

References:
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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.

8. Can citizens freely use the Internet?

75

08a. In practice, the government does not prevent citizens from accessing content published on-line.

Comments:
Bangladesh enjoys freedom of expression online, and in general there is no direct government restriction on access to the Internet, with a few minor exceptions. For example, the Bangladesh Telecommunication Regulatory Commission (BTRC) temporarily blocked access to ‘Facebook’ on May 29, 2010, for publishing a satiric cartoon of the prime minister and leader of the opposition of Bangladesh. Reacting with this decision, Prof. Jamilur Reza Choudhury said in the daily Star “the blocking of Facebook is by no means beneficial. Information should be free flowing. When that is hampered, people would only find more interest in finding ways to bypass it.” (the Daily Star, 2010.)

References:
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.

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.

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.

80. In practice, the government does not censor citizens creating content on-line.

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.

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.

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.

Are the media able to report on corruption?

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

09b. In practice, the government or media owners/distribution groups do not encourage self-censorship of corruption-related stories.

References:
1. The Newspaper Employees (Condition of Service) Act of 1974
2. Articles 39, 40 of the Constitution of the People’s Republic of Bangladesh

Comments:
Bangladesh media enjoy much freedom of expression, in general. It is found that most newspapers and electronic media published corruption related incidents everyday. However, they sometimes faced pressure from influential person(s) for reporting against them. Freedom House (2010) argued that “with hundreds of daily and weekly publications, the privately owned print media continue to present an array of views, although political coverage at a number of newspapers is highly partisan, and outlets presenting views that were critical of the government faced some pressure in 2009”. Furthermore it is argued that “military intelligence and public relations officials monitor media content, and while they no longer issued regular guidance to media outlets regarding content in 2009, they did occasionally caution specific journalists on coverage of particular stories or topics. A number of journalists reported receiving threatening telephone calls and other forms of intimidation from intelligence agencies, and some practiced self-censorship when covering sensitive topics.” (Freedom House, 2010).

‘Odhikar’ reported that between January and June 2010, 02 journalists were killed, 52 were injured, 35 threatened and 29 were assaulted. 15 journalists were also attacked. As the reason was not mentioned, it is hard to come to the conclusion that they were attacked or physically harmed or killed for reporting on corruption.

References:
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct.28, 2010

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.

09c. In practice, there is no prior government restraint (pre-publication censoring) on publishing corruption-related stories.
Bangladesh media enjoy much freedom of expression, in general. It is found that most newspapers and electronic media published corruption related incidents everyday. However, they sometimes faced pressure from influential person(s) for reporting against them. Freedom House (2010) argued that “with hundreds of daily and weekly publications, the privately owned print media continue to present an array of views, although political coverage at a number of newspapers is highly partisan, and outlets presenting views that were critical of the government faced some pressure in 2009”. Furthermore it is argued that “military intelligence and public relations officials monitor media content, and while they no longer issued regular guidance to media outlets regarding content in 2009, they did occasionally caution specific journalists on coverage of particular stories or topics. A number of journalists reported receiving threatening telephone calls and other forms of intimidation from intelligence agencies, and some practiced self-censorship when covering sensitive topics.” (Freedom House, 2010).

‘Odhikar’ reported that between January and June 2010, 02 journalists were killed, 52 were injured, 35 threatened and 29 were assaulted. 15 journalists were also attacked. As the reason was not mentioned, it is hard to come to the conclusion that they were attacked or physically harmed or killed for reporting on corruption.

References:
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct.28, 2010

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

75: 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.

50: The government prevents publication of controversial corruption-related material. This score is appropriate even if the government restricts only politically damaging news while allowing favorable coverage.

25: 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.

10. Are the media credible sources of information?

80

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

Yes | No

References:
2. Newspaper Employees (Conditions of Service) Act, 1974, Bangladesh.
3. The Company Act, 1994, Bangladesh.

Yes: A YES score is earned if print media companies are required by law to publicly 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 publicly disclosed.

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

Yes | No

References:
3. National Telecommunication Policy, Bangladesh
4. The Bangladesh Telecommunications Regulatory Commission (Licensing Procedure) Regulations, 2004
5. The Company Act, 1994, Bangladesh.

Yes: A YES score is earned if broadcast media companies are required by law to publicly 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 publicly disclosed.

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

100 | 75 | 50 | 25 | 0

Comments: Bangladesh media enjoy much freedom of expression, in general. It is found that most newspapers and electronic media published corruption related incidents everyday. Most of the private print and electronic media owners are affiliated with the two major political parties – which is reflected in their media coverage. However, they tried to maintain their professionalism. Sometimes, they faced pressure from influential person(s) for reporting against them. Freedom House (2010) argued that “with hundreds of daily and weekly publications, the privately owned print media continue to present an array of views, although political coverage at a number of newspapers is highly partisan, and outlets presenting views that were critical of the government faced some pressure in 2009”.

References:
   http://www.unhcr.org/refworld/docid/4ca5cc66a.html
   http://www.odhikar.org/press.html
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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: 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.

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:
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.

Comments:
It is observed that the major political parties and candidates have the same access to government-owned electronic media outlets (Radio Bangladesh & BTV). Most of the private print and electronic media owners are affiliated with the two major political parties – which is also reflected in their media coverage. Most often, individual candidates are ignored. However, referring to the EU Election Observation Mission, Freedom House (2010) argued that media coverage during the last national election (December 2008) was reasonably equitable and free, with “no reported instances of intimidation or violence against journalists.”

References:
   http://www.unhcr.org/refworld/docid/4ca5cc66a.html
   http://www.odhikar.org/press.html
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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.

Comments:
It is observed that the major political parties and candidates have the same access to government-owned electronic media outlets (Radio Bangladesh & BTV). Most of the private print and electronic media owners are affiliated with the two major political parties – which is also reflected in their media coverage. Most often, individual candidates are ignored. However, referring to the EU Election Observation Mission, Freedom House (2010) argued that media coverage during the last national election (December 2008) was reasonably equitable and free, with “no reported instances of intimidation or violence against journalists.”

References:
   http://www.unhcr.org/refworld/docid/4ca5cc66a.html
   http://www.odhikar.org/press.html
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.

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.

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.

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:
   http://www.unhcr.org/refworld/docid/4ca5cc66a.html
   http://www.odhikar.org/press.html

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:
‘Odhikar’ reported that between January and June 2010, two journalists were killed, 52 were injured, 35 threatened and 29 were assaulted. 15 journalists were also attacked. As the reason was not mentioned, it is hard to come to the conclusion that they were attacked or physically harmed or killed for reporting on corruption. But it can be assumed that they were attacked or threatened or assaulted by political activist or powerful individual for publishing reports against them.

References:
1. Ministry of Information, Government of Bangladesh
11c. In practice, in the past year, no journalists investigating corruption have been killed.

| Yes | No |

Comments:
'Odhikar' reported that between January and June 2010, 02 journalists were killed, 52 were injured, 35 threatened and 29 were assaulted. 15 journalists were also attacked. As the reason was not mentioned, it is hard to come to the conclusion that they were attacked or physically harmed or killed for reporting on corruption.

References:
1. Ministry of Information, Government of Bangladesh
   http://www.unhcr.org/refworld/docid/4ca5c0b66a.html
   http://www.odhikar.org/press.html
5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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.
Recently, the Government of Bangladesh enacted ‘the Right to Information Act, 2009’ which was notified in the Bangladesh Gazette on April 6, 2009.

Under this act, people are entitled to get information and documents from the government and other non-governmental organizations, with a few exceptions.

References:
The Right to Information Act, 2009

Yes: A YES score is earned if there is a formal right to request 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 a request for a basic government record is denied.

Yes | No

Comments:
Recently, the Government of Bangladesh enacted ‘the Right to Information Act, 2009’, which was notified in the Bangladesh Gazette on April 6, 2009. Most of the provisions of this act had come into force since Oct. 20, 2008, except for sections 8, 24, 25, which came into effect in July 2009.

Under this act, people are entitled to get information and documents from the government and other non-governmental organizations, with a few exceptions.

According to Articles 2 and 24 of the Right to Information Act, 2009, citizens have a right of appeal within 30 days if their request for a basic record is denied.

References:
Right to Information Act, 2009 (available in Bangla). A summary of this law has been translated by Sohini Paul of Commonwealth Human Right Initiative, New Delhi.

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:
Recently, the Government of Bangladesh enacted ‘the Right to Information Act, 2009’, which was notified in the Bangladesh Gazette on April 6, 2009. Most of the provisions of this act had come into force since Oct. 20, 2008, except for sections 8, 24, 25, which came into effect in July 2009.

Under this act, people are entitled to get information and documents from the government and other non-governmental organizations, with a few exceptions.

References:
Right to Information Act, 2009 (available in Bangla). A summary of this law has been translated by Sohini Paul of Commonwealth Human Right Initiative, New Delhi.
13. Is the right to information requests effective?

38

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

Comments:
The Government of Bangladesh enacted ‘the Right to Information Act, 2009’ which was notified in the Bangladesh Gazette on April 6, 2009. Under this Act, people are entitled to get information and documents within a reasonable time and cost from the government and other non-governmental organizations, with a few exceptions. The government has taken few initiatives, such as setting up an an information commission, allocating the budget, enacting rules, etc., to implement this Act. But a large number of civil society organizations expressed concerns about the slow and inadequate implementation of this act.

It is too early to draw a conclusion about its effectiveness, but there is no doubt that the enactment of this Act was a positive move of the government. It is important to note that people are not aware of this Act and their rights, and in a few cases the concerned officials were not prepared to deliver the information.

Shahin Anam argued that ‘first and foremost, everyone will have to come out of the culture of secrecy that has prevailed for so long’. She also mentioned few challenges in the implementation of this act, such as poor record management, lack of enough skilled designated personnel, and lack of public awareness. She urged for a nationwide awareness campaign.

In a positive move, few offices, including NGOs, nominated information officers and have tried to develop on-line data management systems. The government has developed a national web portal and separate web site for all its ministries. However, it is found that all the necessary updated information is not placed on the web sites. Most often, people, including journalists, are denied information.

Despite the introduction of the Citizen’s Charter, enactment of the Right to Information Act and establishment of the information commission, the access to information still depends on personal connections and relationships with high-ranking officials. However, it is expected that this situation will be changed soon, the culture of secrecy will disappear, and the appeal mechanism will be functional after the information commission becomes fully operational.

References:
1. Ministry of Information, Government of Bangladesh


3. The Daily Star

4. Shaheen Anam,

5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

6. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

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:
Comments:
The Government of Bangladesh enacted ‘the Right to Information Act, 2009’ which was notified in the Bangladesh Gazette on April 6, 2009. Under this Act, people are entitled to get information and documents within a reasonable time and cost from the government and other non-governmental organizations, with a few exceptions. The government has taken few initiatives, such as setting up an information commission, allocating the budget, enacting rules, etc., to implement this Act. But a large number of civil society organizations expressed concerns about the slow and inadequate implementation of this act.

It is too early to draw a conclusion about its effectiveness, but there is no doubt that the enactment of this Act was a positive move of the government. It is important to note that people are not aware of this Act and their rights, and in a few cases the concerned officials were not prepared to deliver the information.

Shahin Anam argued that ‘first and foremost, everyone will have to come out of the culture of secrecy that has prevailed for so long’. She also mentioned few challenges in the implementation of this act, such as poor record management, lack of enough skilled designated personnel, and lack of public awareness. She urged for a nationwide awareness campaign.

In a positive move, few offices, including NGOs, nominated information officers and have tried to develop on-line data management systems. The government has developed a national web portal and separate web site for all its ministries. However, it is found that all the necessary updated information is not placed on the web sites. Most often, people, including journalists, are denied information.

Despite the introduction of the Citizen’s Charter, enactment of the Right to Information Act and establishment of the information commission, the access to information still depends on personal connections and relationships with high-ranking officials. However, it is expected that this situation will be changed soon, the culture of secrecy will disappear, and the appeal mechanism will be functional after the information commission becomes fully operational.

References:
1. Ministry of Information, Government of Bangladesh


5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

6. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

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 NGOs. 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 NGOs trying to access this information.
13c. In practice, responses to information requests are of high quality.

Comments:
The Government of Bangladesh enacted ‘the Right to Information Act, 2009’ which was notified in the Bangladesh Gazette on April 6, 2009. Under this Act, people are entitled to get information and documents within a reasonable time and cost from the government and other non-governmental organizations, with a few exceptions. The government has taken few initiatives, such as setting up an an information commission, allocating the budget, enacting rules, etc., to implement this Act. But a large number of civil society organizations expressed concerns about the slow and inadequate implementation of this act.

It is too early to draw a conclusion about its effectiveness, but there is no doubt that the enactment of this Act was a positive move of the government. It is important to note that people are not aware of this Act and their rights, and in a few cases the concerned officials were not prepared to deliver the information.

Shahin Anam argued that ‘first and foremost, everyone will have to come out of the culture of secrecy that has prevailed for so long’. She also mentioned few challenges in the implementation of this act, such as poor record management, lack of enough skilled designated personnel, and lack of public awareness. She urged for a nationwide awareness campaign.

In a positive move, few offices, including NGOs, nominated information officers and have tried to develop online data management systems. The government has developed a national web portal and separate web site for all its ministries. However, it is found that all the necessary updated information is not placed on the web sites. Most often, people, including journalists, are denied information.

Despite the introduction of the Citizen’s Charter, enactment of the Right to Information Act and establishment of the information commission, the access to information still depends on personal connections and relationships with high-ranking officials. However, it is expected that this situation will be changed soon, the culture of secrecy will disappear, and the appeal mechanism will be functional after the information commission becomes fully operational.

References:
1. Ministry of Information, Government of Bangladesh


3. The Daily Star

4. Shaheen Anam,

5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

6. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

100: Responses to information requests typically address the requestor’s questions in full and are not redacted or edited to remove sensitive information.

75:

50: Information requests are sometimes met with sufficient responses, but responses to information requests may be vague or overly general when sensitive information is sought.

25:

0: The government rarely or never replies to information requests with meaningful responses. If and when responses are issued, they are so overly general or heavily redacted as to render them useless.

13d. In practice, citizens can resolve appeals to information requests within a reasonable time period.
The Government of Bangladesh enacted 'the Right to Information Act, 2009' which was notified in the Bangladesh Gazette on April 6, 2009. Under this Act, people are entitled to get information and documents within a reasonable time and cost from the government and other non-governmental organizations, with a few exceptions. The government has taken few initiatives, such as setting up an an information commission, allocating the budget, enacting rules, etc., to implement this Act. But a large number of civil society organizations expressed concerns about the slow and inadequate implementation of this act.

It is too early to draw a conclusion about its effectiveness, but there is no doubt that the enactment of this Act was a positive move of the government. It is important to note that people are not aware of this Act and their rights, and in a few cases the concerned officials were not prepared to deliver the information.

Shahin Anam argued that 'first and foremost, everyone will have to come out of the culture of secrecy that has prevailed for so long'. She also mentioned few challenges in the implementation of this act, such as poor record management, lack of enough skilled designated personnel, and lack of public awareness. She urged for a nationwide awareness campaign.

In a positive move, few offices, including NGOs, nominated information officers and have tried to develop on-line data management systems. The government has developed a national web portal and separate web site for all its ministries. However, it is found that all the necessary updated information is not placed on the web sites. Most often, people, including journalists, are denied information.

Despite the introduction of the Citizen's Charter, enactment of the Right to Information Act and establishment of the information commission, the access to information still depends on personal connections and relationships with high-ranking officials. However, it is expected that this situation will be changed soon, the culture of secrecy will disappear, and the appeal mechanism will be functional after the information commission becomes fully operational.

References:
1. Ministry of Information, Government of Bangladesh


5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

6. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

**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.

13e. In practice, citizens can resolve appeals to information requests at a reasonable cost.
Shahin Anam argued that 'first and foremost, everyone will have to come out of the culture of secrecy that has prevailed for so long'. She also mentioned few challenges in the implementation of this act, such as poor record management, lack of enough skilled designated personnel, and lack of public awareness. She urged for a nationwide awareness campaign.

In a positive move, few offices, including NGOs, nominated information officers and have tried to develop on-line data management systems. The government has developed a national web portal and separate web site for all its ministries. However, it is found that all the necessary updated information is not placed on the web sites. Most often, people, including journalists, are denied information.

Despite the introduction of the Citizen's Charter, enactment of the Right to Information Act and establishment of the information commission, the access to information still depends on personal connections and relationships with high-ranking officials. However, it is expected that this situation will be changed soon, the culture of secrecy will disappear, and the appeal mechanism will be functional after the information commission becomes fully operational.

References:
1. Ministry of Information, Government of Bangladesh
3. The Daily Star
5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010
6. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

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

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

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

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

Comments:
The Government of Bangladesh enacted 'the Right to Information Act, 2009' which was notified in the Bangladesh Gazette on April 6, 2009. Under this Act, people are entitled to get information and documents within a reasonable time and cost from the government and other non-governmental organizations, with a few exceptions. The government has taken few initiatives, such as setting up an an information commission, allocating the budget, enacting rules, etc., to implement this Act. But a large number of civil society organizations expressed concerns about the slow and inadequate implementation of this act.

It is too early to draw a conclusion about its effectiveness, but there is no doubt that the enactment of this Act was a positive move of the government. It is important to note that people are not aware of this Act and their rights, and in a few cases the concerned officials were not prepared to deliver the information.

Shahin Anam argued that 'first and foremost, everyone will have to come out of the culture of secrecy that has prevailed for so long'. She also mentioned few challenges in the implementation of this act, such as poor record management, lack of enough skilled designated personnel, and lack of public awareness. She urged for a nationwide awareness campaign.

In a positive move, few offices, including NGOs, nominated information officers and have tried to develop on-line data management systems. The government has developed a national web portal and separate web site for all its ministries. However, it is found that all the necessary updated information is not placed on the web sites. Most often, people, including journalists, are denied information.
Despite the introduction of the Citizen’s Charter, enactment of the Right to Information Act and establishment of the information commission, the access to information still depends on personal connections and relationships with high-ranking officials. However, it is expected that this situation will be changed soon, the culture of secrecy will disappear, and the appeal mechanism will be functional after the information commission becomes fully operational.

References:
1. Ministry of Information, Government of Bangladesh
5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010
6. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

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.

Category 2. Elections

2.1. Voting and Party Formation

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:
Article 11 of the Bangladesh Constitution says, “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 role 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; and (d) is or is deemed by law to be a resident of that constituency.”
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.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
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References:
Article 123 of the 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?

58

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

| 100 | 75 | 50 | 25 | 0 |

Comments:
Under the present government, the Election Commission of Bangladesh organized the election of Bhola-3 by-election and Chittagong city corporation (CCC) on April 24, 2010 and June 17, 2010, respectively. In general, the voters participated willingly in both polls, and the voting environment was favorable for the voters, with the exception of minor violence and irregularities.

Regarding Bhola-3 by-election, Odhikar argued that “despite the measures taken by law enforcers, incidents of attacks and intimidation of voters were observed outside polling stations.” In response to allegations of various irregularities and violence, the Election Commission suspended the polling process in nine centers.

References:
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010

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

75:
Voting is often open to all citizens regardless of race, gender, prior political affiliations, physical disability, or other traditional barriers, with some exceptions.

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.

In practice, ballots are secret or equivalently protected.

Comments:
Under the present government, the Election Commission of Bangladesh organized the election of Bhola-3 by-election and Chittagong City Corporation (CCC) on April 24, 2010 and June 17, 2010, respectively. In general, the voters participated willingly in both polls, and the voting environment was favorable for the voters, with the exception of minor violence and irregularities. Ballots were secret and protected in most of the cases.

Many election observation groups and organizations observed the above mentioned election. Both organizations found electoral violence in Bhola-3 bi-election. Odhikar argued that ‘despite the measures taken by law enforcers, incidents of attacks and intimidation of voters were observed outside polling stations.’ In response to allegations of various irregularities and violence, the Election Commission suspended the polling process in nine centres. Regarding the CCC election, ‘Janipp’ (An election observation non-government organization) argued that though there were little pre- and post electoral violence, the CCC election 2010 was held in a free, fair and impartial manner. ‘Odhikar’ (A Human Rights non-government Organization) identified few irregularities (e.g. fake voting) in CCC election. Overall, the most common irregularities or malpractices found in Bangladesh election are (i) forces taking control of some voting centres for partisan candidates; (ii) distributing the excess ballot papers; (iii) false vote-casting, etc.

References:
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010

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

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.

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

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

Comments:
The regular interval of elections was hampered in several times. For example, the ninth parliamentary election was scheduled for January 2007, but it was delayed for two years due to political violence following a ‘state of emergency’. We found also an irregular interval in local government elections. For example, the Union Parishads (Union Councils) Elections were held in 1973, 1977, 1983, 1988, 1992, 1997 and 2003. The ninth parliamentary elections were held in 1973, 1979, 1986, 1988, 1991, and then on Feb. 15, 1996, June 12, 1996, 2001, and Dec. 29, 2008.
References:
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010

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.

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 citizens to form associations, subject to “reasonable restrictions” in the interest of morality or public order, and the government generally respects this right. Individuals are free to join private groups.

References:

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 associations 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 a “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:
2. Articles 38, 152 of the Constitution of Bangladesh
3. Representation of the People (Amendment) Order Act, 2009
4. The Representation of the People Order, 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:
Every citizen can form a political party and operate an office, but they have to be registered with the Election Commission for participating in the election (Representation of the People (Amendment) Order Act, 2009, and the Political Party Registration Rules, 2008). Earlier, the registration of the political party was not mandatory — which is why most political parties, including leading political parties, had not been registered with the Election Commission. Recently, the Election Commission made the registration mandatory for all political parties who are interested in participating in elections. Till date, 33 political parties registered with the Election Commission in Bangladesh (Source: Election Commission Secretariat).

References:
1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010

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:
Every citizen can form a political party and operate an office, but they have to be registered with the Election Commission (Representation of the People (Amendment) Order Act, 2009, and the Political Party Registration Rules, 2008). Earlier, the registration of the political party was not mandatory — which is why most political parties, including leading political parties, had not been registered with the Election Commission. Recently, the Election Commission made the registration mandatory for all political parties who are interested in participating in elections. Till date, 33 political parties registered with the Election Commission in Bangladesh (Source: Election Commission Secretariat).
References:
1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010


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 so may be unfairly applied. The costs of running a political campaign are significant and result in dissuading some candidates from running for office. A system of party lists may discourage or prevent independent 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:
The role of the opposition party is very limited in the Bangladesh Parliament. The main opposition party has been boycotting the sessions for a long time in the ninth parliament — for example, they boycotted 17 out of 19 working days in the first session of ninth parliament (TIB, July 2009). The same practice of boycotting Parliament sessions happened in the eighth Parliament.

References:
1. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010


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.

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

100

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

Yes | No

Comments:
Under the Bangladesh Constitution, the Election Commission is responsible to manage the national and local elections efficiently and effectively. Other laws and rules were also enacted to ensure the transparency, accountability and integrity of the commission.

References:
1. The Constitution of the People’s Republic of Bangladesh

2. Election Commission Secretariat Ordinance 2008, Government of Bangladesh, Bangladesh Gazette, Ordinance No. 05/2008, March 9, 2008, Dhaka


11: Guidelines for foreign observers & Guidelines for Domestic Election Observers.
The Election Commission encourages both domestic and foreign observation of polls. There are two separate Guidelines for election observation: i. international and ii. the domestic observers.

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 exists that monitors elections. 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.

18. Is the election monitoring agency effective?

70

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

Comments:
The Election Commission depends on the Public Service Commission (PSC) for the recruitment of its first class officers. The Chief Election Commissioner (CEC) and Election Commissioners (ECs) are appointed by the president. But the appointment of these top positions are heavily influenced by the ruling party (Transparency International Bangladesh, 2008, p-83). Again, promotion, transfer and/or sanctions depend on partisan identity. The Election Commission does not have the authority to change the approved organigram without the consent of the Ministry of Finance and the Ministry of Establishment.

The Bangladesh Election Commission has its own secretariat headed by a Secretary to the government. Besides, there are nine Deputy Election Commissioners located at 6 Divisional Headquarters and 3 other districts. At the district level, there are 83 District Election Offices in the 64 District Headquarters, headed by a District Election Officer; there are Upazilla/Thana Election Officers in all Upazilla/Thanas (Source: Election Commission Secretariat). Such manpower is not enough to conduct a national election. For that reason, the Election Commission appoints returning officers and assistants among other government officials during elections.

References:
5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
7. Interview with Abu Zayed Mohammad, Advocate, Bangladesh Supreme Court & Faculty, North South University, Dec. 4, 2010, Dhaka

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

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.

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

The Bangladesh Election Commission has its own secretariat headed by a Secretary to the government. Besides, there are nine Deputy Election Commissioners located at 6 Divisional Headquarters and 3 other districts. At the district level, there are 83 District Election Offices in the 64 District Headquarters, headed by a District Election Officer; there are Upazilla/Thana Election Officers in all Upazilla/Thanas (Source: Election Commission Secretariat). Such manpower is not enough to conduct a national election. For that reason, the Election Commission appoints returning officers and assistants among other government officials during elections.

References:
1. Transparency International Bangladesh, Working Paper on
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010

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

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

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

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

In most cases, the Election Commission announces the election results immediately after preparing them and makes them public through press releases and its web site. Most of the time, people get the official results within one day.

References:
2. Interview with Abu Zayed Mohammad, Advocate, Bangladesh Supreme Court & Faculty, North South University, Dhaka, Dec. 4, 2010

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

Reports are released, but may be delayed, difficult to access, or otherwise limited.
The agency or set of agencies/entities makes no public reports, issues reports which are effectively secret, or issues reports of no value.

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

Comments:
The Election Commission (EC) was active in the last parliamentary election and tried to organize a fair election. In a few cases, the EC imposed penalties. On Feb. 3, 2010 the EC canceled AL lawmaker Major (retd.) Jasim Uddin’s membership in the ninth parliament and announced the seat for Bhola-3 constituency vacant following the Supreme Court’s verdict which declared Jasim’s candidacy in the ninth parliamentary polls illegal because he had contested the polls before five years elapsed after his retirement from the defense service. Besides, the (EC) canceled the membership in the ninth parliament of MK Alamgir following the Supreme Court verdict (the Daily Star, September, 2010). On the other hand, the Election Commission was silent in a few other cases.

References:
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
8. Interview with Abu Zayed Mohammad, Advocate, Bangladesh Supreme Court & Faculty, North South University, Dhaka, Dec. 4, 2010

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.

19. Are elections systems transparent and effective?

19a. In practice, there is a clear and transparent system of voter registration.
The Bangladesh Election Commission has prepared a credible electoral roll with photographs for the first time in Bangladesh. This electoral roll was first used in the ninth parliament election. Any Bangladeshi citizen can register as a voter with the Election Commission.

Comments:

References:
2. Interview with Abu Zayed Mohammad, Advocate, Bangladesh Supreme Court & Faculty, North South University, Dhaka, Dec. 4, 2010

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:

According to the different electoral law, election results can be challenged through the judicial process. According to Article 49 (1) of the Representation of the People Order, 1972, "No election shall be called in question except by an election petition presented by a candidate for that election in accordance with the provisions of this Chapter."

References:

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.
Most times, the electoral appeals mechanism takes the complaints from the candidates, but it does not act on complaints promptly.

References:
7. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010

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.

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.

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.

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

Under the present government, the Election Commission of Bangladesh organized the election of Bhola-3 by-election and Chittagong city corporation (CCC) on April 24, 2010 and June 17, 2010, respectively. In general, the voters participated willingly in both polls and the voting environment was favorable for the voters.

Many election observation groups and organizations observed the above mentioned election. There were no major allegation presented against law enforcement agencies by the observing organization and media. Regarding Bhola-3 by-election, Odhikar argued that ‘despite the measures taken by law enforcers, incidents of attacks and intimidation of voters were observed outside polling stations.’ In response to allegations of various irregularities and violence, the Election Commission suspended the polling process in nine centers. Regarding the CCC election, ‘Janipopp’ (An election observation non-government organization) argued that though there were little pre- and post electoral violence, the CCC election 2010 was held in a free, fair and impartial manner.

References:
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010

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:

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

Comments:
Under the present government, the Election Commission of Bangladesh organized the election of Bhola-3 by-election and Chittagong city corporation (CCC) on April 24, 2010 and June 17, 2010, respectively. Many election observation groups and organizations observed the above-mentioned election without any government interference.

References:
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
5. Bangladesh Election Commission Secretariat,
http://www.ecs.gov.bd/English/MenuTemplate1.php?Parameter_MenuID=19&ByDate=08&Year=

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.

20. Are there regulations governing the financing of political parties?

20a. In law, there are limits on individual donations to political parties.

Yes | No

Comments:
According to Article 90F (1) of the Representation of the People (Amendment) Order Act, 2009, “Subject to the provision of clause (2) of the same article, a registered political party shall be entitled to-
(a) receive donation or grants from any person, company, group of companies or non-government organization except the sources mentioned in clause (1) of Article 44CC. Provided that such amount of donation or grants shall not exceed the following limits, in a calendar year;
(i) in the case of a person, Taka 5 lakh (Taka 500,000, US$6,940) or property or service equivalent to it;
(ii) in the case of a company or organization, Taka 25 lakh (Taka 2.5 million, US$34,702) or property or service equivalent to it;
Again clause 2 of the same article of the same law stipulates that “(2) No registered political party shall receive any gift, donation, grant or money from any other country, or non-government organization assisted by foreign aid or from any person who is not a Bangladeshi by birth or any organization established or maintained by such person.”

References:

Yes: A YES score is earned if there are any limits in size on individual contributions to political parties. A YES score is also 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 in a discriminatory manner.

20b. In law, there are limits on corporate donations to political parties.

Yes | No
Comments:
According to Article 90F (1) of the Representation of the People (Amendment) Order Act, 2009, "Subject to the provision of clause (2) of the same article, a registered political party shall be entitled to-
(a) receive donation or grants from any person, company, group of companies or non government organization except the sources mentioned in clause (1) of Article 44CC: Provided that such amount of donation or grants shall not exceed the following limits, in a calendar year;
(i) in the case of a person, Taka 5 lakh (Taka 500,000, US$6,940) or property or service equivalent to it ;
(ii) in the case of a company or organization, Taka 25 lakh (Taka 2.5 million, US$34,702) or property or service equivalent to it;
Again clause 2 of the same article of the same law stipulates that "(2) No registered political party shall receive any gift, donation, grant or money from any other country, or non-government organization assisted by foreign aid or from any person who is not a Bangladeshi by birth or any organization established or maintained by such person."

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<td><strong>In law, there are limits on total political party expenditures.</strong></td>
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<td><strong>A YES score is earned if there are any limits in size on political party expenditures during the course of an election.</strong></td>
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<td><strong>A NO score is earned if there are no limits on political party expenditures during an election.</strong> A NO score is also earned if limits are applied by the government on opposition parties in a discriminatory manner.</td>
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<td><strong>In law, there are requirements for the disclosure of donations to political parties.</strong></td>
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Comments:
Article 44CCC of the Representation of the People Order (amendment) 2009 states that (1)"Every political party nominating any candidate for election shall submit to the "Commission, for its scrutiny, within ninety days” of the completion of election in all constituencies, an expenditure statement giving details of the expenses incurred or authorized by it in connection with the election of its candidates for the period from the date of publication of the notification under clause (1) of Article 11 till the completion of elections in all the constituencies in which it has set up candidates. (2) The expenditure mentioned in clause (1) shall include, to be shown separately, expenditure incurred on general propagation of the manifesto, policy, aims and objects of the party and expenditure incurred or authorized in connection with the election of each of its contesting candidates. (3) Every statement submitted under clause (1) shall be 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. [Clause (4) deleted] (5) If any registered political party fails to submit its expenditure statement within the time specified in clause (1), the Commission shall issue a notice of warning directing it to submit the statement within 30 days and if the concerned registered political party fails to submit it within that period of time, the Commission may, subject to payment of a fine of Taka 10,000 (US$139), extend the time for another 15 days, and if such registered political party fails to submit its statement within that extended time, the Commission may cancel its registration.”

Article 44D of the Representation of the People Order (amendment) 2009 states that (1) The statement, return and documents submitted under Articles 44AA, 44C and 44CCC shall be kept by the Returning Officer or the Commission, as the case may be, in his or its office or at such other convenient place as he or it may think fit and shall, during one year from the date of receipt, be open for inspection by any person on payment of the prescribed fees. (2) The Commission or the Returning Officer shall, on an application made in this behalf and on payment of the prescribed fees, give any person copies of any statement, return, document or any part thereof kept under clause (1). (3) The copies of the statements, return or documents under clause (1) shall be published in the web site of the Commission.”

References:

Comments:
According to the law, the candidates and registered political parties are supposed to submit their electoral expenses but there is no requirement for third party independent auditing.

For example, Article 44CCC of the Representation of the People Order (amendment) 2009 states that (1)“Every political party nominating any candidate for election shall submit to the “Commission, for its scrutiny, within ninety days” of the completion of election in all constituencies, an expenditure statement giving details of the expenses incurred or authorized by it in connection with the election of its candidates for the period from the date of publication of the notification under clause (1) of Article 11 till the completion of elections in all the constituencies in which it has set up candidates. (2) The expenditure mentioned in clause (1) shall include, to be shown separately, expenditure incurred on general propagation of the manifesto, policy, aims and objects of the party and expenditure incurred or authorized in connection with the election of each of its contesting candidates. (3) Every statement submitted under clause (1) shall be 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. [Clause (4) deleted] (5) If any registered political party fails to submit its expenditure statement within the time specified in clause (1), the Commission shall issue a notice of warning directing it to submit the statement within 30 days and if the concerned registered political party fails to submit it within that period of time, the Commission may, subject to payment of a fine of Taka 10,000 (US$139), extend the time for another 15 days, and if such registered political party fails to submit its statement within that extended time, the Commission may cancel its registration.”

Article 44D of the Representation of the People Order (amendment) 2009 states that (1) The statement, return and documents submitted under Articles 44AA, 44C and 44CCC shall be kept by the Returning Officer or the Commission, as the case may be, in his or its office or at such other convenient place as he or it may think fit and shall, during one year from the date of receipt, be open for inspection by any person on payment of the prescribed fees. (2) The Commission or the Returning Officer shall, on an application made in this behalf and on payment of the prescribed fees, give any person copies of any statement, return, document or any part thereof kept under clause (1). (3) The copies of the statements, return or documents under clause (1) shall be published in the web site of the Commission.”

References:

Yes: A YES score is earned if there is a legal or regulatory requirement for the independent auditing of party finances and expenditures when irregularities are uncovered. 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’ finances and expenditures when financial irregularities are uncovered. A NO score is also earned if such requirements exist but allow for parties to self-audit.
20f. In law, there is an agency or entity that monitors the financing of political parties.

Yes | No

Comments:
Article 44CCC of the Representation of the People Order (amendment) 2009 states that (1)“Every political party nominating any candidate for election shall submit to the “Commission, for its scrutiny, within ninety days” of the completion of election in all constituencies, an expenditure statement giving details of the expenses incurred or authorized by it in connection with the election of its candidates for the period from the date of publication of the notification under clause (1) of Article 11 till the completion of elections in all the constituencies in which it has set up candidates. (2) The expenditure mentioned in clause (1) shall include, to be shown separately, expenditure incurred on general propagation of the manifesto, policy, aims and objects of the party and expenditure incurred or authorized in connection with the election of each of its contesting candidates. (3) Every statement submitted under clause (1) shall be 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. [Clause (4) deleted] (5) If any registered political party fails to submit its expenditure statement within the time specified in clause (1), the Commission shall issue a notice of warning directing it to submit the statement within 30 days and if the concerned registered political party fails to submit within that period of time, the Commission may, subject to payment of a fine of Taka 10,000 (US$139) and, extend the time for another 15 days, and if such registered political party fails to submit its statement within that extended time, the Commission may cancel its registration.”

Article 44D of the Representation of the People Order (amendment) 2009 states that (1) The statement, return and documents submitted under Articles 44AA, 44C and 44CCC shall be kept by the Returning Officer or the Commission, as the case may be, in his or its office or at such other convenient place as he or it may think fit and shall, during one year from the date of receipt, be open for inspection by any person on payment of the prescribed fees. (2) The Commission or the Returning Officer shall, on an application made in this behalf and on payment of the prescribed fees, give any person copies of any statement, return or document or any part thereof kept under clause (1). (3) The copies of the statements, return or documents under clause (1) shall be published in the web site of the Commission.”

References:
1. The Constitution of the People's Republic of Bangladesh

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 the financing of political parties. 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. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

21. Are there regulations governing the financing of individual political candidates?

40

21a. In law, there are limits on individual donations to political candidates.

Yes | No

Comments:
The contesting candidate can receive donation to any sources. There is no limit receiving donations mentioned in the law for candidates. Moreover, according to the law, there is a limit of election expenses (Taka 1.5 million, US$20,853) for the individual
candidates. For example, article 44AA (1) of the Representation of the People Order (amendment), 2009 states that "At the time of submitting the nomination paper, every contesting candidate shall submit to the Returning Officer 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; "Provided that the provisions of sub-clauses (a) to (e) shall not apply to a case where the amount of such sum is not more than Taka 5,000 (US$70) to be received as voluntary contribution or grant.";"

Clause 4 of article 44AA of the same law states that "If the contesting candidate receives any sum from any source other than any of the sources mentioned in his statement submitted under clause (1), he shall, with the return under clause (1) of Article 44C, submit a supplementary statement to the Returning Officer showing the sum so received and the source from which it is received, and a copy of such statement shall be sent by him to the Commission by registered post at the time of its submission to the Returning Officer"

But clause 3 of the article 44 B of the Representation of the People Order (amendment), 2009 mentioned that the election expenses of a contesting candidate, including the expenditure incurred for him by the political party which has nominated him as its candidate, shall not exceed Taka 15 lakh (Taka 1.5 million, US$20,853)."

References:

21b. In law, there are limits on corporate donations to individual political candidates.

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Comments:
The contesting candidate can receive donation to any sources. There is no limit receiving donations mentioned in the law for candidates. Moreover, according to the law, there is a limit of election expenses (Taka 1.5 million, US$20,853) for the individual candidates. For example, article 44AA (1) of the Representation of the People Order (amendment), 2009 states that "At the time of submitting the nomination paper, every contesting candidate shall submit to the Returning Officer 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; "Provided that the provisions of sub-clauses (a) to (e) shall not apply to a case where the amount of such sum is not more than taka five thousand to be received as voluntary contribution or grant.";"

Clause 4 of article 44AA of the same law states that "If the contesting candidate receives any sum from any source other than any of the sources mentioned in his statement submitted under clause (1), he shall, with the return under clause (1) of Article 44C, submit a supplementary statement to the Returning Officer showing the sum so received and the source from which it is received, and a copy of such statement shall be sent by him to the Commission by registered post at the time of its submission to the Returning Officer."

But clause 3 of the article 44 B of the Representation of the People Order (amendment), 2009 mentioned that the election expenses of a contesting candidate, including the expenditure incurred for him by the political party which has nominated him as its candidate, shall not exceed Taka 15 lakh (Taka 1.5 million, US$20,853)."

References:

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1. Representation of the People (Amendment) Order Act, 2009,

References:

Clause 4 of article 44AA of the same law states that “If the contesting candidate receives any sum from any source other than any of the sources mentioned in his statement submitted under clause (1), he shall, with the return under clause (1) of Article 44C, submit a supplementary statement to the Returning Officer showing the sum so received and the source from which it is received, and a copy of such statement shall be sent by him to the Commission by registered post at the time of its submission to the Returning Officer.”

2. The Representation of the People Order, 1972,

http://www.ecs.gov.bd/MenuExternalFilesEng/262.pdf

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

No: A NO score is earned if there are no requirements mandating the disclosure of contributions to individual political candidates, existing regulations do not require a donor’s name or amount given, or the regulations allow for anonymous donations. Systems where only certain donation amounts are required to be made public (above a non-trivial amount) also earn a NO score.

Comments:

According to the law, the candidates and registered political parties are supposed to submit their electoral expenses but there is no requirement for third party independent auditing. For example, article 44C (2) of the Representation of the People Order 1972 states that the return submitted shall be accompanied by an affidavit sworn severally by the contesting candidate and his election agent or, where a contesting candidate is his own election agent, only by such candidate.

Article 44CCC of the Representation of the People Order (amendment) 2009 states that “Every political party nominating any candidate for election shall submit to the “Commission, for its scrutiny, within ninety days” of the completion of election in all constituencies, an expenditure statement giving details of the expenses incurred or authorized by it in connection with the election of its candidates for the period from the date of publication of the notification under clause (1) of Article 11 till the completion of elections in all the constituencies in which it has set up candidates. (2) The expenditure mentioned in clause (1) shall include, to be shown separately, expenditure incurred on general propagation of the manifesto, policy, aims and objects of the party and expenditure incurred or authorized in connection with the election of each of its contesting candidates. (3) Every statement submitted under clause (1) shall be 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 elections in all constituencies and the total amount received by the party, as donation or otherwise, during the period between the said two dates. [Clause (4) deleted] (5) If any registered political party fails to submit its expenditure statement within the time specified in clause (1), the Commission shall issue a notice of warning directing it to submit the statement within 30 days and if the concerned registered political party fails to submit it within that period of time, the Commission may, subject to payment of a fine of Taka 10,000 (US$139), extend the time for another 15 days, and if such registered political party fails to submit its statement within that extended time, the Commission may cancel its registration.”

Article 44D of the Representation of the People Order (amendment) 2009 states that (1) The statement, return and documents submitted under Articles 44AA, 44C and 44CCC shall be kept by the Returning Officer or the Commission, as the case may be, in his or its office or at such other convenient place as he or it may think fit and shall, during one year from the date of receipt, be open for inspection by any person on payment of the prescribed fees. (2) The Commission or the Returning Officer shall, on an application made in this behalf and on payment of the prescribed fees, give any person copies of any statement, return or document or any part thereof kept under clause (1). (3) The copies of the statements, return or documents under clause (1) shall be published in the website of the Commission.”

References:

21e. In law, there is an agency or entity that monitors the financing of individual political candidates' campaigns.

| Yes | No |

Comments:

Article 44AA (1) of the Representation of the People Order (amendment), 2009 states that "At the time of submitting the nomination paper, every contesting candidate shall submit to the Returning Officer 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. Provided that the provisions of sub-clauses (a) to (e) shall not apply to a case where the amount of such sum is not more than Taka 5,000 (US$70) to be received as voluntary contribution or grant.";

Clause 4 of article 44AA of the same law states that "If the contesting candidate receives any sum from any source other than any of the sources mentioned in his statement submitted under clause (1), he shall, with the return under clause (1) of Article 44C, submit a supplementary statement to the Returning Officer showing the sum so received and the source from which it is received, and a copy of such statement shall be sent by him to the Commission by registered post at the time of its submission to the Returning Officer."

Article 44C (2) of the Representation of the People Order 1972 states that the return submitted shall be accompanied by an affidavit sworn severally by the contesting candidate and his election agent or, where a contesting candidate is his own election agent, only by such candidate.

Article 44CC of the Representation of the People Order (amendment) 2009 states that (1) "Every political party nominating any candidate for election shall submit to the "Commission, for its scrutiny, within ninety days" of the completion of election in all constituencies, an expenditure statement giving details of the expenses incurred or authorized by it in connection with the election of its candidates for the period from the date of publication of the notification under clause (1) of Article 11 till the completion of elections in all the constituencies in which it has set up candidates. (2) The expenditure mentioned in clause (1) shall include, to be shown separately, expenditure incurred on general propagation of the manifesto, policy, aims and objects of the party and expenditure incurred or authorized in connection with the election of each of its contesting candidates. (3) Every statement submitted under clause (1) shall be 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. (Clause (4) deleted) (5) If any registered political party fails to submit its expenditure statement within the time specified in clause (1), the Commission shall issue a notice of warning directing it to submit the statement within 30 days and if the concerned registered political party fails to submit it within that period of time, the Commission may, subject to payment of a fine of Taka 10,000 (US$139), extend the time for another 15 days, and if such registered political party fails to submit its statement within that extended time, the Commission may cancel its registration."

Article 44D of the Representation of the People Order (amendment) 2009 states that (1) The statement, return and documents submitted under Articles 44AA, 44C and 44CC shall be kept by the Returning Officer or the Commission, as the case may be, in his or its office or at such other convenient place as he or it may think fit and shall, during one year from the date of receipt, be open for inspection by any person on payment of the prescribed fees. (2) The Commission or the Returning Officer shall, on an application made in this behalf and on payment of the prescribed fees, give any person copies of any statement, return or document or any part thereof kept under clause (1). (3) The copies of the statements, return or documents under clause (1) shall be published in the web site of the Commission."

References:

1. The Constitution of the People's Republic of Bangladesh


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 the financing of individual political candidates’ campaigns. 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. A NO score is also earned if this monitoring is solely carried out by the media and non-governmental organizations.

22. Are the regulations governing the political financing of parties effective?

22a. In practice, the limits on individual donations to political parties are effective in regulating an individual’s ability to financially support a political party.

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Comments: Transparency International Bangladesh conducted a study on ‘Transparency in Political Financing’ which was released in October 2009. The study revealed most of the parties maintain simple accounting books which do not always include the name and amount of each donation, types of donations, and loans and liabilities. Some of the large donations are made directly to the top leadership and are not registered in the accounting book. The key informant also agreed with these findings.

References:
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
5. Interview with Abu Zayed Mohammad, Advocate, Bangladesh Supreme Court & Faculty, North South University, Dhaka, Dec. 4, 2010

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a 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 political party. However, exceptions and loopholes exist through which individuals can indirectly support 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 party; unregulated loans to 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 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.

22b. In practice, the limits on corporate donations to political parties are effective in regulating a company’s ability to financially support a political party.

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References:
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
5. Interview with Abu Zayed Mohammad, Advocate, Bangladesh Supreme Court & Faculty, North South University, Dhaka, Dec. 4, 2010

100: Existing limits represent the full extent to which a company can directly or indirectly financially support a 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 political party. However, exceptions and loopholes exist through which companies can indirectly support 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 party; unregulated loans to 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 political parties 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.

22c. In practice, the limits on total party expenditures are effective in regulating a political party’s ability to fund campaigns or politically-related activities.
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.

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.

In practice, when necessary, an agency or entity monitoring the financing of political parties independently initiates investigations.

Comments:
Transparency International Bangladesh conducted a study on ‘Transparency in Political Financing’ which was released in October 2009. The study revealed that the income and expenditure records are hardly maintained properly by the political parties. None of the parties has yet had their accounts externally audited. The study also found that ‘most of the parties submitted electoral accounting reports to the EC after the 2008 election, but they were not externally audited. Only in a few cases, did the Election Commission launch investigations, based on complaints lodged mainly by contesting candidates and the media, and took action.

References:
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
5. Interview with Abu Zayed Mohammad, Advocate, Bangladesh Supreme Court & Faculty, North South University, Dhaka, Dec. 4, 2010

The agency or entity aggressively starts investigations into allegations of wrong doing with respect to the financing of political parties, or cooperates well with other agencies that do. The agency is fair in its application of this power.

The agency or entity will start investigations, but often relies on external pressure to set priorities, has limited effectiveness when investigating, or is reluctant to cooperate with other agencies in politically sensitive cases. The agency, though limited in effectiveness, is still fair in its application of power.

The agency or entity rarely investigates on its own, is uncooperative with other agencies, or the agency or entity is partisan in its application of this power.

In practice, when necessary, an agency or entity monitoring the financing of political parties imposes penalties on offenders.

Comments:
Transparency International Bangladesh conducted a study on ‘Transparency in Political Financing’ which was released in October 2009. The study found that the political parties submitted expenditure returns, but they were not externally audited. Only in a few cases did the EC launch investigations based on complaints. In the case of a few parties, the EC returned the expenditure reports on election campaign for rectification.
References:
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
5. Interview with Abu Zayed Mohammad, Advocate, Bangladesh Supreme Court & Faculty, North South University, Dhaka, Dec. 4, 2010

100: When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or cooperates well with other agencies that impose penalties.

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, reluctant to cooperate with other agencies, 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 and may refuse cooperation with other agencies.

22f. In practice, contributions to political parties are audited.

100 | 75 | 50 | 25 | 0

Comments:
Transparency International Bangladesh conducted a study on ‘Transparency in Political Financing’ which was released in October 2009. The study revealed that none of the parties had yet had their accounts externally audited.

References:
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
5. Interview with Abu Zayed Mohammad, Advocate, Bangladesh Supreme Court & Faculty, North South University, Dhaka, Dec. 4, 2010

100: Political party finances are regularly audited using generally accepted auditing practices. The auditing may be regular and comprehensive or only initiated after an initial review reveals irregularities. Auditing includes the auditing of nominally independent financial organizations that act as financial extensions of the party.

75:

50: Political party 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 may be sufficiently audited, but the auditing of nominally independent extensions of the party may not be.

25:

0: Party 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.
23. Are the regulations governing the political financing of individual candidates effective?

23a. In practice, the limits on individual donations to political candidates are effective in regulating an individual’s ability to financially support a particular candidate.

Comments:
Transparency International Bangladesh conducted a study on ‘Transparency in Political Financing’ which was released in October 2009. The study revealed that most of the parties and candidates maintain simple accounting books, which do not always include the name and amount of each donation, types of donations, and loans and liabilities. Some of the large donations are made directly to the leaders and are not registered in the accounting books. The key informant also agreed with these findings.

References:
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
5. Interview with Abu Zayed Mohammad, Advocate, Bangladesh Supreme Court & Faculty, North South University, Dhaka, Dec. 4, 2010

100: Existing limits represent the full extent to which an individual can directly or indirectly financially support a political candidate. 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 particular candidate. However, exceptions and loopholes exist through which individuals can indirectly support particular political candidates 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; unregulated loans to candidates (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 particular political candidate 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.

23b. In practice, the limits on corporate donations to individual candidates are effective in regulating a company’s ability to financially support a candidate.

Comments:
Transparency International Bangladesh conducted a study on ‘Transparency in Political Financing’ which was released in October 2009. The study revealed most of the parties and candidates maintain simple accounting books which do not always include the name and amount of each donation, types of donations, and loans and liabilities. Some of the large donations are made directly to the leaders and are not registered in the accounting books. The key informant also agreed with these findings.
Comments:
Transparency International Bangladesh conducted a study on ‘Transparency in Political Financing’ which was released in October 2009. The study found that most of the candidates submitted electoral accounting reports to the EC after the 2008 election, but they were not externally audited. The candidates and their election agents submitted expenditure returns within the upper limit set by the EC, although their expenditures are much higher than the submitted figures. Only in a few cases did the EC launch investigations based on complaints, lodged mainly by contesting candidates and the media, and took action.
The agency or entity rarely investigates on its own, or the agency or entity is partisan in its application of this power. It does not cooperate well with other investigatory agencies.

23d. In practice, when necessary, an agency or entity monitoring the financing of individual candidates’ campaigns imposes penalties on offenders.

Comments:
Transparency International Bangladesh conducted a study on 'Transparency in Political Financing' which was released in October 2009. The study found that only in a few cases did the EC launched investigations based on complaints, lodged mainly by contesting candidates and the media, and took action. In the case of a few parties, the EC returned the expenditure report on election campaign for rectification.

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3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
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When rules violations are discovered, the agency or entity is aggressive in penalizing offenders or in cooperating with other agencies that do.

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, reluctant to cooperate with other agencies, or occasionally unable to enforce its judgments.

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 or may refuse to cooperate with other agencies.

23e. In practice, the finances of individual candidates’ campaigns are audited.

Comments:
Transparency International Bangladesh conducted a study on 'Transparency in Political Financing' which was released in October 2009. The study revealed that none of the candidates’ expenditure reports had yet been externally audited.

References:
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
24. Can citizens access records related to the financing of political parties?

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24a. In practice, political parties disclose data relating to financial support and expenditures within a reasonable time period.

Comments:
Transparency International Bangladesh conducted a study on ‘Transparency in Political Financing’ which was released in October 2009. The study revealed that the income and expenditure records are hardly maintained properly by political parties. They did not make them public. The political parties and donors do not disclose party financing information proactively. According to the law, the Election Commission is supposed to publish this information on its website. After the 9th Parliamentary Election, most of the candidates and parties submitted their electoral expenditure reports to the Election Commission, but the EC did not publish them immediately on its website. Recently, the EC publish the candidates’ and parties’ electoral expenditure through on its website.

References:
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
5. Interview with Abu Zayed Mohammad, Advocate, Bangladesh Supreme Court & Faculty, North South University, Dhaka, Dec. 4, 2010

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

75:

50: Political parties 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 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.

24b. In practice, citizens can access the financial records of political parties within a reasonable time period.
Transparency International Bangladesh conducted a study on ‘Transparency in Political Financing’ which was released in October 2009. The study revealed that the income and expenditure records are hardly maintained properly by political parties. They did not make them public. The political parties and donors do not disclose party financing information proactively. According to the law, the Election Commission is supposed to publish this information on its web site. After the 9th Parliamentary Election, most of the candidates and parties submitted their electoral expenditure reports to the Election Commission, but the EC did not publish it immediately on its web site. Recently, the EC publish the candidates’ and parties’ electoral expenditure on its web site.

References:
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
5. Interview with Abu Zayed Mohammad, Advocate, Bangladesh Supreme Court & Faculty, North South University, Dhaka, Dec. 4, 2010

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.

24c. In practice, citizens can access the financial records of political parties at a reasonable cost.

Comments:
Transparency International Bangladesh conducted a study on ‘Transparency in Political Financing’ which was released in October 2009. The study revealed that the income and expenditure records are hardly maintained properly by political parties. They did not make them public. The political parties and donors do not disclose party financing information proactively. According to the law, the Election Commission is supposed to publish this information on its web site. After the 9th Parliamentary Election, most of the candidates and parties submitted their electoral expenditure reports to the Election Commission, but the EC did not publish it immediately on its web site. Recently, the EC publish the candidates’ and parties’ electoral expenditure on its web site. The information is free. But the regular financial records of political parties is not available online and most often are denied to provide.

References:
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
5. Interview with Abu Zayed Mohammad, Advocate, Bangladesh Supreme Court & Faculty, North South University, Dhaka, Dec. 4, 2010
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.

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

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

In practice, the publicly available records of political parties’ finances are of high quality.

Publicly available records of political parties’ finances are complete and detailed, itemizing all significant sources of income and expenditures.

Publicly available records of political parties’ finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

Publicly available records of political parties’ finances, when available, are so incomplete or overly general as to render them useless in understanding a party’s sources of income and its expenditures.

Can citizens access records related to the financing of individual candidates’ campaigns?

In practice, individual political candidates disclose data relating to financial support and expenditures within a reasonable time period.
Comments:
Transparency International Bangladesh conducted a study on ‘Transparency in Political Financing’ which was released in October 2009. The study revealed that the income and expenditure records are hardly maintained properly by political parties. None of the parties has yet had their accounts externally audited. Most of the parties maintain simple accounting books, which do not always include the name and amount of each donation, types of donations, and loans and liabilities. Even they did not make the records public. Political parties and donors do not disclose party financing information pro-actively. According to the law, the Election Commission is supposed to publish this information on its web site. After the 9th Parliamentary Election, most of the candidates and parties submitted their electoral expenditure reports to the Election Commission, but the EC did not publish them immediately on its web site. Recently, the EC publish the candidates’ and parties’ electoral expenditures on its web site.

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3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
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100: Individual candidates disclose their sources of funding and expenditures at least every quarter.

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

50: Individual 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 regularly withheld from public disclosure.

25b. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) within a reasonable time period.

Comments:
Transparency International Bangladesh conducted a study on ‘Transparency in Political Financing’ which was released in October 2009. The study revealed that the income and expenditure records are hardly maintained properly by political parties. None of the parties has yet had their accounts externally audited. Most of the parties maintain simple accounting books, which do not always include the name and amount of each donation, types of donations, and loans and liabilities. Even they did not make the records public. Political parties and donors do not disclose party financing information pro-actively. According to the law, the Election Commission is supposed to publish this information on its web site. After the 9th Parliamentary Election, most of the candidates and parties submitted their electoral expenditure reports to the Election Commission, but the EC did not publish them immediately on its web site. Recently, the EC publish the candidates’ and parties’ electoral expenditures on its web site.

References:
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
### Transparency in Political Financing

**Records Availability**

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>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.</td>
</tr>
<tr>
<td>75</td>
<td>Records take two to four weeks to obtain. Some delays may be experienced.</td>
</tr>
<tr>
<td>50</td>
<td>Records take more than a month to acquire. There may be persistent delays in obtaining politically sensitive records.</td>
</tr>
</tbody>
</table>

**25c. In practice, citizens can access the financial records of individual candidates (their campaign revenues and expenditures) at a reasonable cost.**

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>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.</td>
</tr>
<tr>
<td>75</td>
<td>Records impose a financial burden on citizens, journalists or NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.</td>
</tr>
<tr>
<td>50</td>
<td>Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.</td>
</tr>
<tr>
<td>25</td>
<td></td>
</tr>
<tr>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>

**Comments:**

Transparency International Bangladesh conducted a study on ‘Transparency in Political Financing’ which was released in October 2009. The study revealed that the income and expenditure records are hardly maintained properly by political parties. None of the parties has yet had their accounts externally audited. Most of the parties maintain simple accounting books, which do not always include the name and amount of each donation, types of donations, and loans and liabilities. Even they did not make the records public. Political parties and donors do not disclose party financing information pro-actively. According to the law, the Election Commission is supposed to publish this information on its web site. After the 9th Parliamentary Election, most of the candidates and parties submitted their electoral expenditure reports to the Election Commission, but the EC did not publish them immediately on its web site. Recently, the EC publish the candidates’ and parties’ electoral expenditures on its web site, free of cost.

**References:**

3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
5. Interview with Abu Zayed Mohammad, Advocate, Bangladesh Supreme Court & Faculty, North South University, Dhaka, Dec. 4, 2010
2009. The study revealed some of the large donations are made directly to the top leadership and are not registered in the accounting books. The candidates and their election agents submitted expenditure returns within the upper limit set by the EC, although their expenditure is much higher than the submitted figure.

References:
3. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Nov. 10, 2010
5. Interview with Abu Zayed Mohammad, Advocate, Bangladesh Supreme Court & Faculty, North South University, Dhaka, Dec. 4, 2010

100: Publicly available records of political candidates’ campaign finances are complete and detailed, itemizing all significant sources of income and expenditures.

75:

50: Publicly available records of political candidates’ campaign finances are available but are often lacking in important details, are overly general, or are otherwise incomplete.

25:

0: Publicly available records of political candidates’ campaign finances, when available, are so incomplete or overly general as to render them useless in understanding a candidate’s sources of income and expenditures.

Category 3. Government Conflicts of Interest Safeguards & Checks and Balances

3.1. Conflicts of Interest Safeguards & Checks and Balances: Executive Branch

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

100

26a. In law, can citizens sue the government for infringement of their civil rights?

Yes | No

References:
1. Articles 26 & 102 of the Constitution
2. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

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

63

27a. In practice, the chief executive gives reasons for his/her policy decisions.

100 | 75 | 50 | 25 | 0

Comments:
Most often, the chief executive or minister of the concerned ministry, or a representative, attend the press conference and inform the media briefly about the policy or action taken by the government, which is sometimes considered as incomplete.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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.

27b. In law, the judiciary can review the actions of the executive.

Yes | No

Comments:
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. Besides, 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 (Article 102 of the Constitution of the People's Republic of Bangladesh). Moreover, individuals can bring legal actions against any law or action which violates any fundamental right under Part III of the Constitution of Bangladesh.

References:
Articles 26, 102, 152 of the 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).
27c. In practice, when necessary, the judiciary reviews the actions of the executive.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>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.</td>
</tr>
<tr>
<td>75</td>
<td>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.</td>
</tr>
<tr>
<td>50</td>
<td></td>
</tr>
<tr>
<td>25</td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>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.</td>
</tr>
</tbody>
</table>

27d. In practice, the chief executive limits the use of executive orders for establishing new regulations, policies, or government practices.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>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.</td>
</tr>
<tr>
<td>75</td>
<td>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.</td>
</tr>
<tr>
<td>50</td>
<td></td>
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<tr>
<td>25</td>
<td></td>
</tr>
<tr>
<td>0</td>
<td>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.</td>
</tr>
</tbody>
</table>

28. Is the executive leadership subject to criminal proceedings?
28a. In law, the heads of state and government can be prosecuted for crimes they commit.

Yes | No

Comments:
President’s 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) of the Constitution of Bangladesh states that "the president may be impeached on a charge of violating the 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 14 nor later than 30 days after the notice is so delivered; and the speaker shall forthwith summon parliament if it is not in session."

References:
Articles 51, 52 of the 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.

28b. In law, ministerial-level officials can be prosecuted for crimes they commit.

Yes | No

References:
1. Rules of Procedure of Parliament of Bangladesh
2. The Constitution of Bangladesh

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.

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

0

29a. In law, the heads of state and government are required to file a regular asset disclosure form.

Yes | No

Comments:
There is no legal provision to disclose assets either for the head of state or government. Besides, Members of Parliament are
exempted from paying tax.

References:
1. The Constitution of Bangladesh

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.

29b. In law, ministerial-level officials are required to file a regular asset disclosure form.

Yes  |  No

Comments:
There is no legal provision to disclose assets either for the head of state or government. Besides, Members of Parliament are exempted from paying tax.

References:
1. The Constitution of Bangladesh

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.

29c. In law, there are regulations governing gifts and hospitality offered to members of the executive branch.

Yes  |  No

Comments:
The members of the executive branch are defined here as ministers and heads of state and government. There is no code of conduct and/or guidelines with respect to gifts or hospitality for ministers, heads of state or government, or Members of Parliament.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament (MP), Dhaka, Oct. 28, 2010
2. Rules of Procedure of Parliament of Bangladesh

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.
29d. 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).

**Comments:**
There is no provision for the independent auditing of asset disclosures of the executive branch (defined here as ministers or head of state or government).

**References:**
1. Interview with Prof. Ali Ashraf, Member of Parliament, Oct.28, 2010, Dhaka

**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.

29e. In law, there are restrictions on heads of state and government and ministers entering the private sector after leaving the government.

**Yes** | **No**

**References:**
1. Interview with Prof. Ali Ashraf, Member of Parliament (MP), Oct. 28, 2010, Dhaka

**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.

29f. In practice, the regulations restricting post-government private sector employment for heads of state and government and ministers are effective.

**References:**
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec.4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

**100:** The regulations restricting post-government private sector employment for heads of state/government and ministers are uniformly enforced. There are no cases 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.
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.

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. A zero score is also earned if heads of state and government or minister are allowed to hold private sector jobs while in office.

In practice, the regulations governing gifts and hospitality offered to members of the executive branch are effective.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

The regulations governing gifts and hospitality to members of the executive branch are regularly enforced. Members of the executive branch never or rarely accept gifts or hospitality above what is allowed.

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.

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.

In practice, executive branch asset disclosures (defined here as ministers and above) are audited.

Comments:
In its electoral commitment, the ruling party (Awami League) promised to make the asset disclosure records public for Members of Parliament, but this has not yet been implemented. Since the 2008 elections, no minister or lawmaker, apart from Finance Minister AMA Muhith, released their annual wealth statement to the public ([Sarkar, A., 2010]). Besides, neither the head of the state nor the head of the government submitted asset records and/or made them public.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
Executive branch asset disclosures are regularly audited using generally accepted auditing practices.

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.

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.

30. Can citizens access the asset disclosure records of the heads of state and government?

0

30a. In law, citizens can access the asset disclosure records of the heads of state and government.

Yes | No

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament (MP), Oct. 28, 2010, Dhaka
2. Right to Information Act, 2009, Government of Bangladesh, Dhaka

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.

30b. 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

Comments:
In its electoral commitment, the ruling party (Awami League) promised to make the asset disclosure records public for Members of Parliament, but this has not yet been implemented. Since the 2008 elections, no minister or lawmaker, apart from Finance Minister AMA Muhith, released their annual wealth statement to the public (Sarkar, A., 2010). Besides, neither the head of the state nor the head of the government submitted asset records and/or made them public.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
4. The Financial Express, "Asset info of all ministers, MPs to be taken by June", Feb. 15, 2010, Dhaka,
http://www.thefinancialexpress-bd.com/more.php?news_id=92550

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.
Records take around two weeks to obtain. Some additional delays may be experienced.

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.

In practice, citizens can access the asset disclosure records of the heads of state and government at a reasonable cost.

Comments:
In its electoral commitment, the ruling party (Awami League) promised to make the asset disclosure records public for Members of Parliament, but this has not yet been implemented. Since the 2008 elections, no minister or lawmaker, apart from Finance Minister AMA Muhith, released their annual wealth statement to the public (Sarkar, A., 2010). Besides, neither the head of the state nor the head of the government submitted asset records and/or made them public.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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.

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

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

In practice, the asset disclosure records of the heads of state and government are of high quality.

Comments:
In its electoral commitment, the ruling party (Awami League) promised to make the asset disclosure records public for Members of Parliament, but this has not yet been implemented. Since the 2008 elections, no minister or lawmaker, apart from Finance Minister AMA Muhith, released their annual wealth statement to the public (Sarkar, A., 2010). Besides, neither the head of the state nor the head of the government submitted asset records and/or made them public.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>100</td>
<td>The asset disclosure records of the heads of state and government are complete and detailed, providing the public with an accurate and updated accounting of the individuals’ sources of income, investments, and other financial interests.</td>
</tr>
<tr>
<td>75</td>
<td>The asset disclosure records of the heads of state and government contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.</td>
</tr>
<tr>
<td>50</td>
<td>The asset disclosure records of the heads of state and government are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals’ sources of income, investments, and other financial assets.</td>
</tr>
</tbody>
</table>

31. In practice, official government functions are kept separate and distinct from the functions of the ruling political party.

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>In practice, official government functions are kept separate and distinct from the functions of the ruling political party.</td>
</tr>
<tr>
<td>75</td>
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<td>50</td>
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<td>25</td>
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</table>

Comments:
Bureaucratic and administrative action is heavily influenced by political consideration. The ruling party MPs and ministers try to influence the public officials to take administrative decisions in favor of the party members. Former Chief Justice Muhammad Habibur Rahman argued "People today are seriously worried about irregularities and partisanship in the processes of admissions, recruitment, and tender."

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

<table>
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<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>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.</td>
</tr>
<tr>
<td>75</td>
<td>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.</td>
</tr>
<tr>
<td>50</td>
<td>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.</td>
</tr>
</tbody>
</table>

40
32. Can members of the legislature be held accountable for their actions?

75

32a. In law, the judiciary can review laws passed by the legislature.

Yes | No

References:
1. Rules of Procedure of Parliament of Bangladesh
2. The Constitution of Bangladesh
3. 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).

32b. In practice, when necessary, the judiciary reviews laws passed by the legislature.

100 | 75 | 50 | 25 | 0

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec.4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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.

32c. In law, are members of the national legislature subject to criminal proceedings?
Yes | No

**Comments:**

Rule 172 of the Rules of Procedure of Parliament Bangladesh states that when a member is arrested on a criminal charge or for a criminal offense, 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 Bangladesh 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 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 Bangladesh no legal process, civil or criminal, shall be served within the precincts of the house without obtaining the permission of the speaker.

**References:**

1. Rules of Procedure of Parliament of Bangladesh
2. Penal Code 1860, Dhaka, Bangladesh
3. The Code of Civil Procedure, 1908
3. The Prevention of Corruption Act 1947
4. Article 161 of the Criminal Law Amendment Act, 1958

| 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. A NO score is also earned if the legislative branch itself controls whether investigative or prosecutorial immunity can be lifted on members of the legislature. |

33. Are there regulations governing conflicts of interest by members of the national legislature?

Yes | No

**Comments:**

The contesting candidates in the Parliament election are supposed to submit the assets and liabilities to the Election Commission. For example, 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 XVIB."

After election, there is no legal requirement to submit it at a regular interval.

**References:**

Article 27A (2) of "The Conduct of Election Rules, 1972", Dhaka, GOB
**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.

33b. In law, there are restrictions for national legislators entering the private sector after leaving the government.

| Yes | No |

**References:**
1. Interview with Prof. Ali Ashraf, Member of Parliament (MP), Oct.28, 2010, Dhaka

**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.

33c. In law, there are regulations governing gifts and hospitality offered to members of the national legislature.

| Yes | No |

**Comments:**
There is no “Code of Conduct” or guidelines with respect to gifts or hospitality offered to members of the legislature.

**References:**
1. Interview with Prof. Ali Ashraf, Member of Parliament (MP), Oct.28, 2010, Dhaka

**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.

33d. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national legislature.

| Yes | No |

**References:**
1. Interview with Prof. Ali Ashraf, Member of Parliament (MP), Oct.28, 2010, Dhaka

**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.
33e. In practice, the regulations restricting post-government private sector employment for national legislators are effective.

100  |  75  |  50  |  25  |  0

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

100: The regulations restricting post-government private sector employment for national legislators are uniformly enforced. There are no cases 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. A zero score is also earned if legislators are allowed to hold private sector positions while in office.

33f. In practice, the regulations governing gifts and hospitality offered to national legislators are effective.

100  |  75  |  50  |  25  |  0

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

100: The regulations governing gifts and hospitality to national legislators are regularly enforced. 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 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.

33g. In practice, national legislative branch asset disclosures are audited.
In its electoral commitment, the ruling party (Awami League) promised to make the asset disclosure records public for Members of Parliament, but this has not yet been implemented. Since the 2008 elections, no minister or lawmaker, apart from Finance Minister AMA Muhith, released their annual wealth statement to the public ([Sarkar, A., 2010). Besides, neither the head of the state nor the head of the government submitted asset records and/or made them public.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

100: Legislative branch asset disclosures are regularly audited using generally accepted auditing practices.

75: 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.

50: 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.

25: 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.

34. Can citizens access the asset disclosure records of members of the national legislature?

25

34a. In law, citizens can access the asset disclosure records of members of the national legislature.

Yes | No

Comments:
According to “the Conduct of Election Rules, 1972” all contesting candidates submit the statement of his/her assets and liabilities and annual income and expenditures to the Election Commission. This document is open for all. After elections, there are no regulations for MPs in connection to asset disclosures.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament (MP), Oct. 28, 2010, Dhaka
2. The Conduct of Election Rules, 1972, GOB, Dhaka

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, non-governmental 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.

34b. In practice, citizens can access legislative asset disclosure records within a reasonable time period.
Comments:
The ruling party (Awami League) promised to make the asset disclosure records public for Members of Parliament, but this has not yet been implemented. Since the 2008 elections, no minister or lawmaker, apart from Finance Minister AMA Muhith, released their annual wealth statements to the public (Sarkar, A., 2010).

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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.

34c. In practice, citizens can access legislative asset disclosure records at a reasonable cost.

Comments:
The ruling party (Awami League) promised to make the asset disclosure records public for Members of Parliament, but this has not yet been implemented. Since the 2008 elections, no minister or lawmaker, apart from Finance Minister AMA Muhith, released their annual wealth statements to the public (Sarkar, A., 2010).

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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 NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.
25:
Retrieving records imposes a major financial burden on citizens. Records costs are prohibitive to most citizens, journalists, or NGOs trying to access this information.

In practice, the asset disclosure records of members of the national legislature are of high quality.

The ruling party (Awami League) promised to make the asset disclosure records public for Members of Parliament, but this has not yet been implemented. Since the 2008 elections, no minister or lawmaker, apart from Finance Minister AMA Muhith, released their annual wealth statements to the public (Sarkar, A., 2010).

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

The asset disclosure records of members of the national legislature are complete and detailed, providing the public with an accurate and updated accounting of the individuals’ sources of income, investments, and other financial interests.

The asset disclosure records of the members of the national legislature contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

The asset disclosure records of the members of the national legislature are overly general, lack any meaningful detail, and do not provide clear accounting of the individuals’ sources of income, investments, and other financial assets.

Can citizens access legislative processes and documents?

In law, citizens can access records of legislative processes and documents.

Comments:
Article 298 (2) of the Rules of Procedure of Parliament states, “All papers and documents laid on the table shall be considered public.”

Article 306 of the Rules of Procedure of Parliament states, “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, “(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, “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, “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, “The speaker may, whenever he thinks fit, order the withdrawal of strangers from any part of the house.”

Besides, recently the government of Bangladesh enacted the Right to Information Act which ensure peoples’ right to access legislative proceedings.

References:
1. Rules of Procedure of Parliament of Bangladesh, Bangladesh Parliament
2. Right to Information Act 2009, GOB, Dhaka

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 are exemptions to the general right that are not clearly defined by formal rules.

35b. In practice, citizens can access records of legislative processes and documents within a reasonable time period.

100  75  50  25  0

Comments:
According to the rules of procedure, the parliamentary proceedings and other published documents, such as committee reports, are open to the public. Besides, the Bangladesh Parliament has its own web site. Few documents are available on the web site, but it is not updated. Radio Bangladesh broadcasts the parliament sessions live. Journalists and researchers collect the updated information on Parliament and Parliamentary Standing Committee using their personal network. The officials of the Parliament Secretariat often refuse to give this kind of information.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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: Records take around two weeks to obtain. Some delays may be experienced.

50: 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.
35c. In practice, citizens can access records of legislative processes and documents at a reasonable cost.

Comments:
According to the rules of procedure, the parliamentary proceedings and other published documents, such as committee reports, are open to the public. Besides, the Bangladesh Parliament has its own website. Few documents are available on the website, but it is not updated. Radio Bangladesh broadcasts the parliament sessions live. Journalists and researchers collect the updated information on Parliament and Parliamentary Standing Committee using their personal network. The officials of the Parliament Secretariat often refuse to give this kind of information.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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 NGOs. 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 NGOs trying to access this information.

36. Are judges appointed fairly?

83

36a. In law, there is a transparent procedure for selecting national-level judges.

Yes | No
Comments:
Article 95 of the Constitution states, "(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 a 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.

Besides, there is a ‘Supreme Judicial Council’ which suggests names for appointment to the president. The president appoints the judges.

References:
1. The Constitution of Bangladesh
2. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
3. The 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 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.

36b. In practice, professional criteria are followed in selecting national-level judges.

Comments:
The government has taken initiatives to appoint 101 assistant judges and judicial magistrates in lower courts across the country in a quota basis from the children of freedom fighters. The measure is criticized from different corners, and the government is urged to appoint judges based on merit. Besides, the Chief Justice refused to administer the oath to two newly appointed judges due to their previous misconduct in court and partisan role last April.

References:
2. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
3. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
4. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
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.

36c. In law, there is a confirmation process for national-level judges (i.e. conducted by the legislature or an independent body).

Yes | No

References:
1. The Constitution of Bangladesh
2. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
3. The 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 formal process establishing a review of national-level judicial nominees by an agency or entity 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 the same body that appoints the judges (such as the Prime Minister approving judicial nominees put forward by the Minister of Justice, both of whom are part of the executive).

37. Can members of the judiciary be held accountable for their actions?

88

37a. In law, members of the national-level judiciary are obliged to give reasons for their decisions.

Yes | No

References:
1. The Constitution of Bangladesh
2. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
3. The 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 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).

37b. In practice, members of the national-level judiciary give reasons for their decisions.

| 100 | 75 | 50 | 25 | 0 |

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept.20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

100: Judges are formally required to explain their judgments in detail, establishing a body of precedent. All judges comply with these requirements.

75: 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.

50: Judges commonly issue decisions without formal explanations.

0: Judges commonly issue decisions without formal explanations.

37c. In law, there is a disciplinary agency (or equivalent mechanism) for the national-level judicial system.

| Yes | No |

Comments:
Article 96 (3) of the Constitution of Bangladesh states that 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.

Article 96 (4) of the Constitution of Bangladesh describes the function of the Judicial Council which states that 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.

Article 96 (6) of the Constitution of Bangladesh states that "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".

Article 96 (7) of the Constitution of Bangladesh states that "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."
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. A YES score can still be earned if the judicial disciplinary agency (or mechanism) is internal to 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.

37d. In law, the judicial disciplinary agency (or equivalent mechanism) is protected from political interference.

Yes | No

Comments:
According to Article 96 (3) of the Constitution of Bangladesh the Supreme Judicial Council consists of the Chief Justice of Bangladesh, and the two next senior judges. Article 94 (4) of the Constitution of Bangladesh 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:
1. The Constitution of Bangladesh, Government of Bangladesh
2. The 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 protected from political interference by the executive and legislative 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 executive ministry or legislative committee.

37e. In practice, when necessary, the judicial disciplinary agency (or equivalent mechanism) initiates investigations.

100 | 75 | 50 | 25 | 0

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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.
<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>25</td>
<td>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.</td>
</tr>
<tr>
<td>100</td>
<td>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.</td>
</tr>
<tr>
<td>75</td>
<td>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.</td>
</tr>
<tr>
<td>50</td>
<td>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.</td>
</tr>
<tr>
<td>25</td>
<td>The judicial disciplinary agency (or equivalent mechanism) makes judgments but does 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.</td>
</tr>
</tbody>
</table>

### References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

#### 38. Are there regulations governing conflicts of interest for the national-level judiciary?

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>25</td>
<td>In law, members of the national-level judiciary are required to file an asset disclosure form.</td>
</tr>
</tbody>
</table>

#### Comments:
There is no provision about the requirement to publicly disclosing assets of the national level judges. For example, 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 ignored.

#### References:
1. The Constitution of Bangladesh, Government of Bangladesh
2. The 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.
38b. In law, there are regulations governing gifts and hospitality offered to members of the national-level judiciary.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

Comments:
Article 8 of the Code of Conduct of the Judges of the Supreme Court of Bangladesh states, “A judge will not accept gifts or hospitality except from his family, close relatives and friends.”

References:
The 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. |

38c. In law, there are requirements for the independent auditing of the asset disclosure forms of members of the national-level judiciary.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

Comments:
Article 14 of the Code of Conduct of the Judges of the Supreme Court states, “A judge should disclose his assets and liabilities if, asked for, by the chief justice.” The spirit of this provision is often overlooked. There is no provision about either publicly disclosing assets or independent auditing.

References:
The 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. |

38d. In law, there are restrictions for national-level judges entering the private sector after leaving the government.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

Comments:
There are few restrictions for the national level judges to take employment in the public sector after leaving their official jobs. For example, 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 [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:
1. The Constitution of Bangladesh, Government of Bangladesh

**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.

<table>
<thead>
<tr>
<th>100</th>
<th>75</th>
<th>50</th>
<th>25</th>
<th>0</th>
</tr>
</thead>
</table>

38e. In practice, the regulations restricting post-government private sector employment for national-level judges are effective.

**References:**
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

**Comments:**
As there is no provision or regulation restricting the private sector employment for national-level judges after retirement, so the score should be ‘0’.

100: The regulations restricting post-government private sector employment for national-level judges are uniformly enforced. There are no cases 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. A zero score is also earned if judges are allowed to hold private sector jobs while serving on the bench.

38f. In practice, the regulations governing gifts and hospitality offered to members of the national-level judiciary are effective.

**References:**
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

100: The regulations governing gifts and hospitality to members of the national-level judiciary are regularly enforced. Judges never or rarely accept gifts or hospitality above what is allowed.

75:
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.

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.

In practice, national-level judiciary asset disclosures are audited.

Comments:
There is no provision about disclosing assets publicly. Article 14 of the Code of Conduct of the Judges of the Supreme Court states, "A judge should disclose his assets and liabilities if, asked for, by the chief justice." But the spirit of this provision is ignored. In a positive move, the Chief Justice of Supreme Court is planning to submit his wealth statement to the president within the first week of January 2011. It is expected that the Chief Justice will submit his wealth statement and make it available to the public. Subsequently, it will be followed by other justices. In a lower court, the judges submitted their wealth statements every year in their annual confidential reports to the Supreme Court, but these are neither audited nor publicly available (Sarkar, A., 2010).

References:
2. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
3. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
4. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

Comments:
There is no provision about disclosing assets publicly. Article 14 of the Code of Conduct of the Judges of the Supreme Court

39. Can citizens access the asset disclosure records of members of the national-level judiciary?

Yes | No

Comments:
There is no provision about disclosing assets publicly. Article 14 of the Code of Conduct of the Judges of the Supreme Court
states, "A judge should disclose his assets and liabilities if, asked for, by the chief justice." But the spirit of this provision is often ignored.

References:
1. The Constitution of Bangladesh, Government of Bangladesh
2. The Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000

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.

39b. In practice, citizens can access judicial asset disclosure records within a reasonable time period.

   100  75  50  25  0

Comments:
There is no provision about disclosing assets publicly. Article 14 of the Code of Conduct of the Judges of the Supreme Court states, "A judge should disclose his assets and liabilities if, asked for, by the chief justice." But the spirit of this provision is ignored. In a positive move, the Chief Justice of Supreme Court is planning to submit his wealth statement to the president within the first week of January 2011. It is expected that the Chief Justice will submit his wealth statement and make it available to the public. Subsequently, it will be followed by other justices. In a lower court, the judges submitted their wealth statements every year in their annual confidential reports to the Supreme Court, but these are neither audited nor publicly available (Sarkar, A., 2010).

References:
2. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
3. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
4. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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.

39c. In practice, citizens can access judicial asset disclosure records at a reasonable cost.

   100  75  50  25  0
There is no provision about disclosing assets publicly. Article 14 of the Code of Conduct of the Judges of the Supreme Court states, "A judge should disclose his assets and liabilities if, asked for, by the chief justice." But the spirit of this provision is ignored. In a positive move, the Chief Justice of Supreme Court is planning to submit his wealth statement to the president within the first week of January 2011. It is expected that the Chief Justice will submit his wealth statement and make it available to the public. Subsequently, it will be followed by other justices. In a lower court, the judges submitted their wealth statements every year in their annual confidential reports to the Supreme Court, but these are neither audited nor publicly available (Sarkar, A., 2010).

References:
2. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
3. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
4. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

100: The asset disclosure records of the national-level judiciary are complete and detailed, providing the public with an accurate and updated accounting of the individuals’ sources of income, investments, and other financial interests.
The asset disclosure records of the national-level judiciary contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.

The asset disclosure records of the national-level judiciary are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals' sources of income, investments, and other financial assets.

### 3.4. Budget Process Oversight & Transparency

**40. Can the legislature provide input to the national budget?**

83

40a. In law, the legislature can amend the budget.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
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**References:**
1. Articles 122-123, Rules of Procedure of Parliament of Bangladesh
2. Article 91 of the Constitution 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.

40b. In practice, significant public expenditures require legislative approval.

100  75  50  25  0

**Comments:**
The national budget (including supplementary budget) is supposed to be approved by Parliament.

**References:**
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
5. Ministry of Finance, Government of Bangladesh

**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.
### Comments:
The Office of Comptroller and Auditor General (OCAG) investigates the allegation of misuse of public fund and submit the report to the President. 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. Besides, there are other few standing committees, such as the Committee on Estimates, Committee on Public Undertakings, Standing Committee on Ministries, which are responsible to monitor public funds based on budget allocation. It is revealed that due to limited human resources, as well as administrative and technical constraints, the committee could not perform at an expected level.

### References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
5. Ministry of Finance, Government of Bangladesh

### 41. Can citizens access the national budgetary process?

75

41a. In practice, the national budgetary process is conducted in a transparent manner in the debating stage (i.e. before final approval).
The government conducted different sharing meetings with different groups of peoples in order to get feedback before and after placing the budget in Parliament. Members of Parliament discussed on the draft budget and suggested modifications. Besides, few civil society and think-tank organizations organized round table discussions on the budget and made recommendations to the government. The government tried to incorporate their feedback to some extent. Besides, few major budgets (e.g., defence) including the line items are negotiated in closed session.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
5. Ministry of Finance, Government of Bangladesh

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.

41b. In practice, citizens provide input at budget hearings.

Comments:
The government conducted different sharing meetings with different groups of peoples in order to get feedback before and after placing the budget in Parliament. Members of Parliament discussed on the draft budget and suggested modifications. Besides, few civil society and think-tank organizations organized round table discussions on the budget and made recommendations to the government. The government tried to incorporate their feedback to some extent.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
5. Ministry of Finance, Government of Bangladesh


100: Citizens, usually acting through NGOs, 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 NGOs can provide input, but this information is often not relevant to budget decisions.

25:

0: Citizens or NGOs have no formal access to provide input to the budget debate.

41c. In practice, citizens can access itemized budget allocations.

100  75  50  25  0

Comments: The approved budgets are available on the web site. Besides, the newspaper published a detailed allocated budget.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010

2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010


5. Ministry of Finance, Government of Bangladesh


100: Citizens, journalists and NGOs can access itemized lists of budget allocations. This information is easily available and up to date.

75:

50: Citizens, journalists and NGOs 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.

42. In law, is there a separate legislative committee which provides oversight of public funds?
42a. In law, is there a separate legislative committee which provides oversight of public funds?

**Yes**  |  **No**

**References:**
1. Articles 76, 91 of the Constitution of Bangladesh

**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).

43. Is the legislative committee overseeing the expenditure of public funds effective?

50

43a. In practice, department heads regularly submit reports to this committee.

**Comments:**
The Office of Comptroller and Auditor General (OCAG) investigates the allegation of misuse of public funds and submits the report to the president. 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. Besides, there are other few standing committees, such as the Committee on Estimates, Committee on Public Undertakings, Standing Committee on Ministries, which are responsible to monitor public funds based on budget allocation. Bureaucrats receive expenditure forecasts from line ministries and submit them to the cabinet. The Executive Committee of the National Economic Council (ECNEC) also monitors the progress of the projects. It is observed that the standing committees are inactive in monitoring the progress of the government; rather, they prefer to discuss the irregularities performed by the previous government.

**References:**
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
5. Ministry of Finance, Government of Bangladesh

100: Heads of ministry- or cabinet-level agencies submit regular, formal reports of expenses to a budget oversight committee.
75: 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: There is no budget oversight committee or equivalent, or heads of agencies do not submit meaningful reports to the agency.

43b. In practice, the committee acts in a non-partisan manner with members of opposition parties serving on the committee in an equitable fashion.

Comments: The Office of Comptroller and Auditor General (OCAG) investigates the allegation of misuse of public funds and submits the report to the president. 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. Besides, there are other few standing committees, such as the Committee on Estimates, Committee on Public Undertakings, Standing Committee on Ministries, which are responsible to monitor public funds based on budget allocation. Bureaucrats receive expenditure forecasts from line ministries and submit them to the cabinet. The Executive Committee of the National Economic Council (ECNEC) also monitors the progress of the projects. It is observed that the standing committees are inactive in monitoring the progress of the government; rather, they prefer to discuss the irregularities performed by the previous government. Besides, most of the parliamentary standing committees comprised of both ruling and opposition parties disproportionately and most of the chairman selected from ruling party.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
5. Ministry of Finance, Government of Bangladesh

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: 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: 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.

43c. In practice, when necessary, this committee initiates independent investigations into financial irregularities.
The Office of Comptroller and Auditor General (OCAG) investigates the allegation of misuse of public funds and submits the report to the president. 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. Besides, there are other few standing committees, such as the Committee on Estimates, Committee on Public Undertakings, Standing Committee on Ministries, which are responsible to monitor public funds based on budget allocation. Bureaucrats receive expenditure forecasts from line ministries and submit them to the cabinet. The Executive Committee of the National Economic Council (ECNEC) also monitors the progress of the projects. It is observed that the standing committees are inactive in monitoring the progress of the government; rather, they prefer to discuss the irregularities performed by the previous government.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
5. Ministry of Finance, Government of Bangladesh

| 100 | When irregularities are discovered, the committee is aggressive in investigating the government. |
| 75 | 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. |
| 50 | 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. |
| 25 | |
| 0 | |

Category 4. Public Administration and Professionalism

4.1 Civil Service: Conflicts of Interest Safeguards and Political Independence

44. Are there national regulations for the civil service encompassing, at least, the managerial and professional staff?

| 100 |

44a. In law, there are regulations requiring an impartial, independent and fairly managed civil service.
Rule 30 of "The Government Servant (Conduct) Rules, 1979" states, "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:
1. The Government Servants (Conduct) Rules, 1979, Government of Bangladesh

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.

44b. In law, there are regulations to prevent nepotism, cronyism, and patronage within the civil service.

References:
1. The Government Servants (Conduct) Rules, 1979, 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.

44c. In law, there is an independent redress mechanism for the civil service.

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

Comments:

Rule 27B of "The Government Servant (Conduct) Rules, 1979" states, "(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, "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."

Comments:
Article 117 of the Constitution of Bangladesh describes about administrative tribunals, mentioned that:

(1) Notwithstanding anything hereinbefore contained, Parliament may by law establish one or more administrative tribunals to exercise jurisdiction in respect of matter relating to or arising out of- (a) the terms and conditions of persons in the service of the Republic, including the matters provided for in Part IX and the award of penalties or punishment; (b) the acquisition, administration, management and disposal of any property vested in or managed by the Government by or under any law,
including the operation and management of, and service in any nationalized enterprise or statutory public authority; (c) any law to which clause (3) of article 102 applies.

(2) Where any administrative tribunal is established under this article, no court shall entertain any proceedings or make any order in respect of any matter falling within the jurisdiction of such tribunal: Provided that Parliament may, by law, provide for appeals from, or the review of, decisions of any such tribunal.

Again, article 135 of the Constitution of Bangladesh states that:

(1) No person who holds any civil post in the service of the Republic shall be dismissed or removed or reduced in rank by an authority subordinate to that by which he was appointed.

(2) No such person shall be dismissed or removed or reduced in rank until he has been given a reasonable opportunity of showing cause why that action should not be taken: Provided that this clause shall not apply-

(i) where a person is dismissed or removed or reduced in rank on the ground of conduct which has led to his conviction of a criminal offense; or

(ii) where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that, for a reason recorded by that authority in writing, it is not reasonably practicable to give that person an opportunity of showing cause; or

(iii) where the President is satisfied that in the interests of the security of the State it is not expedient to give that person such an opportunity.

(3) If in respect of such a person the question arises whether it is reasonably practicable to give him an opportunity to show cause in accordance with clause (2), the decision thereon of the authority empowered to dismiss or remove such person or to reduce him in rank shall be final.

(4) Where a person is employed in the service of the Republic under a written contract and that contract is terminated by due notice in accordance with its terms, he shall not, by reason thereof, be regarded as removed from office for the purposes of this article.

References:
1 Article 117, 135 of The Constitution of the People’s Republic of Bangladesh
2. The Government Servants (Conduct) Rules, 1979, Government of Bangladesh

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. The mechanism should be independent of their supervisors but can still be located within the government agency or entity (such as a special commission or board). Civil servants are able to appeal the mechanism’s decisions to the judiciary.

No: A NO score is earned if no such mechanism exists, or if the only recourse civil servants have is directly through the courts.

44d. In law, civil servants convicted of corruption are prohibited from future government employment.

Yes | No

References:

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 or if the ban is not a lifetime ban.

45. Is the law governing the administration and civil service effective?

Yes

References:

45a. In practice, civil servants are protected from political interference.

Yes
Comments:
Bureaucratic and administrative action is heavily influenced by political consideration. The ruling party MPs and ministers try to influence the public officials to take administrative decisions in favor of the party members. Former Chief Justice Muhammad Habibur Rahman argued "People today are seriously worried about irregularities and partisanship in the processes of admissions, recruitment, and tender." (Rahman, H., 2010) The Daily Star (July 2010) argued in an editorial write-up that "...an inhibitive factor that leaves a paralyzing impact on the bureaucracy is the conflicting messages they often get from the ministries and the Prime Ministers' Office (PMO), in particular."

References:
1. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
2. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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.

45b. In practice, civil servants are appointed and evaluated according to professional criteria.
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010

4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010


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.

45c. In practice, civil service management actions (e.g. hiring, firing, promotions) are not based on nepotism, cronyism, or patronage.

Comments: Hirings, firings, and promotions are based on professional criteria in general, but partisan consideration is heavily discussed nowadays. Former Chief Justice Muhammad Habibur Rahman argued “People today are seriously worried about irregularities and partisanship in the processes of admissions, recruitment, and tender (Rahman, H., 2010)”. The Daily Star (July 2010) argued in an editorial write-up that “…upon assuming office a particular government made sweeping changes in the administration through a fresh spate of promotions, transfers and postings…”

References:
1. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

2. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010

4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010


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.
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.

Nepotism, cronyism, and patronage are commonly accepted principles in hiring, firing and promotions of civil servants.

In practice, civil servants have clear job descriptions.

In practice, civil servant bonuses constitute only a small fraction of total pay.

References:
1. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
2. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

Civil servants almost always have formal job descriptions establishing levels of seniority, assigned functions, and compensation. Job descriptions are a reliable representation of positions in terms of a person's authority, responsibility and base pay.

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.

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.
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.

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.

In practice, the government publishes the number of authorized civil service positions along with the number of positions actually filled.

The government publishes such a list on a regular basis.

The government publishes such a list but it is often delayed or incomplete. There may be multiple years in between each successive publication.

The government rarely or never publishes such a list, or when it does it is wholly incomplete.

In practice, the independent redress mechanism for the civil service is effective.

Bureaucratic and administrative action is heavily influenced by political consideration. The ruling party MPs and ministers try to influence the public officials to take administrative decisions in favor of the party members.

References:
1. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
2. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010

4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010


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.

45h. In practice, in the past year, the government has paid civil servants on time.

100 | 75 | 50 | 25 | 0

References:
1. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

2. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010

4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010


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.

45i. In practice, civil servants convicted of corruption are prohibited from future government employment.
### References:

1. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

2. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010

4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

### 46. Are there regulations addressing conflicts of interest for civil servants?

<table>
<thead>
<tr>
<th>100</th>
<th>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.</th>
</tr>
</thead>
<tbody>
<tr>
<td>75</td>
<td>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. Some bans are only temporary.</td>
</tr>
<tr>
<td>50</td>
<td>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. Some bans are only temporary.</td>
</tr>
<tr>
<td>25</td>
<td>There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.</td>
</tr>
<tr>
<td>0</td>
<td>There is no such system, or the system is consistently ineffective in prohibiting future employment of convicted civil servants.</td>
</tr>
</tbody>
</table>

#### 46a. In law, senior members of the civil service are required to file an asset disclosure form.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

**Comments:**
There is a provision of assets declaration of government servants under Rule 13 of the “Government Servant (Conduct) Rules, 1979”, which states:

"(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 jewelry 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 jewelry exceeding 50,000 Taka in value (US$728), 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."

**References:**

Rule 13 of the Government Servants (Conduct) Rules, 1979, Government of Bangladesh

**Yes:** A YES score is earned if senior members of the civil service 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 senior member of the civil service is not required to disclose assets.

#### 46b. In law, there are requirements for civil servants to recuse themselves from policy decisions where their personal interests may be affected.
Rule 27B of "The Government Servant (Conduct) Rules, 1979" states 

(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.

46c. In law, there are restrictions for civil servants entering the private sector after leaving the government.

Yes | No

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

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.

46d. 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 offense, 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 offense. 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 honor 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 quit 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:
Rules 5 to 7 of 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.

46e. In law, there are requirements for the independent auditing of the asset disclosure forms of senior members of the civil service.

Yes  |  No

Comments:
There is a provision of assets declaration of government servants under Rule 13 of the “Government Servant (Conduct) Rules, 1979” but there is no legal requirement for the independent auditing.

References:
3. Ministry of Establishment, Government of Bangladesh

Yes: A YES score is earned if there is a legal or regulatory requirement for independent auditing of civil service 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 civil service asset disclosures or if such requirements exist but allow for self-auditing.

46f. In practice, the regulations restricting post-government private sector employment for civil servants are effective.

100  |  75  |  50  |  25  |  0

References:
1. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
2. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

100: The regulations restricting post-government private sector employment for civil servants are uniformly enforced. There are no cases 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.

46g. In practice, the regulations governing gifts and hospitality offered to civil servants are effective.

References:
1. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
2. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

100: The regulations governing gifts and hospitality to civil servants are regularly enforced. 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.

46h. In practice, the requirements for civil service recusal from policy decisions affecting personal interests are effective.
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:

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.

50:

Most civil servants routinely ignore recusal requirements and continue to participate in policy decisions where their personal interests are affected.

0:

In practice, civil service asset disclosures are audited.

46i. In practice, civil service asset disclosures are audited.

100 | 75 | 50 | 25 | 0

Comments:
The submission of asset disclosure forms is not an effective process, as there is no requirement of independent auditing. In addition, the process only occurs every five years, leaving large gaps of time in between the submission of disclosure forms. Besides, they are considered confidential documents, therefore they are not available to the public.

References:
1. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010

100: Civil service asset disclosures are regularly audited using generally accepted auditing practices.

75:

Civil service 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.

50:

Civil service 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.

0:

Can citizens access the asset disclosure records of senior civil servants?

0
47a. In law, citizens can access the asset disclosure records of senior civil servants.

Yes | No

Comments:
The submission of asset disclosure forms is not an effective process as there is no requirement of independent auditing. In addition, the process only occurs every five years, leaving large gaps of time in between the submission of disclosure forms. Besides, they are considered confidential documents, therefore they are not available to the public. Even the recently enacted 'Right to Information Act 2009' does not give citizens access to the asset records of senior servants.

References:
1. The Government Servants (Conduct) Rules, 1979, Government of Bangladesh
3. The Right To Information Act, 2009

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.

47b. In practice, citizens can access the asset disclosure records of senior civil servants within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
The submission of asset disclosure forms is not an effective process as there is no requirement of independent auditing. In addition, the process only occurs every five years, leaving large gaps of time in between the submission of disclosure forms. Besides, they are considered confidential documents, therefore they are not available to the public.

References:
1. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
2. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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.

47c. In practice, citizens can access the asset disclosure records of senior civil servants at a reasonable cost.
The submission of asset disclosure forms is not an effective process as there is no requirement of independent auditing. In addition, the process only occurs every five years, leaving large gaps of time in between the submission of disclosure forms. Besides, they are considered confidential documents, therefore they are not available to the public.

References:
1. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
2. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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 NGOs. 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 NGOs trying to access this information.

47d. In practice, the asset disclosure records of senior civil servants are of high quality.

Comments:
The submission of asset disclosure forms is not an effective process as there is no requirement of independent auditing. In addition, the process only occurs every five years, leaving large gaps of time in between the submission of disclosure forms. Besides, they are considered confidential documents, therefore they are not available to the public.

References:
1. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
2. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

100: The asset disclosure records of senior civil servants are complete and detailed, providing the public with an accurate and updated accounting of the individuals’ sources of income, investments, and other financial interests.
75:
50: The asset disclosure records of senior civil servants contain some useful information but may be lacking important details, including politically sensitive investment or other financial arrangements in which the individual has an interest.
25:
0: The asset disclosure records of senior civil servants are overly general, lack any meaningful detail, and do not provide a clear accounting of the individuals’ sources of income, investments, and other financial assets.
4.2. Whistle-blowing Protections

48. Are employees protected from recrimination or other negative consequences when reporting corruption (i.e. whistle-blowing)?

38

48a. 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 |

Comments:
Generally, the supervisor (senior officer) is responsible to monitor, inform and investigate the allegation of corruption (if any) of his sub-ordinate colleagues under the Anti-Corruption Commission Act 2004, the Government Servants (Conduct) Rules, 1979, the Government Servants Discipline and Appeal Rules, 1985, Penal Code etc.

Article 31 of the Anti-Corruption Commission Act, 2004 provides the indemnity for actions performed in good faith. It states: "If any person is affected or is likely to be affected by any action taken in good faith in the discharge of duties under this Act, then neither the commission nor any commissioner, officer or employee thereof shall be liable to action under civil or penal codes or otherwise".

Considering the importance of the protection of whistle blower in both public and private sector, the minister for Law, Justice and Parliamentary Affairs placed a bill – 'Whistle-blowers' Protection Act' – in Parliament for discussions on Sept. 22, 2010. A provision of the bill says "if a whistle-blower is a government official, no action can be taken to punish them by sending them on forced retirement, or demoting them or taking any departmental step to harass, which may damage their social dignity or cause torment" (The Daily Star, September 2010).

References:
1. Anti-Corruption Commission Act, 2004
2. The Anti-Corruption Commission (Staffs) Service Rules 2008
3. The Police Act of 1861
4. The Police Regulation of Bengal (PRB), 1943
5. The Government Servants (Conduct) Rules, 1979, Government of Bangladesh

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.

48b. 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.
any person is affected or is likely to be affected by any action taken in good faith in the discharge of duties under this Act, then neither the commission nor any commissioner, officer or employee thereof shall be liable to action under civil or penal codes or otherwise”. Though there is no specific whistle blower protection act in Bangladesh, in general, it is observed that other public sector whistle-blowers (except the law enforcement agencies and official anti-corruption commission) sometimes come forward and inform about the corruption incidence to the watchdog agency (ies) to take the necessary action.


References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
4. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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: 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.

50: Public sector whistleblowers often face substantial negative consequences, such as losing a job, relocating to a less prominent position, or some form of harassment.

48c. 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

Comments:

References:
1. The Daily Star

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.

48d. 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
Comments:
Few departments or ministries have their own reporting mechanism on corruption. For example, any aggrieved person can make complaints against the police on its web site. The authority keeps his/her identity confidential. Besides this, there is no legal binding for protecting the private whistle-blower. On Sept. 22, 2010, the minister for Law, Justice and Parliamentary Affairs placed a bill – ‘Whistle-blowers’ Protection Act’ – in Parliament for discussions.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
4. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

49. In law, is there an internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption?

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.

Comments:
Anti-Corruption Commission is responsible to inquire into any allegation of corruption, investigate or file cases on its own initiative, or upon application filed by anyone.

Anyone can report corruption to the Anti-Corruption Commission in written form or through email. Beside, NBR, law enforcement agencies, CAG office, or concerned ministry or departments, can take initiatives against corruption in different ways. Civil servants can report corruption to the higher authority of concerned ministry or departments.

Article 3 of “The Government Servants (Discipline and Appeal) Rules, 1985” states, “Where a government servant in the opinion of the authority, is guilty of misconduct; or is guilty of desertion; or is corrupt, or may reasonably be considered corrupt, or is engaged, or is reasonably suspected of being engaged, in subversive activities, or is reasonably suspected of being associated with others engaged in subversive activities, and whose retention in service is considered prejudicial to national security; the authority may, subject to the provision of sub-rule (6) of rule 4, impose on his one or more penalties. The act of submission of petitions before any authority containing wild, vexatious, false or frivolous accusation against a government servant will be considered as misconduct.”

References:
1. Anti-Corruption Commission Act, 2004
2. The Anti-Corruption Commission (Staffs) Service Rules 2008
3. The Police Act of 1861
4. The Police Regulation of Bengal (PRB), 1943
5. The Government Servants (Conduct) Rules, 1979, Government of Bangladesh

**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.

50. In practice, is the internal mechanism (i.e. phone hotline, e-mail address, local office) through which civil servants can report corruption effective?

50a. In practice, the internal reporting mechanism for public sector corruption has a professional, full-time staff.

| 100 | 75 | 50 | 25 | 0 |

**References:**
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
4. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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.

50b. In practice, the internal reporting mechanism for public sector corruption receives regular funding.

| 100 | 75 | 50 | 25 | 0 |

**Comments:**
The government allocates a budget for all concerned ministries/divisions, Anti-Corruption Commission, constitutional bodies such as the Judiciary, CAG, Public Service Commission etc., in every fiscal year. It is observed that the oversight role of concerned agencies against corruption is not strong enough due to different shortcomings such as budget deficiencies, lack of capacities, etc.

**References:**
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

4. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010

5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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.

50c. In practice, the internal reporting mechanism for public sector corruption acts on complaints within a reasonable time period.

Comments:
Bangladesh is now facing a huge credibility crisis in terms of the weak control of corruption. Serious concerns have been raised from different corners about the independence and effectiveness of the Anti-Corruption Commission. To some extent, the Government of Bangladesh is reluctant to strengthen the Anti-Corruption Commission. Instead, it is trying to curtail its existing power by amending the law (Tanvir, 2010:80). One key informant argued, ‘no action is visible now-a-days’…. it becomes a ‘toothless tiger’. Another key informant argued that the present Anti-Corruption Commission is ineffective and turned into the previous inactive anti-corruption bureau. The agency cannot act quickly and in a few cases the people have been afraid to lodge complaints. The same scenario is also observed in other oversight institutions.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010

2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

4. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010

5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010


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.
50d. In practice, when necessary, the internal reporting mechanism for public sector corruption initiates investigations.

Comments:
Bangladesh is now facing a huge credibility crisis in terms of the weak control of corruption. Serious concerns have been raised from different corners about the independence and effectiveness of the Anti-Corruption Commission. To some extent, the Government of Bangladesh is reluctant to strengthen the Anti-Corruption Commission. Instead, it is trying to curtail its existing power by amending the law (Tanvir, 2010:80). One key informant argued, ‘no action is visible now-a-days’…. it becomes a ‘toothless tiger’. Another key informant argued that the present Anti-Corruption Commission is ineffective and turned into the previous inactive anti-corruption bureau. The agency cannot act quickly and in a few cases the people have been afraid to lodge complaints. The same scenario is also observed in other oversight institutions.

References:
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
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4. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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.

60
4.3. Government Procurement: Transparency, Fairness, and Conflicts of Interest Safeguards

51. Is the public procurement process effective?

51a. In law, there are regulations addressing conflicts of interest for public procurement officials.
Yes | No

References:
1. The Public Procurement Act 2006, the Government of Bangladesh
2. The Public Procurement (Amendment) Act 2009, the Government of Bangladesh
3. The Public Procurement Rules 2008, the Government of Bangladesh

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.

51b. In law, there is mandatory professional training for public procurement officials.

Yes | No

References:
1. The Public Procurement Act 2006, the Government of Bangladesh
2. The Public Procurement (Amendment) Act 2009, the Government of Bangladesh
3. The Public Procurement Rules 2008, the Government of Bangladesh

Yes: A YES score is earned if public procurement officials receive regular mandatory training to ensure professional standards in supervising the tendering process. A YES score is earned if such training is mandated for portions of the broader civil service, to include procurement officials.

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.

51c. In practice, the conflicts of interest regulations for public procurement officials are enforced.

Comments:
It is observed that bureaucratic and administrative action is heavily influenced by political consideration. It is alleged that rules are often manipulated to fit particular providers. Collusive between political leaders, bureaucrats and the participating contractor takes place in order to favor a particular bidder. The ruling party MPs and ministers try to influence the public officials to take administrative decisions in favor of the party members. The ruling party activist is heavily involved in tender crime. Former Chief Justice Muhammad Habibur Rahman argued “People today are seriously worried about irregularities and partisanship in the processes of admissions, recruitment, and tender (Rahman, H., 2010).”

References:
3. Interview with Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
4. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

5. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

6. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010

7. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

<table>
<thead>
<tr>
<th>Regulations regarding conflicts of interest for procurement officials are aggressively enforced.</th>
</tr>
</thead>
<tbody>
<tr>
<td>100:</td>
</tr>
<tr>
<td>75:</td>
</tr>
<tr>
<td>50: Conflict-of-interest regulations exist, but are flawed. Some violations may not be enforced, or some officials may be exempt from regulations.</td>
</tr>
<tr>
<td>25:</td>
</tr>
<tr>
<td>0: Conflict-of-interest regulations do not exist, or are consistently ineffective.</td>
</tr>
</tbody>
</table>

51d. In law, there is a mechanism that monitors the assets, incomes and spending habits of public procurement officials.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

References:
1. The Public Procurement Act 2006, the Government of Bangladesh
2. The Public Procurement (Amendment) Act 2009, the Government of Bangladesh
3. The Public Procurement Rules 2008, the Government of Bangladesh

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.

51e. In law, major procurements require competitive bidding.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

References:
1. The Public Procurement Act 2006, the Government of Bangladesh
2. The Public Procurement (Amendment) Act 2009, the Government of Bangladesh
3. The Public Procurement Rules 2008, the Government of Bangladesh

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).

51f. In law, strict formal requirements limit the extent of sole sourcing.
<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

**References:**
1. The Public Procurement Act 2006, the Government of Bangladesh
2. The Public Procurement (Amendment) Act 2009, the Government of Bangladesh
3. The Public Procurement Rules 2008, the Government of Bangladesh

**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.

51g. In law, unsuccessful bidders can instigate an official review of procurement decisions.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

**References:**
1. The Public Procurement Act 2006, the Government of Bangladesh
2. The Public Procurement (Amendment) Act 2009, the Government of Bangladesh
3. The Public Procurement Rules (Rules 56-60) 2008, the Government of 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.

51h. In law, unsuccessful bidders can challenge procurement decisions in a court of law.

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
</table>

**References:**
1. The Public Procurement Act 2006, the Government of Bangladesh
2. The Public Procurement (Amendment) Act 2009, the Government of Bangladesh
3. The Public Procurement Rules 2008, the Government of Bangladesh

**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.

51i. In law, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

| Yes | No |
### References:
1. The Public Procurement Act 2006, the Government of Bangladesh
2. The Public Procurement (Amendment) Act 2009, the Government of Bangladesh
3. The Public Procurement Rules 2008, the Government of Bangladesh

**Yes:** A YES score is earned if there are formal procurement blacklists, designed to prevent convicted companies from doing business with the government.

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

51. In practice, companies guilty of major violations of procurement regulations (i.e. bribery) are prohibited from participating in future procurement bids.

<table>
<thead>
<tr>
<th>Score</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>100</td>
<td>A system of formal blacklists and cooling off periods is in place for companies convicted of corruption. All companies are subject to this system.</td>
</tr>
<tr>
<td>75</td>
<td>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.</td>
</tr>
<tr>
<td>50</td>
<td>There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.</td>
</tr>
<tr>
<td>0</td>
<td>There is no such system, or the system is consistently ineffective in prohibiting future hiring of blacklisted companies.</td>
</tr>
</tbody>
</table>

**Comments:**
According to Public Procurement rules and regulations, the concerned authority can debar any participating company for their fraudulence or collusive activities in any stage. It is alleged that some powerful companies cannot be affected. However, during 2009-10, it is found that the concerned authority of the government debarred more than 50 companies for their collusive (unethical) activities, violating rules and regulations. The Central Procurement Technical unit published the debarment list through its website (http://www.cptu.gov.bd).

**References:**
1. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
4. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
5. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

52. Can citizens access the public procurement process?

52a. In law, citizens can access public procurement regulations.
Article 13 of the Public Procurement Rules 2008 states that:

"For the purpose of making easily available the Act and the Rules made under orders, instructions, guidelines or other Documents to the general public, the CPTU shall perform the following responsibilities namely –

(a) print and publish the Bangla version and the authentic English text of the Act, and these Rules;
(b) publish from time to time the Procurement-related Documents needed to facilitate the conduct of Procurement activities by Procuring Entities;
(c) make the Documents under Item (a) and (b) easily available to the general public in hard copy and post them on the CPTU web site; and
(d) ensure that these Documents are properly maintained and updated."

References:
The Public Procurement Act 2006, the Government of Bangladesh
The Public Procurement (Amendment) Act 2009, the Government of Bangladesh
The Public Procurement Rules 2008, the Government of 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.

52b. In law, the government is required to publicly announce the results of procurement decisions.

Comments:

Article 37 of the Public Procurement Rules 2008 states that:

(1) All Notification of Awards for procurement related Contracts above the threshold specified in Schedule II shall be notified in format as prescribed in Schedule VI to the Central Procurement Technical Unit for publication in their website, and that notice shall be kept posted for the period specified in Schedule II.
(2) Notification of Award for Contracts below the threshold specified in in Schedule II, shall be published by the Procuring Entity on its Notice Board and where applicable on the website of the Procuring Entity and that notice shall be kept posted for the period specified in Schedule II.
(3) The standard format as specified in Schedule VII shall be used for issuance of Notification of Award.
(4) Debriefing of Tenderers or Applicants by a Procuring Entity shall outline the relative

References:
The Public Procurement Act 2006, the Government of Bangladesh
The Public Procurement (Amendment) Act 2009, the Government of Bangladesh
The Public Procurement Rules 2008, the Government of Bangladesh

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.

52c. In practice, citizens can access public procurement regulations within a reasonable time period.

Comments:
The government of Bangladesh has introduced an e-governance procurement system (e-GP) under the Central Procurement
Technical Unit (CPTU) of Ministry of Planning on a pilot basis. In the near future, the entire public procurement activity undertaken by the government shall be channeled through the e-GP system. All rules and regulations are now available on its web site. Besides, the tender notices, awarding notification, debarment list, project progress reports, and annual reports are all available on its web site. People can access these documents free of cost.

References:
2. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
3. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
4. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
5. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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.

Comments:
The government of Bangladesh has introduced an e-governance procurement system (e-GP) under the Central Procurement Technical Unit (CPTU) of Ministry of Planning on a pilot basis. In the near future, the entire public procurement activity undertaken by the government shall be channeled through the e-GP system. All rules and regulations are now available on its web site. Besides, the tender notices, awarding notification, debarment list, project progress reports, and annual reports are all available on its web site. People can access these documents free of cost.

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2. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
3. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
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5. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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

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

In practice, major public procurements are effectively advertised.

Comments:
The government of Bangladesh has introduced an e-governance procurement system (e-GP) under the Central Procurement Technical Unit (CPTU) of Ministry of Planning on a pilot basis. In the near future, the entire public procurement activity undertaken by the government shall be channeled through the e-GP system. All rules and regulations are now available on its web site. Besides, the tender notices, awarding notification, debarment list, project progress reports, and annual reports are all available on its web site. People can access these documents free of cost.

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2. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
3. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
4. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
5. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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.

In practice, citizens can access the results of major public procurement bids.

Comments:
The government of Bangladesh has introduced an e-governance procurement system (e-GP) under the Central Procurement Technical Unit (CPTU) of Ministry of Planning on a pilot basis. In the near future, the entire public procurement activity undertaken by the government shall be channeled through the e-GP system. All rules and regulations are now available on its web site. Besides, the tender notices, awarding notification, debarment list, project progress reports, and annual reports are all available on its web site. People can access these documents free of cost.
However, it has been observed that bureaucratic and administrative actions are heavily influenced by political consideration. The ruling party MPs and ministers try to influence the public officials to take administrative decisions in favor of the party members. The ruling party activist is heavily involved in tender crime. Former Chief Justice Muhammad Habibur Rahman argued “People today are seriously worried about irregularities and partisanship in the processes of admissions, recruitment, and tender (Rahman, H., 2010)”. However, the tender awarding results are published on the notice board of the concerned department and on the website of CPTU.

References:
2. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
3. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
4. Interview with Manzil Murshed, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
5. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
6. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

4.4. Privatization of Public Administrative Functions: Transparency, Fairness, and Conflicts of Interest Safeguards

53. Is the privatization process effective?

83

53a. In law, all businesses are eligible to compete for privatized state assets.

| Yes | No |

Comments:
According to the law, all government businesses are equally eligible to compete in the privatization process, depending on the decision of the Privatization Commission.

The Privatization Commission has prioritized the following sectors for privatization:

- Jute Sector
- Steel & Engg. & Miscellaneous Sector
- Sugar & Food Sector
- Power Sector
- Transport Sector
- Port & Container Handling Sector
- Natural Gas & Oil Sector
- Banking & Insurance Sector
ix. Fisheries & Livestock Sector
x. Chemical Sector
xi. Telecommunication Sector
xii. Aviation & Tourism Sector
xiii. Disposal of Govt. Shares
xiv. Environment & Forest Sector

For more details, see: http://www.pc.gov.bd/sector.htm

References:
1. Privatization Act 2000
2. Privatization Policy 2007
4. Privatization Regulation 2007

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.

53b. In law, there are regulations addressing conflicts of interest for government officials involved in privatization.

| Yes | No |

References:
1. GOB, Privatization Act 2000
2. GOB, Privatization Policy 2007
4. GOB, Privatization Regulation 2007
5. GOB, Public Procurement Act, 2006, Jan. 27, 2008

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.

53c. In practice, conflicts of interest regulations for government officials involved in privatization are enforced.

| 100 | 75 | 50 | 25 | 0 |

Comments:
It is observed that bureaucratic and administrative actions are heavily influenced by political consideration. It is alleged that collusion between political leaders, bureaucrats and the participating contractors takes place in order to favor a particular bidder. The ruling party MPs and ministers try to influence the public officials to take administrative decisions in favor of the party members.
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.

54. Can citizens access the terms and conditions of privatization bids?

100

54a. In law, citizens can access privatization regulations.

Yes | No

Comments:
The Government of Bangladesh has established the Privatization Commission. It has its own web site, where all the relevant materials, including rules and regulations, are available. For details, see http://www.pc.gov.bd/

References:
1. Right to Information Act 2009
2. Privatization Act 2000
5. Privatization Regulation 2007
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.

54b. In practice, privatizations are effectively advertised.

100  |  75  |  50  |  25  |  0

Comments:
The Bangladesh Privatization Commission has its own web site, where all related rules, regulations and inviting tender notices for privatization are posted. Besides, they are also published in the newspaper. For example, On March 28, 2010, and May 20, 2010, the Privatization Commission announced the international tender notice for the sale of Rangamati Textile Mills Limited, and Magura Textile Mills Limited, respectively. The detailed tender notice is available on the web site.

References:
4. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010

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.

54c. In law, the government is required to publicly announce the results of privatization decisions.

Yes  |  No

References:
1. Right to Information Act 2009
2. Privatization Act 2000
5. Privatization Regulation 2007

**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.

54d. In practice, citizens can access privatization regulations within a reasonable time period.

| 100 | 75 | 50 | 25 | 0 |

**Comments:**
The Bangladesh Privatization Commission has its own web site, where all related rules, regulations and inviting tender notices for privatization are posted. People can easily download those, free of cost. Besides, the information can be collected from the concerned commission (Privatization Commission) or ministry (Ministry of Law).

**References:**
1. Government of Bangladesh, Privatization Commission, Prime Minister’s Office, Dhaka,
   http://www.pc.gov.bd/
2. Central Technical Procurement Unit, IMED, Ministry of Planning, Government of the People’s Republic of Bangladesh,
   http://www.cptu.gov.bd
3. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010

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.

54e. In practice, citizens can access privatization regulations at a reasonable cost.

| 100 | 75 | 50 | 25 | 0 |

**Comments:**
The Bangladesh Privatization Commission has its own web site, where all related rules, regulations and inviting tender notices for privatization are posted. People can easily download those, free of cost. Besides, the information can be collected from the concerned commission (Privatization Commission) or ministry (Ministry of Law).

**References:**
1. Government of Bangladesh, Privatization Commission, Prime Minister’s Office, Dhaka,
   http://www.pc.gov.bd/
2. Central Technical Procurement Unit, IMED, Ministry of Planning, Government of the People’s Republic of Bangladesh,
   http://www.cptu.gov.bd
3. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010

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

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

Category 5. Government Oversight and Controls

5.1. National Ombudsman

55. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

100

55a. In law, is there a national ombudsman, public protector or equivalent agency (or collection of agencies) covering the entire public sector?

Yes | No

Comments:
Article 77 of the Constitution of the People’s Republic of Bangladesh states that ‘Parliament may, by law, provide for the establishment of the office of ombudsman’.

Article 77(2) also 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.”

Despite the constitutional obligation to establish the office of ombudsman, it has not yet been set up, but a national sector, the Tax Ombudsman Office was established in July 2006 under the stipulation of Tax Ombudsman Act, 2005.

Surprisingly the present government has started a process to abolish the existing Tax Ombudsman Act and Tax-Ombudsman office. In line with this, the Cabinet approved the draft of the Tax Ombudsman (Abolition) Bill 2010 on Sept. 13, 2010.

There is a national human rights commission in Bangladesh.

References:
1. Article 77 of the Constitution of the People’s Republic of Bangladesh

2. Tax Ombudsman Act, 2005

3. Tax Ombudsman (submission of complaints, investigation and disposal) Rules, 2007


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.
56. Is the national ombudsman effective?

56a. In law, the ombudsman is protected from political interference.

| Yes | No |

Comments:
Despite the constitutional obligation to establish the Office of the Ombudsman, it has not yet been set up, but a national sector, the Tax Ombudsman Office, was established in July 2006 under the stipulation of Tax Ombudsman Act, 2005.

According to Tax Ombudsman Act, 2005, the Tax Ombudsman can make an investigation into a complaint and submit the recommendation to the National Board of Revenue or Finance Ministry to take action. The Tax Ombudsman can recruit necessary staff, but in practice it remains dependent on the government, both operationally and financially. The Tax ombudsman is accountable to the president, and he/she can resign to the president willingly or the president can terminate his/her contract with a valid reason (Article 8 of the Tax Ombudsman Act, 2005). According to Article 14 of the Tax Ombudsman Act, 2005, the Tax Ombudsman is independent to perform his/her job.

Surprisingly the present government started a process to abolish the existing Tax Ombudsman Act and Tax-Ombudsman office. In line with this, the Cabinet approved the draft of the Tax Ombudsman (Abolition) Bill 2010 on Sept. 13, 2010.

References:

56b. In practice, the ombudsman is protected from political interference.

| 100 | 75 | 50 | 25 | 0 |

Comments:
According to the Tax Ombudsman Act, 2005, the Tax Ombudsman can make an investigation into a complaint and submit the recommendation to the National Board of Revenue or Finance Ministry to take action. The Tax Ombudsman is accountable to the president, and he/she can resign to the president willingly, or the president can terminate his/her contract with a valid reason (Article 8 of the Tax Ombudsman Act, 2005). According to Article 14 of the Tax Ombudsman Act, 2005, the Tax Ombudsman is independent to perform his/her job. Tax Ombudsman can recruit the necessary staff.

In practice, however, the Office of the Tax Ombudsman remains dependent on the government, both operationally and financially. For example, surprisingly, the present government started a process to abolish the existing Tax Ombudsman act and Tax-Ombudsman office. In line with this, the Cabinet approved the draft of the Tax Ombudsman (Abolition) Bill 2010 on Sept. 13, 2010.

References:
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.

56c. In practice, the head of the ombudsman agency/entity is protected from removal without relevant justification.

Comments:
The first Tax ombudsman completed his four year tenure on July 8, 2010, under different official and unofficial pressures. After the end of this mandate, unexpectedly the government is no longer interested in continuing the operation of the Tax Ombudsman Office. Surprisingly, the present government has started a process to abolish the existing Tax Ombudsman Act and Tax-Ombudsman Office. In line with this, the Cabinet approved the draft of the Tax Ombudsman (Abolition) Bill 2010, on Sept. 13, 2010.

References:


Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010

Phone interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 2, 2010

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.

56d. In practice, the ombudsman agency (or agencies) has a professional, full-time staff.
The Tax Ombudsman Office has 44 professional full time staff – which is insufficient manpower to carry out its functions.

References:
Phone interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 2, 2010

Comments:
The ombudsman agency (or agencies) has staff sufficient to fulfill its basic mandate.

References:
Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
Phone interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 2, 2010

Comments:
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.

References:

Comments:
The government of Bangladesh allocated about 10 million Taka (US$138,794) in 2008-09 for administrative (including salary of the staffs) and operational costs. In 2009-10, it was increased to Taka 10.23 million (US141,985). Most often, the government allocated an insufficient budget. For example, the government allocated Taka 9.1 million (US$126,301) in 2009-10, which was insufficient, to the Tax Ombudsman (Annual Report 2009, Tax Ombudsman, Dhaka).
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.

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.

Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

In practice, the ombudsman agency (or agencies) makes publicly available reports.

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.

The agency (or agencies) makes publicly available reports to the legislature and/or directly to the public that are sometimes delayed or incomplete.

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.

In practice, when necessary, the national ombudsman (or equivalent agency or agencies) initiates investigations.
Comments:
The Office of Tax Ombudsman has a quasi-judicial mandate. According to the Tax Ombudsman Act, 2005, the Tax Ombudsman can make an investigation into a complaint and submit the recommendation to the National Board of Revenue or Finance Ministry to take action. In practice, however, the Office of the Tax Ombudsman remains dependent on the government, both operationally and financially.

Moreover, it has only 44 professional full time staff, which is insufficient manpower to carry out its duty. For example, the Tax Ombudsman Office received only 336 complaints on direct tax in 2009. Among them, the Tax Ombudsman Office registered 163 as valid complaints. They had 27 unresolved complaints in the last year. This small number of complaints indicates that many taxpayers do not lodge their complaints to the Tax Ombudsman. Among the 190 complaints, they completed the investigation of 165 complaints and sent the recommendation to the National Bureau of Revenue (NBR) to take the necessary action. The NBR implemented 63 percent of the recommendations. The rest of them are still under review.

The Ombudsman Office is hugely criticized from different corners. Many tax-payers and media representatives called the office as "a toothless tiger," "a watch-dog in chains, etc. (Chowdhury, 2008)". It has also been criticized by the Finance minister for its ineffectiveness.

References:
Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, October 2, 2010
Dr. Rashid ul Ahsan Chowdhury (2008),
Abdul Latif Mondol, Weekly Holiday,
'Muhith abolishing Tax Ombudsman’s office instead of making it effective’, July 16, 2010,
http://www.weeklyholiday.net/2010/160710/edit.html
UNB Connect,
'Cabinet approves draft of law to abolish Tax Ombudsman’s Office',
Sept. 13, 2010,
http://www.unbconnect.com/component/news/task-show/id-29774
Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 2, 2010

The Financial Express, March 8, 2008, Dhaka

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.

56j. In practice, the government acts on the findings of the ombudsman agency (or agencies).

100 | 75 | 50 | 25 | 0

Comments:
The Tax Ombudsman Office received only 336 complaints on direct tax in 2009. Among them, the Tax Ombudsman Office registered 163 as valid complaints. Last year, they had 27 unresolved complaints. This small number indicates that many taxpayers do not lodge their complaints to the Tax Ombudsman. Among the 190 complaints, they completed the investigation in 165 cases and sent the recommendation to the National Bureau of Revenue (NBR) to take the necessary action. The NBR implemented 63 percent of the recommendations. The rest are under review.

Citizens have low confidence in the Tax Ombudsman actions because it does not have any implementing power except providing recommendations to the concerned authority. Many taxpayers and media representatives called the office as “a toothless tiger,” “a watch-dog in chains,” etc. (Chowdhury, 2008).

References:

Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 2, 2010

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 politically sensitive issues, or particularly resistant agencies.

25:

0: Ombudsman’s reports are often ignored, or given superficial attention. Ombudsman’s reports do not lead to policy changes.

56k. In practice, the ombudsman agency (or agencies) acts on citizen complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0
57. Can citizens access the reports of the ombudsman?

83

57a. In law, citizens can access reports of the ombudsman(s).

Yes | No

Comments: According to article 31 (1) of the Tax Ombudsman Act, 2005, the Tax Ombudsman is supposed to submit an annual report to the president, which should be publicly available.


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.

57b. In practice, citizens can access the reports of the ombudsman(s) within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments: The Tax Ombudsman submitted the annual report to the president every year. This report is mainly a snapshot of the annual activities. Two or three examples of cases are included in the annual report in detail. For example, after establishing the Tax Ombudsman office in July 2006, the Tax Ombudsman submitted its fourth annual report for 2009 in March 2010.

The report is now available on its official web site (http://www.taxombudsman.org.bd), and available to all citizens, free of cost. Even this annual report, citizens faced difficulties in getting access to detailed reports of other sensitive cases, as sometimes they are not made publicly available. Reporters and researchers accessed the report through their personal connections and networks.
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.

57c. In practice, citizens can access the reports of the ombudsman(s) at a reasonable cost.

Comments:
This report is mainly a snapshot of the annual activities. Two or three examples of cases are included in the annual report in detail. For example, after establishing the Tax Ombudsman office in July 2006, the Tax Ombudsman submitted its fourth annual report for 2009 in March 2010.

The report is now available on its official web site (http://www.taxombudsman.org.bd), and available to all citizens, free of cost. Except this annual report, citizens faced difficulties in getting access to detailed reports of other sensitive cases, as sometimes they are not made publicly available. Reporters and researchers accessed the report through their personal connections and networks.

References:

Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 2, 2010

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 NGOs. 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 NGOs trying to access this information.

5.2. Supreme Audit Institution

58. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?
58a. In law, is there a national supreme audit institution, auditor general or equivalent agency covering the entire public sector?

| Yes | No |

Comments:
Under the constitutional provision (Article 127), the Supreme Audit Institution (i.e., Office of the Comptroller and Auditor General of Bangladesh) was created in 1973. Article 127 (1 & 2) of The Constitution of Bangladesh states, “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.”

References:
Article 127 of the Constitution of the People’s Republic of Bangladesh

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.

59. Is the supreme audit institution effective?

75

59a. In law, the supreme audit institution is protected from political interference.

| Yes | No |

Comments:
The Constitution of Bangladesh provides for the independence of the Office of the Comptroller & Auditor General (CAG). For example, Article 128 (4) of the Bangladesh Constitution states, “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, “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:
Article 128 (4) and article 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.

59b. In practice, the head of the audit agency is protected from removal without relevant justification.

| 100 | 75 | 50 | 25 | 0 |

Comments:
As a constitutional post, the Comptroller and Auditor General (CAG) cannot be removed from his/her post without a significant
justification.

References:


3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010

4. Interview with Kazi Forrukh Ahmed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Dec. 9, 2010


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Comments:
3,889 officers and staff are presently working in the Office of the Comptroller and Auditor General (OCAG). Among them, 45.6 percent are officers (first class and second class). Besides, few posts are vacant. Considering the workload, the volume of the human resource is not sufficient. Besides, it has been observed that the number of managers with financial, accounting and auditing (ICMAs, CISAs, professional accounting/auditing) background is relatively low, whereas the majority of the managerial staff comes from Science and Humanities (about 54 percent) (Source: Office of CAG), which is hampering its efficiency and effectiveness. The CAG acknowledged that recruitment of qualified auditors, enhancing the skills of the existing staff and upgrading the quality of the audit remains the daunting challenge faced by OCAG (OCAG, 2010:6).

References:


3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010

4. Interview with Kazi Forrukh Ahmed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Dec. 9, 2010


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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.
The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

59d. In practice, audit agency appointments support the independence of the agency.

Comments:
The office of CAG (OCAG) depends on the Public Service Commission and Ministry of Establishment for the first and second class recruitment. Usually the recruitment is based on professional qualifications, but sometimes it is based on political and other considerations. For example, it has been observed that the number of managers with financial, accounting and auditing (ICMAs, CISAs, professional accounting/auditing) background is relatively low, whereas the majority of the managerial staff comes from Science and Humanities (about 54 percent) (Source: Office of CAG), which is hampering its efficiency and effectiveness. There are many vacant posts in the CAG office, which hampers carrying out its routine work. The CAG acknowledged that recruitment of qualified auditors, enhancing the skills of the existing staff and upgrading the quality of the audit remains the daunting challenge faced by OCAG (OCAG, 2010:6).

References:
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
4. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Dec. 9, 2010

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.

59e. In practice, the audit agency receives regular funding.

Comments:
As a constitutional independent authority, the Office of the Comptroller and Auditor General (OCGA) received regular funding from the government.

References:
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010


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.

59f. In practice, the audit agency makes regular public reports.

Comments:
The Office of Comptroller and Auditor General (OCAG) investigates the allegations of misuse of public funds and submits the report to the president. In 2009, the OCAG covered different government sectors for audit for the financial year 2006-07. The OCAG prepared 14 annual audit reports and four special audit reports and submitted them to the president (OCAG, 2010:14). Besides, 43 audit observations were settled in 2009. Taka 57,149 million (US$793,185) have been recovered and adjusted in 2009 from audit observations reports (OCAG, 2010: 27).

The reports are available on its web site. It is observed that OCAG is not able to complete its task timely due to human resource and technical constraints.

References:
5. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
6. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Dec. 9, 2010
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. It is found that on an average 20 percent of the audit reports are discussed in the concerned parliamentary standing committee (TIB, 2006) and 22 percent audit recommendations are implemented by the audited organizations (OCAG, 2010: 36). Sometimes, it is also observed that the audit reports are overlooked and few reports are implemented based on political considerations.

References:
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
4. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Dec. 9, 2010

Audit agency reports are taken seriously, with negative findings drawing prompt corrective action.

75:
In most cases, audit agency reports are acted on, though some exceptions may occur for politically sensitive issues, or particularly resistant agencies.

50:
Audit reports are often ignored, or given superficial attention. Audit reports do not lead to policy changes.

59h. In practice, the audit agency is able to initiate its own investigations.

Comments:
The Office of Comptroller and Auditor General (OCAG) investigates the allegations of misuse of public funds and submits the reports to the president. In 2009, the OCAG covered different government sectors for audit for the financial year 2008-09. The OCAG prepared 14 annual audit reports and four special audit reports and submitted them to the president (OCAG, 2010: 14). Besides, 43 audit observations were settled in 2009. Taka 57,149 million (US$793,185) have been recovered and adjusted in 2009 from audit observations report (OCAG, 2010: 27).

The reports are available on its web site. It is observed that OCAG is not able to complete its tasks timely due to human resource and technical constraints. Moreover, sometimes the government does not consider its reports in a proper way. Again, there are huge numbers of pending audit reports for discussion in the parliamentary standing committee.

References:
3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010

4. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Dec. 9, 2010


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.

60. Can citizens access reports of the supreme audit institution?

67

60a. In law, citizens can access reports of the audit agency.

Yes | No

Comments:
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 submitting them to Parliament, they become public documents.

References:
Article 132 of the Constitution of the People’s Republic of Bangladesh

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.

60b. In practice, citizens can access audit reports within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
It is observed that the Office of the Comptroller and Auditor General (OCAG) is not able to complete its tasks timely due to human resource and technical constraints. However, when it completes the audit report, the CAG submits it to the president for discussion in the Parliamentary Standing Committee and Parliament. Subsequently, the OCAG makes few reports available on its web site, free of cost.

References:


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.

60c. In practice, citizens can access the audit reports at a reasonable cost.

Comments:
It is observed that the Office of the Comptroller and Auditor General (OCAG) is not able to complete its tasks timely due to human resource and technical constraints. However, when it completes the audit report, the CAG submits it to the president for discussion in the Parliamentary Standing Committee and Parliament. Subsequently, the OCAG makes few reports available on its website, free of cost. Peoples need to visit OCAG to collect the required audit reports but nobody can guarantee that she/he will be able to collect those.

References:
5. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
6. Interview with Kazi Forrukh Ahammed, BCS (Audit & Accounts), Deputy Director, Bangladesh Railway, Dhaka, Dec. 9, 2010

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 NGOs. 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 NGOs trying to access this information.
5.3. Taxes and Customs: Fairness and Capacity

61. In law, is there a national tax collection agency?

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Comments:
The National Board of Revenue (NBR) is the central authority for tax administration in Bangladesh.

References:
1. President’s Order No. 76 of 1972
2. The Finance Act, 1987
3. Taxes Act, 1931 (XVI of 1931)

61a. In law, is there a national tax collection agency?

**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.

62. Is the tax collection agency effective?

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62a. In practice, the tax collection agency has a professional, full-time staff.

Comments:
The National Board of Revenue (NBR) administers the excise, VAT, customs and income-tax services. It has 3,434 officers of various grades and 10,195 supporting staff (Web site of NBR, http://www nbr bd org/NBR). It has been observed that the number of technical staff is relatively low, both in tax and customs department, which is hampering its efficiency and effectiveness. The chairman of NBR also recognized the shortage of staff is one of the main causes for the poor tax collection system (The Daily Star, 2010).

References:
1. National Board of Revenue, http://www nbr bd org/  
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010

**100**: The agency has staff sufficient to fulfill its basic mandate.
The agency has limited staff that hinders its ability to fulfill its basic mandate.

The agency has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

62b. In practice, the tax agency receives regular funding.

References:
1. National Board of Revenue, http://www nbr bd org/
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010

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 tax laws enforced uniformly and without discrimination?

50

63a. In practice, are tax laws enforced uniformly and without discrimination?

Comments:
The government gives a special opportunity to a group of people by different means, including the provision for whitening undisclosed money. For example, despite of serious criticism from different corners, the government kept the provision of whitening undisclosed money for the fiscal year 2009-'10. The Finance minister termed it as ‘a political compromise’ (the Daily Star, 2009).

References:
1. National Board of Revenue, http://www nbr bd org/
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
4. The Daily Star, ‘Black money, white money’,...
### 64. In law, is there a national customs and excise agency?

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#### 64a. In law, is there a national customs and excise agency?

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**References:**
1. President’s Order No. 76 of 1972
2. 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.

### 65. Is the customs and excise agency effective?

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#### 65a. In practice, the customs and excise agency has a professional, full-time staff.

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**Comments:**
The National Board of Revenue (NBR) administers the excise, VAT, customs and income-tax services. It has 3,434 officers of various grades and 10,195 supporting staff (Web site of NBR, http://www nbr bd org/NBR). It has been observed that the number of technical staff is relatively low, both in tax and customs department, which is hampering its efficiency and effectiveness. The chairman of NBR also recognized the shortage of staff is one of the main causes for the poor tax collection system (The Daily Star, 2010).

**References:**
1. National Board of Revenue, http://www nbr bd org/
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010


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.

65b. In practice, the customs and excise agency receives regular funding.

100  75  50  25  0

References:
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010

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.

66. In practice, are customs and excise laws enforced uniformly and without discrimination?

50

66a. In practice, are customs and excise laws enforced uniformly and without discrimination?

100  75  50  25  0

References:
2. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka, Dec. 9, 2010
### 5.4. Oversight of State-Owned Enterprises

**67. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?**

- **100**

  **67a. In law, is there an agency, series of agencies, or equivalent mechanism overseeing state-owned companies?**

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**Comments:**
Every public department and/or company is controlled by its line ministry. Besides, there are the Office of Comptroller and Auditor General, Anti-Corruption Commission, National Bureau of Revenue, and Standing Committees, which are responsible to monitor all state-owned organizations.

**References:**
2. President’s Order No. 76 of 1972
3. Taxes Act, 1931 (XVI of 1931)
4. The Customs Act, 1969

**Yes:** A YES score is earned if there is an agency, series of agencies, or equivalent mechanism tasked with overseeing the conduct and performance of state-owned companies on behalf of the public. A YES score can be earned if several government agencies or ministries oversee different state-owned enterprises. 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, or if some state-owned companies are free from government oversight.

**68. Is the agency, series of agencies, or equivalent mechanism overseeing state-owned companies effective?**

- **65**

  **68a. In law, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies is protected from political interference.**
68b. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies has a professional, full-time staff.

100 | 75 | 50 | 25 | 0

Comments:
A series of agencies, e.g. Anti-Corruption Commission, Comptroller and Auditor General, National Board of Revenue, Standing Committee on Public Accounts, etc., are responsible for overseeing the state-owned companies.

For example, the Office of the Comptroller and Auditor General (OCAG) is the Supreme Audit Institution (SAI) of Bangladesh, which is responsible to audit government receipts and public spending and to ascertain whether expenditures have yielded value for money in government offices, public bodies and statutory organizations (OCAG, http://www.cagbd.org/index.php). The National Board of Revenue (NBR) administers the excise, VAT, customs and income-tax services. The Parliamentary Standing Committee on Public Accounts and Undertakings is responsible to review the works, inquire into any activity or irregularity and serious complaints in respect to the Ministry. The Anti-Corruption Commission is responsible to inquire into allegations of corruption or offense.

Both oversight organizations have full-time professional staff but due to lack of skilled staff their efficiency and effectiveness are hampered.

References:
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

100: The agency, series of agencies, or equivalent mechanism has staff sufficient to fulfill its basic mandate.

75:

50: The agency, series of agencies, or equivalent mechanism has limited staff that hinders its ability to fulfill its basic mandate.

25:

0: The agency, series of agencies, or equivalent mechanism has no staff, or a limited staff that is clearly unqualified to fulfill its mandate.

68c. In practice, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies receives regular funding.
A series of agencies, e.g., Anti-Corruption Commission, Comptroller and Auditor General, National Board of Revenue, Standing Committee on Public Accounts, etc., are responsible for overseeing the state-owned companies. All oversight organizations received regular funding from the government exchequer, with few exceptions.

References:
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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**68d.** In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies independently initiates investigations.

Comments:
A series of agencies, e.g., Anti-Corruption Commission, Comptroller and Auditor General, National Board of Revenue, Standing Committee on Public Accounts, etc., are responsible for overseeing the state-owned companies. These oversight organizations investigate the allegations of misuse of resources. Besides, the concerned ministry/department performs the oversight functions along with CAG office, but they have human resource constraints, which diminishes their effectiveness.

References:
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010
5. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

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**100:** The agency, series of agencies, 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.

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**75:**

**50:** The agency, series of agencies, 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.

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**25:**

**0:** Funding source is unreliable. Funding may be removed arbitrarily or as retaliation for agency functions.

Comments:
When irregularities are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in investigating and/or in cooperating with other investigative bodies.

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**75:**

**50:** The agency, series of agencies, or equivalent mechanism starts investigations, but is limited in its effectiveness or in its cooperation with other investigative agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

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**25:**

**0:** The agency, series of agencies, or equivalent mechanism does not effectively investigate financial irregularities or cooperate with other investigative agencies. The agency, series of agencies, or equivalent mechanism may start
investigations but not complete them, or may fail to detect offenders. The agency may be partisan in its application of power.

68e. In practice, when necessary, the agency, series of agencies, or equivalent mechanism overseeing state-owned companies imposes penalties on offenders.

| 100 | 75 | 50 | 25 | 0 |

Comments:
A series of agencies, e.g. Anti-Corruption Commission, Comptroller and Auditor General, National Board of Revenue, Standing Committee on Public Accounts, etc., are responsible for overseeing the state-owned companies. These oversight organizations investigate the allegations of misuse of resources. Besides, the concerned ministry/department performs the oversight functions along with oversight institutions and imposes penalties. They have human resource constraints, and sometimes they are forced to accept political influence. Because of these reasons, they do not perform their oversight role effectively.

References:
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

100: When rules violations are discovered, the agency, series of agencies, or equivalent mechanism is aggressive in penalizing offenders and/or in cooperating with other agencies that impose penalties.

75: The agency, series of agencies, or equivalent mechanism enforces rules, but is limited in its effectiveness or reluctant to cooperate with other agencies. The agency, series of agencies, or equivalent mechanism may be slow to act, unwilling to take on politically powerful offenders, or occasionally unable to enforce its judgments.

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

25: The agency, series of agencies, or equivalent mechanism does not effectively penalize offenders or refuses to cooperate with other agencies that enforce penalties. The agency, series of agencies, or equivalent mechanism may make judgments but not enforce them, or may fail to make reasonable judgments against offenders. The agency, series of agencies, or equivalent mechanism may be partisan in its application of power.

69. Can citizens access the financial records of state-owned companies?

65

69a. In law, citizens can access the financial records of state-owned companies.

| Yes | No |

References:
Sections 2, 4, 5-8 of the Right To Information Act, 2009

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.

69b. In practice, the financial records of state-owned companies are regularly updated.
The Government of Bangladesh enacted the ‘Right to Information Act, 2009’ which was notified in the Bangladesh Gazette on April 6, 2009. Under this Act, people are entitled to get information and documents within reasonable time and costs from the government and other non-government organizations, with few exceptions. The Government of Bangladesh has a national web portal. Besides, most of the state-owned companies have their own web sites, though they are not updated in most of the cases. Nowadays, e-governance is a priority policy agenda of the Bangladesh Government. The concerned authority is now keeping its documents on its web site. State-owned companies publish their annual reports, including their financial statements. People can access these documents free of cost. For other documents, the access to information depends on personal connections and relations with high-ranking officials, or on giving bribes.

References:
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010
4. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

In practice, the financial records of state-owned companies are audited according to international accounting standards. Financial records of all state-owned companies are regularly audited by a trained third party auditor using accepted international standards. 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. 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.

In practice, citizens can access the financial records of state-owned companies within a reasonable time period.
Comments:
The Government of Bangladesh enacted 'the Right to Information Act, 2009' which was notified in the Bangladesh Gazette on April 6, 2009. Under this Act, people are entitled to get information and documents within reasonable time and costs from the government and other non-government organizations, with few exceptions. The Government of Bangladesh has a national web portal. Besides, most of the state-owned companies have their own web sites, though they are not updated in most of the cases. Nowadays, e-governance is a priority policy agenda of the Bangladesh Government. The concerned authority is now keeping its documents on its web site. Most of the State-owned companies publish their annual reports, including their financial statements. People can access these documents free of cost. For other documents, the access to information depends on personal connections and relations with high-ranking officials, or on giving bribes.

References:
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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.

69e. In practice, citizens can access the financial records of state-owned companies at a reasonable cost.

Comments:
The Government of Bangladesh enacted 'the Right to Information Act, 2009' which was notified in the Bangladesh Gazette on April 6, 2009. Under this Act, people are entitled to get information and documents within reasonable time and costs from the government and other non-government organizations, with few exceptions. The Government of Bangladesh has a national web portal but these are not updated. Besides, most of the state-owned companies have their own web sites, though they are not updated in most of the cases. Nowadays, e-governance is a priority policy agenda of the Bangladesh Government. The concerned authority is now keeping its few documents on its web site. State-owned companies publish their annual reports, including their financial statements. People can access these documents free of cost whose are available in the website. For other documents, the access to information depends on personal connections and relations with high-ranking officials, or on giving bribes.

References:
2. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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 NGOs. Retrieving records may require a visit to a specific office, such as a regional or national capital.

25:
5.5. Business Licensing and Regulation

70. Are business licenses available to all citizens?

88

70a. In law, anyone may apply for a business license.

Yes | No

References:
1. The Constitution of Bangladesh
2. The Local Government (Union Parishads) Ordinance, 1983
3. The Company Act, 1994

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.

70b. In law, a complaint mechanism exists if a business license request is denied.

Yes | No

References:
1. The Constitution of Bangladesh
2. The Local Government (Union Parishads) Ordinance, 1983
3. 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.

70c. In practice, citizens can obtain any necessary business license (i.e. for a small import business) within a reasonable time period.
Comments:
According to the latest report titled ‘Doing Business 2011’ of World Bank and IFC, Bangladesh has improved its rank compared to the previous year. The report argued that starting a business and registering property in Bangladesh has become easier. For example, to start a business, it takes on average 19 days (as compared to 44 days a year ago.)

Ellen Goldstein (Country Director, World Bank Bangladesh) argued, “further improvements in property registration and strengthening of contract enforcement would reduce costs, increase business confidence, and ultimately lead to more jobs and better livelihood.”

(World Bank Bangladesh, Nov. 4, 2010).

References:
1. The World Bank,
Bangladesh improves regulations for easier business start-up
Doing Business 2011 report,

2. The Daily Star,
‘Bangladesh rises in ‘Doing Business’ rankings’,
Nov. 4, 2010,

3. Interview with A K Azad Khan, Deputy Director, Local & Revenue Audit Directorate, Audit Complex, Segunbagicha, Dhaka,
Dec. 9, 2010

4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka,
Oct. 28, 2010

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.

70d. In practice, citizens can obtain any necessary business license (i.e. for a small import business) at a reasonable cost.

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Comments:
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Dec. 9, 2010

4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka,
Oct. 28, 2010
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: 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.

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

25: 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.

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

71. Are there transparent business regulatory requirements for basic health, environmental, and safety standards?

100

71a. In law, basic business regulatory requirements for meeting public health standards are transparent and publicly available.

| Yes | No |

Comments:
According to clause 7 of the Environmental Conservation Rules 1997, all new industries and projects must have an Environmental Clearance certificate.

For more details, see http://www.doe-bd.org/legalbase.html

References:
1. Environment Policy, 1992
2. Environment Conservation Act, 1995
3. Environment Conservation (amendment) Act, 2010
5. Environment Court Act, 2010
6. Ozone Depleting Substances (Control) Rules, 2004
7. Noise Pollution (Control) Rules, 2006

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.

71b. In law, basic business regulatory requirements for meeting public environmental standards are transparent and publicly available.

| Yes | No |

References:
1. Environment Policy, 1992
2. Environment Conservation Act, 1995, and subsequent amendments
4. Environment Court Act, 2000 and subsequent amendments
5. Ozone Depleting Substances (Control) Rules, 2004
6. Noise Pollution (Control) Rules, 2006
8. The Constitution of Bangladesh
9. The Company Act, 1994

**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.

71c. In law, basic business regulatory requirements for meeting public safety standards are transparent and publicly available.

**Yes** | **No**

**References:**
1. Environment Policy, 1992
2. Environment Conservation Act, 1995, and subsequent amendments
4. Environment Court Act, 2000, and subsequent amendments
5. Ozone Depleting Substances (Control) Rules, 2004
6. Noise Pollution (Control) Rules, 2006
8. The Constitution of Bangladesh
9. The Company Act, 1994

**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.

72. Does government effectively enforce basic health, environmental, and safety standards on businesses?

42

72a. In practice, business inspections by government officials to ensure public health standards are being met and are carried out in a uniform and even-handed manner.
Environment and health standards are a serious concern in Bangladesh. Most rivers are polluted by industrial waste. Most often, public health safety and environmental standards are overlooked by the industry owners. To ensure public health standards, business inspections are carried out by the concerned authority, but it is alleged that most often the business owners do not maintain environmental rules and manage to get away with it by paying bribes.

References:
1. The World Bank, Bangladesh improves regulations for easier business start-up
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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.

72b. 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

Comments:
Environment and health standards are a serious concern in Bangladesh. Most rivers are polluted by industrial waste. Most often, public health safety and environmental standards are overlooked by the industry owners. To ensure public health standards, business inspections are carried out by the concerned authority, but it is alleged that most often the business owners do not maintain environmental rules and manage to get away with it by paying bribes.

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1. The World Bank, Bangladesh improves regulations for easier business start-up
4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010
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.

Business inspections by the government to ensure public environmental standards are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

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.

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.

Comments:
Environment and health standards are a serious concern in Bangladesh. Most rivers are polluted by industrial waste. Most often, public health safety and environmental standards are overlooked by the industry owners. To ensure public health standards, business inspections are carried out by the concerned authority, but it is alleged that most often the business owners do not maintain environmental rules and manage to get away with it by paying bribes.

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4. Interview with Ajoy Das Gupta, Assistant Editor, Daily Samokal, Dhaka, Oct. 28, 2010

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Business inspections by the government to ensure public safety standards are generally carried out in an even-handed way though exceptions exist. Bribes are occasionally paid to extract favorable treatment or expedited processing.

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.
73. Is there legislation criminalizing corruption?

100

73a. In law, attempted corruption is illegal.

Yes | No

References:
Articles 161, 162, 163 of the Penal Code, 1860,

The Code of Criminal Procedure, 1898,
http://bdlaws.minlaw.gov.bd/pdf_part.php?id=75


Article 161 of the Criminal Law Amendment Act, 1958

Money Laundering Prevention Act, 2009

Public Procurement Act, 2006

Public Procurement Rules, 2008 (amendment) August 2009

Yes: A YES score is earned if corruption laws include attempted acts.

No: A NO score is earned if this is not illegal.

73b. In law, extortion is illegal.

Yes | No

References:
Articles 161, 162, 163 of the Penal Code, 1860,

The Code of Criminal Procedure, 1898,
http://bdlaws.minlaw.gov.bd/pdf_part.php?id=75


Article 161 of the Criminal Law Amendment Act, 1958

Money Laundering Prevention Act, 2009

Public Procurement Act, 2006

Public Procurement Rules, 2008 (amendment) August 2009

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.
73c. In law, offering a bribe (i.e. active corruption) is illegal.

| Yes | No |

References:
Articles 161,162,163 of the Penal Code, 1860,  

The Code of Criminal Procedure, 1898,  
http://bdlaws.minlaw.gov.bd/pdf_part.php?id=75


Article 161 of the Criminal Law Amendment Act, 1958

Money Laundering Prevention Act, 2009

Public Procurement Act, 2006

Public Procurement Rules, 2008 (amendment) August 2009

Yes: A YES score is earned if offering a bribe is illegal.

No: A NO score is earned if this is not illegal.

73d. In law, receiving a bribe (i.e. passive corruption) is illegal.

| Yes | No |

References:
Articles 161,162,163 of the Penal Code, 1860,  

The Code of Criminal Procedure, 1898,  
http://bdlaws.minlaw.gov.bd/pdf_part.php?id=75


Article 161 of the Criminal Law Amendment Act, 1958

Money Laundering Prevention Act, 2009

Public Procurement Act, 2006

Public Procurement Rules, 2008 (amendment) August 2009

Yes: A YES score is earned if receiving a bribe is illegal.

No: A NO score is earned if this is not illegal.

73e. In law, bribing a foreign official is illegal.
73f. In law, using public resources for private gain is illegal.

Yes: A YES score is earned if bribing a foreign official is illegal.

No: A NO score is earned if this is not illegal.

73g. In law, using confidential state information for private gain is illegal.

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.
73h. In law, money laundering is illegal.

Yes | No

References:
The Prevention of Corruption Act, 1947

73i. In law, conspiracy to commit a crime (i.e. organized crime) is illegal.

Yes | No

References:
Section 13 (a,b,c) of the Criminal Law Amendment Act 1958
Sections 161-166, 168, 217, 218, 420, 465-471, 477(A) of the Penal Code 1860
6.2. Anti-Corruption Agency or Equivalent Mechanisms

74. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

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74a. In law, is there an agency (or group of agencies) with a legal mandate to address corruption?

Yes  |  No  |
|------|------|

References:

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.

75. Is the anti-corruption agency effective?

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75a. 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:

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.

75b. In practice, the anti-corruption agency (or agencies) is protected from political interference.
Comments:
On April 2, 2009, the last chairman of ACC, Lt. General (retd) Hasan Mashhud Chowdhury, suddenly resigned from his post without showing any reason. It was widely discussed in the media that he was forced to resign by the ruling party. On April 30, the government appointed Ghulam Rahman (former bureaucrat) as a chairman of the ACC (The Daily Star, 2009). Serious concerns have been raised from different corners about political interference in ACC recruitment and activities – i.e. curtailing its power by amending the law (Tanvir, 2010; TIB, 2010).

References:
7. Iftekharuzzaman Corruption & Human Insecurity in Bangladesh, paper presented at the NTS-Asia Annual Convention, Singapore, Nov. 3-4, 2009
8. Tanvir Mahmud Corruption in Climate Adaptation in Bangladesh, September, 2010, IOB, University of Antwerp, Belgium
10. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
11. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
12. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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: 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.

50: 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.

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.
On April 2, 2009, the last chairman of ACC, Lt. General (retd) Hasan Mashhud Chowdhury, suddenly resigned from his post without showing any reason. It was widely discussed in the media that he was forced to resign by the ruling party. On April 30, the government appointed Ghulam Rahman (former bureaucrat) as a chairman of the ACC (The Daily Star, 2009). Serious concerns have been raised from different corners about political interference in ACC recruitment and activities – i.e. curtailing its power by amending the law (Tanvir, 2010; TIB, 2010).

References:
7. Iftekharuzzaman, Corruption & Human Insecurity in Bangladesh, paper presented at the NTS-Asia Annual Convention, Singapore, Nov. 3-4, 2009
8. Tanvir Mahmud, Corruption in Climate Adaptation in Bangladesh, September, 2010, IOB, University of Antwerp, Belgium
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11. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
12. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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.

75d. In practice, appointments to the anti-corruption agency (or agencies) are based on professional criteria.

Comments:
Appointments to top positions are based on political and other considerations rather than professional qualifications. Other
recruitment is based on professional qualifications in general, but it is also influenced by political power to some extent. There are many vacant posts, i.e. shortage of staff, which hampers the ACC in carrying out its routine work.

References:


5. Tanvir Mahmud, Corruption in Climate Adaptation in Bangladesh, September, 2010, IOB, University of Antwerp, Belgium

6. Anti-Corruption Commission, Annual Report 2007-08, Dhaka

7. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010

8. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

9. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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: Appointments are usually based on professional qualifications. Individuals appointed may have clear party loyalties, however.

50: 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.

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.

75e. In practice, the anti-corruption agency (or agencies) has a professional, full-time staff.

Comments:
The Anti-Corruption Commission has full time staff, but not sufficient to carry out its mandate. There are many vacant posts.

References:


The agency (or agencies) has staff sufficient to fulfill its basic mandate.

75:

The agency (or agencies) has limited staff, or staff without necessary qualifications to fulfill its basic mandate.

50:

The agency (or agencies) has no staff, or a limited staff, that is clearly unqualified to fulfill its mandate.

25:

0:

In practice, the anti-corruption agency (or agencies) receives regular funding.

75f.

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.

100:

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.

75:

The agency’s funding sources are unreliable. Funding may be removed arbitrarily or as retaliation for agency actions.

25:

0:

In practice, the anti-corruption agency (or agencies) makes regular public reports.

75g.

References:


3. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010

4. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

5. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

Comments:
According to the law, the ACC is supposed to submit its annual report every March to the president. However, it has been noted that no report was submitted, except the one for 2007-08.

References:
1. Anti-Corruption Commission, Annual Report 2007-08, Dhaka
2. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
3. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
4. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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.

75h. In practice, the anti-corruption agency (or agencies) has sufficient powers to carry out its mandate.

Comments:
Bangladesh is now facing a huge credibility crisis in terms of the weak control of corruption. Serious concerns have been raised from different corners about the independence and effectiveness of the Anti-Corruption Commission. To some extent, the Government of Bangladesh is reluctant to strengthen the Anti-Corruption Commission. Instead, it is trying to curtail its existing power by amending the law (Tanvir, 2010:80). One key informant argued, “no action is visible now-a-days.” It becomes a ‘toothless tiger’.

References:
7. Tanvir Mahmud
Corruption in Climate Adaptation in Bangladesh, September, 2010, IOB, University of Antwerp, Belgium
8. Anti-Corruption Commission, Annual Report 2007-08, Dhaka

9. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010

10. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

11. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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.

75: In practice, when necessary, the anti-corruption agency (or agencies) independently initiates investigations.

100  75  50  25  0

Comments:
Bangladesh is now facing a huge credibility crisis in terms of the weak control of corruption. Serious concerns have been raised from different corners about the independence and effectiveness of the Anti-Corruption Commission. To some extent, the Government of Bangladesh is reluctant to strengthen the Anti-Corruption Commission. Instead, it is trying to curtail its existing power by amending the law (Tanvir, 2010:80). One key informant argued, "no action is visible now-a-days." It becomes a 'toothless tiger'.

References:


6. Anti-Corruption Commission, Annual Report 2007-08, Dhaka

7. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010

8. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

9. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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.

76. Can citizens access the anti-corruption agency?

25

76a. In practice, the anti-corruption agency (or agencies) acts on complaints within a reasonable time period.

100 | 75 | 50 | 25 | 0

Comments:
Bangladesh is now facing a huge credibility crisis in terms of the weak control of corruption. Serious concerns have been raised from different corners about the independence and effectiveness of the Anti-Corruption Commission. To some extent, the Government of Bangladesh is reluctant to strengthen the Anti-Corruption Commission. Instead, it is trying to curtail its existing power by amending the law (Tanvir, 2010:80). One key informant argued, “no action is visible now-a-days.” It becomes a ‘toothless tiger’. Another key informant argued that the present Anti-Corruption Commission is ineffective and turned into the previous inactive Anti-Corruption Bureau. The agency cannot act quickly, and sometimes people are afraid to lodge complaints.

References:
2. Interview with Prof. Ali Ashraf, Member of Parliament, Sept, 20, 2010
3. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
4. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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.

76b. In practice, citizens can complain to the anti-corruption agency (or agencies) without fear of recrimination.

100 | 75 | 50 | 25 | 0

Comments:
Bangladesh is now facing a huge credibility crisis in terms of the weak control of corruption. Serious concerns have been raised from different corners about the independence and effectiveness of the Anti-Corruption Commission. To some extent, the Government of Bangladesh is reluctant to strengthen the Anti-Corruption Commission. Instead, it is trying to curtail its existing power by amending the law (Tanvir, 2010:80). One key informant argued, “no action is visible now-a-days.” It becomes a ‘toothless tiger’. Another key informant argued that the present Anti-Corruption Commission is ineffective and turned into the previous inactive Anti-Corruption Bureau. The agency cannot act quickly, and sometimes people are afraid to lodge complaints.

77. Is there an appeals mechanism for challenging criminal judgments?

67

77a. In law, there is a general right of appeal.

Yes | No

References:
The Constitution of Bangladesh
The Judicial Service Commission Rules, 2007
The Supreme Court of Bangladesh (Appellate Division) Rules, 1988

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.

77b. In practice, appeals are resolved within a reasonable time period.
Comments:
Due to a huge backlog of appeals and cases, it takes a long time to receive an answer.

References:
1. Supreme Court of Bangladesh,  
http://www.supremecourt.gov.bd/
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
4. Ashutosh Sarkar,  
Move to recruit 101 judges with FF quota,  
The Daily Star, Aug.16, 2010, Dhaka,  
5. Mohammad Sirajul Islam,  
‘For a functioning and an independent Judiciary in Bangladesh’,  
The Daily Star, Sept.18, 2010, Dhaka,  
http://www.thedailystar.net/law/2010/09/02/index.htm

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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.

77c. In practice, citizens can use the appeals mechanism at a reasonable cost.

Comments:
Due to the backlog of cases, it takes a long time to receive an answer, which encourages the exchange of unauthorized payments to speed up cases.

References:
1. Supreme Court of Bangladesh,  
http://www.supremecourt.gov.bd/
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
4. Ashutosh Sarkar,  
Move to recruit 101 judges with FF quota,  
The Daily Star, Aug.16, 2010, Dhaka,  
5. Mohammad Sirajul Islam,  
‘For a functioning and an independent Judiciary in Bangladesh’,  
The Daily Star, Sept.18, 2010, Dhaka,  
http://www.thedailystar.net/law/2010/09/02/index.htm

100: In most cases, the appeals mechanism is an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees are not a barrier to appeals.

75:

50: In some cases, the appeals mechanism is not an affordable option to middle class citizens seeking to challenge criminal judgments. Attorney fees present somewhat of a barrier to pursuing appeal.
The prohibitive cost of utilizing the appeals mechanism prevents middle class citizens from challenging criminal judgments. Attorney fees greatly discourage the use of the appeals process.

78. In practice, do judgments in the criminal system follow written law?

50

78a. In practice, do judgments in the criminal system follow written law?

100 75 50 25 0

References:
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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.

79. In practice, are judicial decisions enforced by the state?

50

79a. In practice, are judicial decisions enforced by the state?
Comments:
According to Section 111 of the constitution, “any verdict of the HC is like a law and Section 112 provides that implementation of HC verdicts is mandatory.” Besides, there is a contempt of court for which most of the directives and/or decisions are enforced by the state within a short time, with few exceptions.

References:
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
8. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010

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.

80. Is the judiciary able to act independently?

88

80a. In law, the independence of the judiciary is guaranteed.

Yes | No

References:
1. The Constitution of Bangladesh
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 includes 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.

80b. In practice, national-level judges are protected from political interference.

Compliance: The government has taken initiatives to appoint 101 assistant judges and judicial magistrates in lower courts across the country on a quota basis from the children of freedom fighters. This measure is criticized from different corners and the government is urged to appoint judges based on merit. Besides, the Chief Justice refused to administer oath to two judges due to their previous misconduct in court and partisan role last April.

References:
2. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
3. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
8. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010

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: 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.

50: 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.

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.

80c. In law, there is a transparent and objective system for distributing cases to national-level judges.
80d. In law, national-level judges are protected from removal without relevant justification.

References:
1. The Constitution of the Republic of Bangladesh
3. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
5. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000
7. 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.

81. Are judges safe when adjudicating corruption cases?

100

81a. In practice, in the last year, no judges have been physically harmed because of adjudicating corruption cases.
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.

81b. In practice, in the last year, no judges have been killed because of adjudicating corruption cases.

Yes | No

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.

82. Do citizens have equal access to the justice system?

61

82a. In practice, judicial decisions are not affected by racial or ethnic bias.
2. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010

3. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

4. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010


6. Arafat Hosen Khan
   ‘Stop Extra Judicial Killings: Respect and establish an effective judiciary’,

7. Ashutosh Sarkar,
   ‘Move to recruit 101 judges with FF quota’,

8. Mohammad Sirajul Islam,
   ‘For a functioning and an independent Judiciary in Bangladesh’,

| 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. |

82b. In practice, women have full access to the judicial system.

References:
2. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
3. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
4. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
6. Arafat Hosen Khan
   ‘Stop Extra Judicial Killings: Respect and establish an effective judiciary’,
7. Ashutosh Sarkar,
   ‘Move to recruit 101 judges with FF quota’,
8. Mohammad Sirajul Islam,
   ‘For a functioning and an independent Judiciary in Bangladesh’,
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.

<table>
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<th>B2c. In law, the state provides legal counsel for defendants in criminal cases who cannot afford it.</th>
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<td><strong>Yes</strong></td>
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References:
1. The Constitution of Bangladesh
3. The Supreme Court of Bangladesh (Appellate Division) Rules, 1988
5. Code of Conduct of the Judges of the Supreme Court of Bangladesh, Dhaka, May 2000

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<tr>
<th>B2d. In practice, the state provides adequate legal counsel for defendants in criminal cases who cannot afford it.</th>
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References:
2. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
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4. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
6. Arafat Hosen Khan "Stop Extra Judicial Killings: Respect and establish an effective judiciary".
### References:

1. Supreme Court of Bangladesh,

2. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010

3. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

4. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010


6. Arafat Hosen Khan
   ‘Stop Extra Judicial Killings: Respect and establish an effective judiciary’,
   The Daily Star, May 15, 2010, Dhaka,
   [http://www.thedailystar.net/law/2010/05/03/index.htm](http://www.thedailystar.net/law/2010/05/03/index.htm)

7. Ashutosh Sarkar,
   ‘Move to recruit 101 judges with FF quota’,
   The Daily Star, Aug. 16, 2010, Dhaka,

8. Mohammad Sirajul Islam,
   ‘For a functioning and an independent Judiciary in Bangladesh’,
   The Daily Star, Sept. 18, 2010, Dhaka,

9. Institute of Governance Studies, BRAC University,
   The State of Governance in Bangladesh 2008,
   Dhaka, Bangladesh, May 2008

---

### 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.

### 82e. In practice, citizens earning the median yearly income can afford to bring a legal suit.

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82f. In practice, a typical small retail business can afford to bring a legal suit.

82g. In practice, all citizens have access to a court of law, regardless of geographic location.

Comments:
Unauthorized payments and lengthy process discourage people from bringing a case in Bangladesh.

References:
2. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
3. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
4. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

100: In most cases, the legal system is an affordable option to a small retail business seeking to redress a grievance. Attorney fees do not represent a major cost to small businesses.

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. Attorney fees are a significant consideration in whether to bring a case.

25:

0: The cost of engaging the legal system prevents small businesses from filing suits. Attorney fees are high enough to discourage most small businesses from bringing a case.
6.4. Law Enforcement: Conflicts of Interest Safeguards and Professionalism

83. Is the law enforcement agency (i.e. the police) effective?

42

83a. In practice, appointments to the law enforcement agency (or agencies) are made according to professional criteria.

100 | 75 | 50 | 25 | 0

Comments:
Nepotism, bribing and political considerations are often observed in the Police department recruitment process, especially in the non-cadre level. Huda argued that the unhealthy political meddling in the recruitment process of Police staff is a sad reality, despite denials by successive regimes.

References:
Comments:
The law enforcement agencies, especially the Police, faced problems in deliver their duties because of shortage of resources and budget.

References:
1. Ministry of Finance, Government of Bangladesh

2. Transparency International,
Global Corruption Barometer, Dec. 9, 2010,
http://www.transparency.org/policy_research/surveys_indices/gcb/2010/results

3. Institute of Governance Studies, BRAC University,
The State of Governance in Bangladesh 2008,
Dhaka, Bangladesh, May 2008

4. UNDP, Bangladesh,
External interference obstructs police performance: Public Attitude Baseline Survey, Feb. 14, 2007,
http://www.undp.org.bd

5. Transparency International Bangladesh,
Diagnostic Study on Police Station Dhaka 2004

6. Huda, M.N.,
‘Citizens’ concern on police role and reform’,
The Daily Star, Sept. 25, 2010, Dhaka,

7. Huda, M.N.,
‘Disentangling the fear factor’,
The daily Star, Dec. 11, 2010, Dhaka,
Comments:
Nepotism, bribing and political considerations are often observed in the Police department recruitment, especially in the non-cadre level. Huda argued that the unhealthy political meddling in the recruitment process of the Police is a sad reality, despite denials by successive regimes. Besides, there have been many instances where governments have been accused of using the Police machinery for political ends.

References:


4. Transparency International Bangladesh, Diagnostic Study on Police Station, Dhaka 2004


7. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010

8. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010

9. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

11. Arafat Hosen Khan
'Stop Extra Judicial Killings: Respect and establish an effective judiciary',
The Daily Star, May 15, 2010, Dhaka,
http://www.thedailystar.net/law/2010/05/03/index.htm

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:

58: 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.

84. Can law enforcement officials be held accountable for their actions?

75

84a. In law, there is an independent mechanism for citizens to complain about police action.

Yes | No

Comments:
According to Article 14 of the Citizen Charter of the Bangladesh Police, if anybody does not get their entitled services from the Thana and/or has complaints against any member (s) of the Police department, he/she can lodge a complaint to the higher authority. In that case, the higher authority is supposed to investigate the matter within 15 days and inform the complainer accordingly. Besides, as a part of the reform initiatives of the Bangladesh Police, the complaints handling mechanism against the Police was introduced on its web site, where forms are available for free.

Moreover, on June 22, 2010, the government of Bangladesh formed the National Human Rights Commission under the provision of National Human Rights Commission Act, 2009.

References:


3. Police Act, 1861


5. Anti-Corruption Commission Act, 2004

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

84b. In practice, the independent law enforcement complaint reporting mechanism responds to citizen’s complaints within a reasonable time period.
Bangladesh Police introduced the Citizen Charter and complaint mechanism online. Article 14(a) of the Citizen Charter of Bangladesh Police says, “after getting a written complaint against any police officer, the concerned higher authority is supposed to take necessary action against the accused officer and inform the applicant accordingly within 15 days.” However, this is most often not followed. Sometimes, they do not act on complaints if they do not receive bribes.

References:
4. Transparency International Bangladesh, Diagnostic Study on Police Station, Dhaka 2004
7. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
8. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
9. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010

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:

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.

84c. In law, there is an agency/entity to investigate and prosecute corruption committed by law enforcement officials.

Comments:
The Anti-Corruption Commission can investigate and prosecute corruption committed by law enforcement agency (ies). Besides, every law enforcement agency can take departmental or ministerial action against corrupt practices of their officials. For example, under the Home Ministry, there is a Counter Intelligence Unit (CIU) in the police headquarters which is responsible for collecting information against corrupt police officials across the country and taking necessary actions.
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.

84d. In practice, when necessary, the agency/entity independently initiates investigations into allegations of corruption by law enforcement officials.

References:
1. Transparency International, Global Corruption Barometer, Dec. 9, 2010,
   http://www.transparency.org/policy_research/surveys_indices/gcb/2010/results
   http://www.undp.org.bd
4. Transparency International Bangladesh, Diagnostic Study on Police Station, Dhaka 2004
7. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
8. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
9. Interview with Manzil Murshid, advocate of Supreme Court of Bangladesh, Dhaka, Dec. 2, 2010
    http://www.odhikar.org/press.html

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.

84e. In law, law enforcement officials are not immune from criminal proceedings.

| Yes | No |

References:
1. The Police Act, 1861
2. The Police Regulation of Bengal (PRB), 1943
3. The Penal Code, 1868, GOB
4. The Code of Civil Procedure, 1908, GOB
5. Anti-Corruption Commission Act, 2004, 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.

84f. In practice, law enforcement officials are not immune from criminal proceedings.

| 100 | 75 | 50 | 25 | 0 |

Comments:
Huda argued that the unhealthy political meddling in the recruitment process of the Police is a sad reality, despite denials by successive regimes. Besides, there have been many instances where governments have been accused of using the police machinery for political ends. Sometimes, the crimes are overlooked for political considerations.

References:
4. Transparency International Bangladesh, Diagnostic Study on Police Station, Dhaka 2004
7. Interview with Prof. Ali Ashraf, Member of Parliament, Sept. 20, 2010
8. Interview with Abu Zayed Mohammad, Faculty, North-South University & Advocate, Supreme Court of Bangladesh, Dec. 4, 2010
100: Law enforcement officers are subject to criminal investigation for official misconduct. No crimes are exempt from prosecution.

75: 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: 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.