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National Integrity System Assessment: BANGLADESH

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BACKGROUND

- The National Integrity System (NIS) assessment provides a benchmark for analysing the robustness and effectiveness of a country's institutions of accountability in addressing corruption.
- The **NIS** in Bangladesh broadly consists of the following institutions: ***Parliament, Executive, Judiciary, Public Administration, Local Government, Police Comptroller and Auditor General, Election Commission, Anti-Corruption Commission, National Human Rights Commission, Information Commission, Political Parties, Civil Society, Media, and Business.***
- Each of the institutions is assessed in terms of its ***capacity, governance and role***. The assessment examines both the legal framework and the actual institutional practice, in an attempt to highlight the gaps between law and practice.
- The assessment is primarily qualitative and has relied on a combination of primary and secondary data, incl. relevant national laws, research, reports (media and otherwise), and key informant interviews. The research output has undergone a peer review and libel check and has been validated by the Advisory Committee.
- **Research period: August 2012-September 2013.**

PARLIAMENT

Strengths

- Parliamentary Standing Committees active. Members from the Opposition included and participating in PSCs.
- Electronic system in place for automatic time management and receiving notice. Live telecast/broadcast of parliamentary proceedings.
- Enactment of critical laws (e.g. Right to Information Act 2009, Whistleblowers' Protection Act 2011, Money Laundering Prevention Act 2009, National Human Rights Commission Act 2009, Public Finance and Budget Management Act 2009, Competition Act 2012)

Weaknesses

- Inadequate financial resources, lack of quality staff.
- Nominal contribution to promotion of good governance—weak oversight of the Executive.
- Extensive executive control, predominance of the ruling party. Sustained parliamentary boycott by the Opposition.
- Debates/discussions motivated by party considerations . Critical national issues are of secondary importance.
- Apathy of MPs towards constructive criticism and oversight of government policies.
- Policy capture--growing nexus between MPs, vested interest groups and business. Conflict of interest amongst committee members.

EXECUTIVE

Strengths

- Increase in budget allocation to the Executive branch
- Extensive power and authority granted by law to act independently
- Parliamentary Standing Committees to oversee the work of the executive

Weaknesses

- Absolute power and authority of the executive creates scope for abuse
- Separation of power between legislative, executive and judicial organs are uneven and dominated by the executive.
- Partisan bias of the executive in decision making
- Absence of legal provision to disclose executive decisions
- Absence of accountability of the executive and transparency in decision making.
- No legal provision requiring annual disclosure of income and wealth.

JUDICIARY

Strengths

- Infrastructure and capacity development (new court buildings in various districts, separate Judicial Service Commission for recruitment of lower court judges , recruitment of judges to address case backlog, Information Unit at the Appellate Division for providing information to the public, initiatives for better case management and preservation of case files in higher courts).
- Gradually advancing towards separation from executive influence.
- Judicial interventions in the public interest—PIL, writs.

Weaknesses

- Lack of financial autonomy (dependence on the Executive).
- Low pay structures, inadequate infrastructure and logistical support.
- Interference by MLJPA despite separation from executive branch.
- Politicisation of judges (appointment, promotion) leading to erosion in judicial independence.
- Accountability of judges impeded by immunity from prosecution & censure.
- Asset disclosure by SC judges is non-existent.

PUBLIC ADMINISTRATION

Strengths

- High priority attached to public service in budgetary allocation.
- Increasing cooperation between the public sector and civil society.
- Performance based auditing piloted.
- Introduction of Mid Term Budgetary Framework.

Weaknesses

- Lack orientation in terms of values of new public administration and dynamics of development management.
- Great number of employees but ineffective public service delivery.
- Partisan political appointments, transfers and promotions. Number of OSD high.
- Elitist, powerful and resistant to change.
- Characterized by structural deficiencies, erosion of hierarchical control and lack of motivation.
- Vulnerable to politicisation for personal/material gain leading to corruption.
- Inclined towards close door policy development leading to erosion in transparency and accountability.

LAW ENFORCEMENT:POLICE

Strengths

- Increased investment in modern arms, equipment and vehicles.
- Initiatives to beef up number of police personnel and introduce allowances (investigation allowance, risk allowance).
- Police reform initiatives on-going (model thanas, victim support centres, community policing, increase in the number of women police).

Weaknesses

- Low pay, overwork and inadequate logistical support.
- Recruitment /transfer/promotion dependent on political patronage, nepotism and bribery.
- Hostage to ruling party. Backlash for disobedience/deviation including dismissal from service.
- Questionable links with bureaucracy, business and criminal syndicates .
- Police administration characterised by corruption, inefficiency and partiality.
- Police work outside public scrutiny. Citizens afraid to complain against police wrongdoing/misconduct.
- Absence of sanctions based on political considerations/personal gain breed a culture of impunity.

ELECTION COMMISSION

Strengths

- Independent Secretariat controlled by the EC.
- Strong administrative set-up (central database, infrastructure up to Upazila level).
- Institutional capacity to hold elections (human resource, skill and expertise).
- Considerable financial independence.
- Role and responsibility (e.g. preparing voter list, delimiting constituencies, holding elections, monitoring candidates and political parties)

Weaknesses

- Independence of CECs/ECs debatable.
- Constrained by legal limitations
 - Dependence on government for holding local government elections .
 - devoid of authority to-- cancel MP membership even if found ineligible, scrutinise electoral expense returns, disclose financial statements of political parties, penalise breaches of electoral Code of Conduct, etc.)
- The law is silent on issues of asset declaration, financial gratification, political activities, gifts and hospitality in relation to Commissioners.
- Redress for electoral irregularities slow and indefinite.
- EC seemingly weak in living up to its mandate evident from its failure to withstand pressure of the ruling party and local administration in the electoral management process.

SUPREME AUDIT INSTITUTION

Strengths

- Innovation in planning, development of competence, quality reporting.
- Detached from external influence—political or otherwise.
- CAG activities and decision-making processes generally transparent.

Weaknesses

- CAG's independence in respect of personnel and finance compromised as in practice it is subordinate to the Finance Ministry.
- The offices are constrained by inadequate technical and human resource capacity. Not well-suited for conducting performance audits.
- Lack of timely response to audit reports/objections by the Parliament and government creates opportunities for corruption.
- Backlog of audit reports.

LOCAL GOVERNMENT

Strengths

- LGs have strong Constitutional framework.
- Local visibility and presence particularly in times of crisis.
- Increased availability of resources.

Weaknesses

- LGs are chronically poor.
- Control oriented regulatory framework.
- Limited autonomy of the LGs which are subject to authoritarian supervisory role of the “central government”.
- LGs lack transparency and accountability as general people have little idea about budget allocation, implementation of development projects; and income and expenditure.
- Monitoring mechanisms are weak, inadequate and ineffective.
- LGI leadership suffers from image crisis on account of corruption and lack of transparency, and politicisation to a certain degree .

ANTI-CORRUPTION COMMISSION

Strengths

- ACC panel lawyers in and outside Dhaka.
- Human resource beefed up (number of Asst./Deputy Directors recruited against available positions).

Weaknesses

- Filing and withdrawal of cases on political considerations .
- Inadequate institutional capacity to pursue anti-corruption cases.
- “A toothless tiger”. ACC’s ability to act independently questioned. Attempts at curbing ACC’s independence manifest in amendment to the Act, later aborted.
- The law is silent on issues of asset declaration, financial gratification, political activities, gifts and hospitality in relation to Commissioners.
- Inability to secure cooperation from other institutions (Bangladesh Bank, NBR) in information collection.
- Disposal of corruption cases slow.

NATIONAL HUMAN RIGHTS COMMISSION

Strengths

- Multiple roles of watchdog over HRTs violation, HRTs education and law & policy advocacy.
- Introduction of a Standard Operating Manual on Ethical and Accountability standards.
- Engagement through promotional activities at the national and local level.

Weaknesses

- Government/donor dependence in terms of funding.
- Weak investigation due to resource deficiency in manpower, technical know-how, infrastructure and logistical support.
- Recruitment criteria for commissioners too broad offering scope for nepotism.
- Inadequate legal framework ensuring transparency, integrity of Commissioners.
- The law is silent on issues of asset declaration, financial gratification, political activities, gifts and hospitality in relation to Commissioners.
- Non cooperation by GoB ministry (MOHA). Legal restriction on investigation of breaches by “disciplined forces” that technically include law enforcement agencies.
- NHRC is primarily a recommendatory body with no power of execution.

INFORMATION COMMISSION

Strengths

- Engagement in promotional/communication activities.
- Increasing number of requests/appeals for information received and processed.
- Adequate financial resources available.

Weaknesses

- Government control over staff recruitment impedes independence.
- Top leadership devoid of requisite experience.
- Lack of personnel with specialised knowledge and skills.
- Under utilisation of resources and staff positions.
- The law is silent on issues of asset declaration, financial gratification, partisan political activities, gifts and hospitality in relation to Commissioners.
- Lack of proactive initiative to seek information on matters that are potentially embarrassing for the government.

POLITICAL PARTIES

Strengths

- Political party formation relatively easy.
- Regular audit returns by registered political parties.

Weaknesses

- Confrontational political culture.
- Tendency amongst elected political parties to treat Government as an apparatus of their own political party.
- Lack of transparency in political fundraising and use.
- Lack of internal democracy (centralised decision-making, personalisation of party structures).
- Criminalisation and/or commercialisation of politics.

CIVIL SOCIETY

Strengths

- Vibrant agent for advocacy for law/ policy/ governance reforms.
- Demanding transparency and challenging state priorities, processes, practices.
- Pro-poor/marginalised communities issues rank high on CSO agenda.
- Strategic issue- based alliances with other CSOs and the media.

Weaknesses

- Absence of financial sustainability and dependence on external grants.
- High turnover of staff (project based, inadequate pay structures, limited career development opportunities)
- Independence subverted by
 - restrictive/ambiguous legal/procedural measures
 - govt. control of resources, intolerance and harassment of CSO personnel/activists.
- Practice of proactive disclosure of sources of funds, internal governance absent.
- Anomalies in tax returns, audit reports and procurement.
- Accountability compromised by weak boards and strong founder/ successor executives.
- Inadequate self regulation.

MEDIA

Strengths

- Proliferation of media outlets -- modernisation, technological advancement and institutional capacity development.
- Whistle blowing through proactive coverage of corruption.

Weaknesses

- Low wages, lack of incentive and training on ethics and integrity.
- Inadequate academic, analytical and technological skills of media personnel.
- State run media monopolised by govt.
- Media independence curtailed by
 - indiscriminate use of libel laws, cancellation of license /closure
 - dependence on govt. sponsored advertisements
 - media ownership by corporate/vested interest groups with partisan political bias
 - poor internal governance
- Lacks transparency in terms reporting, funding, and operations.
- Press Council largely dysfunctional: lacks credibility and financial resources, has limited jurisdiction and is hostage to political manipulation.

BUSINESS SECTOR

Strengths

- Lead contributor to the national economic growth.
- Engaged in almost all spheres of the economy from education to manufacturing to public infrastructure development.
- Basic information of most registered companies are available on-line.

Weaknesses

- No legal safeguards against undue interference of public officials.
- Private sector corruption is widespread. Ineffective mechanisms to deal with business sector corruption.
- Ethical behaviour of companies in relation to public officials, politicians etc is question.
- “Informalism” is a regular process in managing relationship with Government and other stakeholders.

BROAD OBSERVATIONS

- Despite reasonably robust legal frameworks, enforcement is weak – indicates a culture of non-compliance.
- Inadequate resources in some cases. Lack of technical and professional competence of concerned actors.
- Lack of incentives (low wages, limited career development opportunities).
- Weak oversight functions leading to erosion in institutional checks and balances.
- Politicisation, nepotism, corruption.
- Absence of exemplary punishment for corruption/ culture of impunity/ denial syndrome
- Low awareness amongst the public about their rights and institutional obligations .
- Inadequate access to information.

Above observations may not apply equally to all pillars.

RECOMMENDATIONS

Parliament

- Effective measures must be taken to make the parliament effective, especially to ensure healthy debate for accountable governance. The practice of parliamentary boycott must be stopped by law.
- A timeframe should be prescribed under the Rules of Procedure (RoP) for implementation of the recommendations of the Parliamentary Committees. Key committees such as, the Public Accounts Committee (PAC), should be chaired by opposition members. In forming Committees, special care should be taken to avoid conflict of interest.
- The professional capacity of the Parliament secretariat must be improved.
- The selection of the Speaker should be made through all-party consultation and consensus in order to protect his/her neutral image. Speaker should resign from party position if any. Deputy Speaker should be appointed from the opposition party
- The draft Code of Conduct Bill for MPs must be enacted as a law.
- Information regarding MP's income-expenditure, properties, loan, income tax, and information on legal cases and the usage of development funds must to be disclosed and updated on a regular basis.

RECOMMENDATIONS cont.

Executive

- In order to ensure checks and balance in the role of the Executive, the Rules of Business governing it must be reformed.
- A law/rules must be adopted for further empowering the committee system to ensure and strengthen oversights on the executive and public bureaucracy.

RECOMMENDATIONS cont.

Judiciary

- The judiciary must have complete financial and administrative independence from the executive branch of the government. Salary structures, benefits, etc., must be reviewed and determined in consonance with their status, experience, competence and performance.
- Appointments of Supreme Court Judges must be made by an independent body (e.g., a Supreme Judicial Commission or a collegium of judges) in concurrence with the Chief Justice and in conformity with prescribed rules developed in this respect.
- Strict compliance with codes of conduct by all judicial officers must be ensured including mandatory disclosure of income and assets updatable on annual basis. Breach of the code of conduct must be dealt with sharply and swiftly and decisions made public.

RECOMMENDATIONS cont.

Public Administration

- A Civil Service Act must be enacted with provisions on transparency and independence in terms of civil service recruitment, promotion, career progression, integrity and accountability combined with a good balance of positive and negative incentives.
- A performance-based career planning system for the public sector employees must be developed.
- Public Officials must disclose information of wealth and assets and update annually.
- Government should consider the formation of a Governance Review and Reform Commission (GRCC) to examine and address the structural, managerial and behavioural issues affecting the performance of the public sector.

RECOMMENDATIONS cont.

Law Enforcement (Police)

- The legal framework for the police force must be reformed to include extensive transparency, accountability, independence, professional integrity and no impunity provisions in police operations.
- The police must be kept free from political /administrative influence.
- Strict punishment must be ensured for police officials and staff who are guilty of corruption, human rights violation and other offences.
- The police must be incentivised and capacitated through increased resource allocation in terms of salaries and benefits, training, modern equipments, IT support, forensic facilities, etc.

RECOMMENDATIONS cont.

Election Commission

- A Law specifying the eligibility criteria for appointments of EC members must be enacted.
- The EC must publish and regularly update for public information detailed statements on income, assets and liabilities of Commissioners and its employees.
- A framework for monitoring compliance with electoral laws, rules and regulations must be developed.
- Legal provisions must be introduced to ensure mandatory asset declaration by Commissioners and prohibition on financial gratification, partisan political activities, gifts and hospitality.
- Election disputes must be resolved fairly and expeditiously. The law must mandate the establishment of an adequate number of High Court benches to ensure quick disposal of election related cases.
- Election Commission must engage with stakeholders including political parties, civil society and media in all matters related to reform of the electoral law as well as policies relevant to conduct of elections.

RECOMMENDATIONS cont.

Office of Comptroller and Auditor General

- The draft Audit Act must be adopted subject to consultation with stakeholders without delay.
- Resources in the form of adequate number of trained manpower, financial allocation, and logistical support must be enhanced in order for OCAG to achieve its goals.
- The OCAG must be given the legal mandate to follow up and ensure execution of the audit observations that it provides.
- Strict compliance of OCAG officials with the Code of Ethics must be strictly ensured.

RECOMMENDATIONS cont.

Local Government

- The government must formulate an inter-governmental fiscal transfer policy for effective distribution of resources among different tiers of LG to minimise/remove uncertainties and scope for political manipulation.
- A permanent Local Government Finance Commission may be considered to ensure objective distribution and allocation of public fund and to implement and monitor the proposed inter-governmental fiscal transfer policy.
- Rules and procedures must be developed to make LGIs more responsive to their constituents.
- Capacity of the LGIs must be strengthened by providing incentives for resource mobilisation at the local level.
- Steps must be taken to prevent manipulation of LGIs by Members of the Parliament.

RECOMMENDATIONS cont.

Anti- Corruption Commission (ACC)

- The ACC must develop its own strategic plan to effectively deliver its mandate.
- The ACC must publish and regularly update for public information detailed statements on income, assets and liabilities of Commissioners and its employees.
- The ACC organogram must be re-examined to rationalise its staff strength. Initiatives must be taken to strengthen the investigative and prosecutorial capacity of the ACC.
- ACC Act must be reviewed to incorporate provisions aimed at making it truly independent and ensuring its effectiveness and internal accountability.
- Legal provisions must be introduced to ensure mandatory asset declaration by Commissioners and prohibition on financial gratification, partisan political activities, gifts and hospitality.
- ACC may consider forming a Citizens Advisory Committee consisting of prominent citizens of high integrity, credibility and acceptability from civil society to advise, monitor and evaluate key aspects of ACC's work.

RECOMMENDATIONS cont.

National Human Rights Commission (NHRC)

- The NHRC must be an independent, vigilant and proactive force against human rights violations, unfettered by political and other considerations.
- The NHRC must publish and regularly update for public information detailed statements on income, assets and liabilities of Commissioners and its employees.
- Legal provisions must be introduced to ensure mandatory asset declaration by Commissioners and prohibition on financial gratification, partisan political activities, gifts and hospitality.
- The NHRC Act must be reviewed and necessary amendments incorporated in terms of the definition of human rights, the eligibility criteria of Commissioners, the Commission's powers to investigate human rights violation by disciplined forces.
- The capacity of the NHRC must be enhanced through training and skills for effective investigation, reporting and action.

RECOMMENDATIONS cont.

Information Commission (IC)

- The top leadership of the IC must be strengthened in terms of requisite knowledge, experience, skills and ability to effectively play its oversight role.
- The IC must publish and regularly update for public information detailed statements on income, assets and liabilities of Commissioners and its employees.
- Initiatives must be taken to increase the visibility of the IC and enhance the capacity of its personnel to harness their skills for effective discharge of their role and functions.
- Legal provisions must be introduced to ensure mandatory asset declaration by Commissioners and prohibition on financial gratification, partisan political activities, gifts and hospitality.
- The IC must undertake research on RTI, impediments, openness, technologies, social needs, and public perceptions, so that it can keep pace with the changes taking place at home and beyond.

RECOMMENDATIONS cont.

Political Parties

- Political Parties must inculcate the practice of internal democracy. The Party constitution must include a provision for transparency, disclosure and accountability of the Party Leaders to its members.
- Political Parties must not give Party membership to identified criminals or convicted persons (at least for a certain period after their punishment) with a view to decriminalising the country's political arena.
- Financial transactions and audit reports of political parties must be submitted to the Election Commission and disclosed in time as per law. Legal sanctions for non-compliance must be strictly executed.
- Political parties should be subjected to Right to Information Act.

RECOMMENDATIONS cont.

Civil Society

- The regulatory framework for CSOs should be reviewed and harmonised to enhance the space needed for the sector's independent functioning, to avoid unnecessary duplication, overlapping, and ambiguities and incorporate standardized, simplified and flexible measures for their formation, registration and management.
- CSOs must ensure greater accountability and transparency in respect of their activities and finances. Self regulation should be introduced through the development of a sound governance body, efficient management system, effective supervision and monitoring and internal control.
- CSOs must adopt a policy of proactive disclosure about their operations and fund utilisation. Accordingly, audited financial reports and activity reports should be made available to the public at large.

RECOMMENDATIONS cont.

Media

- The media must be free from the influence of the government, partisan politics, and other vested interested groups. The space for free media must be enhanced and protected.
- Clear and coherent policy and legislation must be adopted to help democratise and bring discipline to the media sector.
- There must be a transparent and logically coherent licensing regime for the media.
- The media must develop independent and voluntary codes of conduct affirming fair, balanced and accurate journalism.
- Legislation should provide for an independent body to guide and manage the public service broadcasting in radio and TV networks.

RECOMMENDATIONS cont.

Business

- The Companies Act 1994 must be amended to streamline business start-up procedures, reduce constraints on company structure, facilitate the transition of large informal businesses to the formal sector and necessitate appropriate reporting mechanism.
- Pragmatic strategies must be adopted to enforce reporting and disclosure requirements prescribed in existing laws.
- A national business portal should be established at the office of the Registrar of Joint Stock Companies and Firms or Board of Investment to self-record basic business information on mandatory basis.
- Large public/private contracts and business deals of certain thresholds must be subjected to a systemic mandatory disclosure and monitoring. Business houses and their association should adopt voluntary practice of “publish what you pay” in their dealing with public institutions.
- Business persons in position of politics and public representation must not use such positions for profit-making.

THANK YOU!