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TRANSPARENCY INTERNATIONAL BANGLADESH
Social movement against corruption

Review and Recommendations on 'The National Human Rights Commission Act, 2026 (Draft)' by Transparency International Bangladesh (TIB)

Introduction

Out of the 133 ordinances enacted during the interim government, 97 were recommended through scrutiny by the Special Committee of the 13th National Parliament, and were passed as laws exactly as they were, while 13 ordinances were passed with amendments. This effort is highly praiseworthy. However, instead of passing 16 ordinances of public importance, the Committee recommended to formulate these anew through further scrutiny later, which includes the ordinances on the National Human Rights Commission (NHRC), the Anti-Corruption Commission (ACC), the Police Commission, and the Prevention of Enforced Disappearances (PED). Another seven ordinances were repealed, including the appointment of Supreme Court Judges and the Establishment of the Supreme Court Secretariat.

In the election manifesto of the Bangladesh Nationalist Party (BNP), with more than two-thirds majority in the 13th National Parliament, it was stated that human rights protection will be ensured according to the Universal Declaration of Human Rights, and the Human Rights Commission will be formed based on the specific criteria.[1] The reason behind not passing the National Human Rights Commission Ordinance, 2025 in the Parliament was stated that there were some ambiguities in the ordinance, and the law would be newly formulated after further scrutiny in consultation with the relevant stakeholders. Following this, the government formulated a draft of the National Human Rights Act, 2026 on 17 May 2026. Some new clauses have been added in the draft, which in some cases have created better potential compared to the 2025 Ordinance. Among these are:

- Considering 'not being a citizen of Bangladesh and being convicted' as a disqualification for the appointment of a Commissioner;
- Sharing written meeting minutes;
- Integrated review of the recognized measures under existing laws on human rights protection;
- Accountability of the investigating officer;
- Increasing the jurisdiction of the National Preventive Mechanism Division;
- Exemption from the lapse period for investigating complaints taken suo-moto, along with providing the report by the law enforcement agencies to the complainant, etc.

However, compared to the Human Rights Commission Ordinance, 2025, some major differences have been created in the draft National Human Rights Commission Act 2026, which are contrary to the long-cherished public expectation for establishing a truly independent and effective NHRC that is free from government influence. Similarly, there is a risk that these will be contradictory to the Paris Principles,[2] and will be one of the main obstacles for the NHRC to obtain "A" status from the Global Alliance of National Human Rights Institutions (GANHRI).[3] Observations on the sections of the draft law, which could be alarming for the formation of an independent and effective NHRC and may pose a risk of destroying the autonomy and integrity of the Commission, are provided along with the recommendations on behalf of TIB for the amendments of the draft law through consultation with relevant stakeholders with due importance.

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[1] BNP, 'Election Manifesto-2026', p. 10, https://www.bnpbd.org/manifesto
[2] The Paris Principles, https://www.humanrights.dk/files/media/dokumenter/about_us/The%20Paris%20Principles.pdf
[3] Global Alliance of National Human Rights Institutions (GANHRI), https://ganhri.org/paris-principles/

Observations and Recommendations

1. In section 3(2) of the draft law, it is stated that 'The Commission shall be an independent body and shall have perpetual succession and, subject to the provisions of this Act, shall have the power to acquire, hold and transfer both movable and immovable property and may sue in its own name or be sued against', whereas in The National Human Rights Commission Ordinance, 2025, it was stated that 'The Commission shall be an independent body which shall not be under any ministry or department of the government'. In this section of the draft law, the part '... shall not be under any ministry or department of the government' has been omitted, through which the opportunity has been created for the Executive to control the Commission, which is inconsistent with the principle of forming an independent and autonomous human rights institution and performing its duties independently, as mentioned in the Paris Principles.

   Recommendation-1: In section 3(2) of the draft law, the following provision should be added – 'The Commission shall be an independent body, which shall not be under any ministry or department of the government'.

2. In the Ordinance of 2025, it was stated that 'The head office of the Commission shall be in Dhaka, and it shall have its divisional offices in every division and the Commission may, if necessary, establish its offices at the district and upazila levels'. However, in the present draft, the obligation to establish divisional offices of the Commission outside Dhaka has been omitted, and there are obligations to obtain prior government approval for establishing the Commission's offices (Section 4). This will curb the independence of the Commission and is not consistent with the principles related to the establishment of the infrastructure suitable for the smooth operation of the activities of national human rights institutions, and, if necessary, the formation of local or regional branches and executive teams as mentioned in the Paris Principles.

   Recommendation-2: In Section 4 of the draft law, the following provision must be added – 'The head office of the Commission shall be in Dhaka, and it shall have its offices in every division, and the Commission may, if necessary, establish its offices at the district and upazila levels too'. Moreover, the Commission's decision-making authority must be strengthened by canceling the obligation to obtain prior government approval for establishing its offices.

3. Section 5(3) of the draft law states that 'In the case of formation of the Commission, if there is a qualified candidate among the ethnic minorities or marginalised communities or women upon recommendation of the selection committee, s/he may be kept under special consideration'. In this case, the obligation to include ethnic minorities or underprivileged communities and women as commissioners has not been maintained. On the other hand, the Paris Principles state that the formation of the national human rights institution and the appointment of its members must be done according to a procedure that provides necessary guarantees to ensure pluralist representation of the social forces (of civil society) involved in the protection and promotion of human rights, including gender diversity and representation of marginalised groups. It is noteworthy that in the 2025 Ordinance, there was an obligation to have at least one member from an ethnic minority or marginalised community among the commissioners and at least two female commissioners to ensure gender equality in the formation of the Commission.

   Recommendation-3: In Section 5(3) of the draft law, a clear provision must be added to keep at least one member from an ethnic minority or marginalised community in case of appointing the Chairperson and commissioners of the Commission, and at least two female commissioners to ensure gender equality in the formation of the Commission.

4. In the section [Section 6(3)(c)] of the draft law regarding the appointment, tenure, resignation, etc., of the Chairperson and Commissioners, it is stated that 'A person shall be ineligible for appointment to the post of Chairperson and Commissioner, if s/he is a Member of Parliament, an elected office bearer of the local government, a member of any political party or, is employed in a government or private institution and does not commit to resigning from the post or, as the case may be, taking deputation, lien or leave without pay as per the rules of the respective institutions if nominated for the post of Chairperson or Commissioner of the Commission'. Through this section, an opportunity has been provided for a government employee to be appointed as a commissioner by taking leave while remaining in service in his own post, which is an obstacle to conducting the Commission's activities neutrally and free from conflict of interest. This is inconsistent with the Paris Principles. Besides, in this section, the eligibility criteria for a person who has

set an example of non-partisanship in professional life, protection of human rights, honesty, and practicing integrity, for being appointed as a commissioner, have been ignored.

Recommendation-4: The provision containing the opportunity for a government employee to be appointed as a Commissioner by taking leave while remaining in service in his own post, as mentioned in [Section 6(3)(c)] of the draft law, must be repealed. At the same time, as an eligibility criterion for the appointment of a commissioner, a section must be added stating 'a person who has set an example of non-partisanship in professional life, protection of human rights, honesty, and practicing integrity must be appointed as a commissioner'.

5. In the draft law, the Speaker, two ministers, one Member of Parliament from the ruling party, and the Cabinet Secretary have been kept as members of the Commissioner Appointment Selection Committee (Section 7). As a result, a risk has been created in commissioner appointment through establishing the dominance of the ruling party, i.e., the executive and the influence of the party in power, and the neutrality of the appointment process being impaired, and a conflict of interest being created. It is noteworthy that in the 2025 Ordinance, there was a provision to keep a Justice of the Appellate Division nominated by the Chief Justice (President of the Selection Committee), the President of the National Press Club or a journalist representative having experience in journalism on human rights issues nominated by him, and a representative having experience working to protect their rights from among the ethnic minorities or marginalized communities as members of the selection committee.

Recommendation-5: In Section 7 of the draft law, in the case of forming the Selection Committee for Commissioner Appointment, 'a Justice of the Appellate Division nominated by the Chief Justice and the President of the National Press Club or a journalist representative having experience in journalism on human rights issues nominated by him' must be incorporated instead of 'two ministers and the Cabinet Secretary'. Moreover, the provision of 'free from partisan political influence' must be added to ensure the neutrality of the appointment process of the member of the selection committee mentioned in Section 7(1). Along with that, it should be written as 'the President shall invite the names of one or more representatives of the "ethnic minority"/indigenous or marginalized community from a forum or platform working with the rights of the "ethnic minority"/indigenous people and shall nominate one person, free from partisan political influence, among them' by amending Section 7(1)(g).

6. In the draft law, the provision to ensure the obligation of completing the selection process through a transparent process in the case of appointing the Chairperson and Commissioners by ensuring the obligation to publish through the website, the impersonal criteria for scrutiny of submitted applications, the list of initially selected candidates with names and identities, and the list of persons recommended to the President with names and identities, etc. has not been added (Section 8). Moreover, the provision of conducting interviews of the short-listed candidates by the selection committee, which was in the Ordinance, has been omitted from the draft law.

Recommendation-6: In Section 8 of the draft law, to ensure the obligation of completing the selection through a transparent process, a sub-section must be added stating 'the selection committee shall publish through the website the impersonal criteria for scrutiny of submitted applications, the list of initially selected candidates with names and identities, and the list of persons recommended to the President with names and identities, etc.' Along with that, the provision of conducting interviews of the short-listed candidates by the Selection Committee, similar to the 2025 Ordinance, must be added.

7. It is stated in the Paris Principles that the appointment process of the commissioners of the national human rights institution should be specific and structured, where the Selection Committee can exercise real and actual authority. However, in the draft law, a provision has been added to send a list with names of 2 (two) candidates instead of 1 (one) person, as mentioned in the 2025 Ordinance, against each post by the selection committee as a recommendation to the President (Section 8), through which the power to apply personal and indirectly partisan consideration has been granted to the President. As a result, the jurisdiction of the selection committee has become narrowed.

Recommendation-7: Section 8(d) of the draft law must be amended by adding the following provision: 'after completion of the aforesaid proceedings, a list with the name of 1 (one)

candidate against each post of Chairperson or Commissioners shall be sent to the President as a recommendation'.

8. It is stated in the Paris Principles that the mandate or jurisdiction of the work of the national human rights institution will be clearly determined and specified in the law as broadly as possible. But in the draft law, the number and scope of specific activities of the Commission that were in the 2025 Ordinance have been reduced by about 50 percent. Among the functions of the Commission [Section 13(d)], it is stated, 'interrogating any person or inspecting any place, office-court, lock-up or detention center during the investigation or subsequently of any matter related to human rights violation or provocation of violation', by which jurisdiction has been given to interrogate any person or inspect the relevant place, office-court, lock-up or detention center only if an incident of human rights violation or provocation of violation occurs, during the investigation of that matter or subsequently. However, jurisdiction has not been given to conduct regular inspection, investigation, or review of whether any human rights violations occur in said places. Besides, searching, inspecting and investigating the possible detention sites of various intelligence agencies and the army, where there is a possibility of keeping detained persons for various tortures including enforced disappearance, and providing necessary recommendations to the government for the improvement of such places and conditions, and if these places are unlawful, recommending to the government to close them and take appropriate action against the responsible persons, etc. have not been included. Along with that, various important activities included in the 2025 Ordinance, such as maintaining regular contact with civil society or NGOs working with human rights, assisting in the formulation and implementation of educational programs related to human rights protection, campaigning on human rights issues, the power to review proposed laws and existing laws, and recommend amendments, etc., have been omitted from the draft law. Moreover, in the draft, no structural arrangement has been confirmed in the activities of the Commission for ensuring the rights of marginalized and vulnerable (religious minority, indigenous, women, children, etc.) communities, monitoring implementation activities, and taking necessary measures in case of violation. The issues related to the violation of the rights of these groups can be resolved only when a complaint is lodged individually. On the other hand, the Paris Principles state that national human rights institutions should be engaged in monitoring the rights of poor and marginalized communities as a structural work, and not only in the case of lodging complaints, with which this section of the law is inconsistent.

Recommendation-8: The following issues must be included in Section 13 of the draft law -

a) Regularly search, inspect and investigate possible detention sites of all law enforcement forces, intelligence and similar surveillance agencies, and the army where there is a possibility of keeping detained persons for various tortures including enforced disappearance, and provide necessary recommendations to the government for the improvement of such places and conditions, and if these places are unlawful, recommend to the government to close them and take appropriate action against the responsible persons;

b) Maintain regular contact and cooperation with citizen organizations on human rights issues and take collaborative activities for the development of human rights;

c) Assist in the formulation and implementation of educational programs related to human rights protection;

d) Campaign on human rights issues;

e) Review measures recognized under the Constitution or any law in force for the purpose of preserving human rights and providing recommendations to the government for their amendment, addition, change, refinement, and effective implementation;

f) Take any steps, including organizing necessary research, training, seminars, and symposiums on any remedy related to the protection, development of human rights, and human rights violations, and provide advice and assistance to the government regarding the formulation of necessary laws and rules and regulations, as needed;

g) Impose obligation to take specific structured measures for the purpose of ensuring the rights of marginalized and vulnerable (religious minority, indigenous, women, children, etc.) communities, monitor implementation activities and ensure accountability in case of its violation.

9. In the draft law, it has not been mentioned which law shall prevail if any other law regarding human rights issues conflicts with this law.

Recommendation-9: A section must be added to the draft law stating, 'If any other law regarding human rights issues conflicts with this Act, this Act shall prevail'.

10. Regarding the investigation of complaints in the draft law, it is stated, 'If a Commissioner empowered for this purpose by the Commission, within 15 (fifteen) days after the filing of any complaint or receipt of information, considers it fit to be taken into cognigence in his own discretion, he shall appoint an investigating officer' (Section 16). In this case, a risk will be created of not taking any complaint into cognizance intentionally or taking an incident into cognizance on political consideration. Besides, it has not been made clear in this section what to do if the Commission does not take the matter into cognizance in case of any information related to human rights violations is received from the media or other sources.

Recommendation-10: A sub-section must be added in Section 16 of the draft law stating 'Upon receipt of any complaint or based on information related to human rights violation from any other medium, including media, the Commission may conduct inquiry or investigation activities'. Along with that, a clear provision must be added stating 'If information related to human rights violation is received from media or other sources and the Commission does not take the matter into cognigence, the Commission shall record the reason for not taking it into cognizance and publish it on the website'.

11. In Section 16(2)(c) of the 2025 Ordinance, there was a provision stating, 'If the accused person is a government employee or a member of the disciplinary force, prior permission of the court or tribunal or the Commission, as the case may be, must be obtained for his arrest and in this regard, prior permission of the government or the relevant appointing authority shall not be required'. However, there is no clear instruction on this matter in the draft law.

Recommendation-11: A provision must be added in Section 16 of the draft law stating 'If the accused person is a government employee or a member of the intelligence or similar surveillance agency of the disciplinary force, prior permission of the court or tribunal or, the Commission, as the case may be, must be obtained for his arrest and in this regrad, prior permission of the government or the relevant appointing authority shall not be required'.

12. In the draft law, the obligation to obtain government approval has been kept in the case of determining the method of appointment and power of the mediator and conciliator by regulation in the case of disposing of complaints through mediation and conciliation [Section 18(3)], which may create a risk of curtailing the independence of the Commission.

Recommendation-12: The provision containing the obligation to obtain government approval in the case of determining the method of appointment and power of the mediator and conciliator by the regulation in Section 18(3) of the draft law must be repealed.

13. In Section 20 of the draft law, the power of the Human Rights Commission to conduct an independent investigation and take action against the disciplinary force or any of its members in case of allegations of human rights violations have been narrowed down. This section states, 'Notwithstanding anything contained in other provisions of this Act, the Commission may, in the case of allegations of human rights violation against the disciplinary force or any of its members, on its own initiative or based on any application, seek a report from the head of the relevant force or the government. If a report is sought, the head of the relevant force or the government shall submit a report to the Commission on the relevant matter. After receiving the report, if the Commission is satisfied, it shall not take any further initiative in this regard; if not satisfied, the Commission shall submit recommendations to the head of the relevant force or the government regarding what is to be done on the relevant matter. This section of the law is basically a literal replacement of the relevant section of the 2009 Act, for which weakness the National Human Rights Commission of Bangladesh was never given an ''A'' status by GANHRI. This section conflicts with the Paris Principles regarding independent review of any matter within the scope of the jurisdiction of national human rights institutions. It is noteworthy that in the 2025 Ordinance, the Commission was given the power to inquire and investigate in the case of allegations of human rights violation against the disciplinary force or any of its members and to provide recommendations for the extent of punishment, compensation or administrative order, and disciplinary action against the

responsible person or institution after the inquiry or investigation, which has been omitted from the present draft.

Recommendation-13: Section 20 must be cancelled, and a provision containing the power of the Commission to 'conduct inquiry and investigation in the case of allegations of human rights violation against the disciplinary force or any of its members; and provide recommendations for the extend of punishment, compensation or administrative order, and disciplinary action against the responsible person or institution after the inquiry or investigation' must be included.

14. In Section 31 of the draft law, a provision has been added stating 'Based on a written request of the Commission and subject to the approval of the Commission, any person appointed in the service of the Republic or a government employee up to 30 percent of the total manpower of the Commission may be appointed on deputation to the Commission'. A fundamental condition of the Paris Principles is that the human rights institution must work independently from government intervention and it must appear to be independent. Appointing a large number of employees from the service of the Republic or government officials on deputation to the Commission or the investigation team of the Commission may create a risk in terms of conducting the Commission's activities independently or ensuring investigation activities are free from influence or government intervention. The appointment process to such posts must always be open to all, clear, transparent, free from conflict of interest, and based on merit, which has not been included in the present draft.

Recommendation-14: By amending Section 31 of the draft law, a provision must be added stating 'In the case of appointing any person appointed in the service of the Republic or a government employee on deputation to the Commission or the investigation team of the Commission, the maximum limit shall be 10 percent, and in this case, the reason why government employees have been appointed on deputation to the Commission or the investigation team of the Commission must be disclosed publicly. If the Commission disagrees in the case of appointing any government employee on deputation, the Commission may reject such an appointment proposal, and the appointment process to such posts must also always be open to all, clear, transparent, and based on merit.

15. Regarding the financial independence of the Commission, in the draft law [Section 36(1)] it is stated, 'The government shall allocate the specified fund in its favor for the expenses of the Commission in every financial year; and it shall not be necessary for the Commission to obtain prior government approval in the case of spending from the said allocated fund in the approved and determined heads'. The budget of the Commission has been made unilaterally dependent on government allocation. In the Paris Principles, adequate funding has been mentioned for the smooth operation of the activities of the national human rights institution, the main objective of which will be to enable the institution to manage its own staff and office, so that it does not depend on the government and is not under such financial control that it may impair its independence.

Recommendation-15: To ensure the financial independence of the Commission, a provision must be added in Section 36(1) of the draft law, stating 'The government shall allocate funds in the budget as charged expenditure upon the Consolidated Fund in its favor according to the proposal received from the Commission for the Commission's expenses in every financial year. It shall not be necessary for the Commission to obtain prior government approval in the case of spending from the said allocated money in the approved and determined heads.

16. To provide constitutional protection from executive intervention, a provision was kept in Section 34 of the 2025 Ordinance for the payment of remuneration and allowances payable to the commissioners as charged expenditure upon the Consolidated Fund under Article 88 of the Constitution, which has been completely repealed in the draft law. At the same time, full discretionary power of the executive body has been imposed over both the amount of the budget and the remuneration of the commissioners, where there is no such kind of procedural safeguard.

Recommendation-16: To provide constitutional protection from executive intervention on the Commission, a provision for 'payment of remuneration and allowances payable to the commissioners as charged expenditure upon the Consolidated Fund under Article 88 of the Constitution' must be added in the draft law.

17. Section 39 of the 2025 Ordinance related to the procedure followed in case of conflict of interest stated 'If the interest of any Commissioner is involved in any matter under consideration while performing duties under this Ordinance, in that case the respective Commissioner shall, as soon as possible, inform the Commission of the matter and shall refrain from participating in the inquiry, investigation and decision-making process of the Commission on the said matter' has been omitted in the draft law. Simultaneously, no statutory arrangement for the relevant person to step down from the responsibility has been kept, as a result of which the commissioners will be able to participate in all decision-making processes involving personal interests without violating the law, which is contrary to the principle related to the conflict-of-interest prevention procedure mentioned in the Paris Principles.

Recommendation-17: To keep the decision-making process of the Commission free from conflict of interest, a section must be added stating 'If the interest of any Commissioner is involved in any matter under consideration while performing duties under this Act, in that case the relevant Commissioner shall, as soon as possible, inform the Commission of the matter and shall refrain from participating in the inquiry, investigation and decision-making process of the Commission on the said matter'.

18. In the draft law, the power to formulate rules has been given to the government, which curtails the independence of the Commission. As a result, an opportunity has been created for the government to make the activities of the Commission stagnant without violating any law by not issuing rules. Along with that, although it is said in the Paris Principles that the national human rights institution must be able to control its own internal procedures and working methods without government approval for every rule, the power to formulate rules in the draft law has been given to the government, which is contrary to the Paris Principles.

Recommendation-18: To uphold the independence of the Commission, Section 40 of the draft law must be amended by adding a section stating 'For fulfilling the purposes of this Act, the Commission may, with the approval of the President, by official Gazette notification, formulate regulations. Provided that, until regulations are formulated, the Commission shall follow the procedure for the execution of its work which is determined by the Commission through written order.

19. Although there was a provision in Section 31 of the 2025 Ordinance related to the Legal Proceedings Branch, there is no such provision related to this or any institutional legal aid framework in the draft law. As a result, complainants will have to spend money on their own legal representation. Along with that, it is also inconsistent with the provision mentioned in the Paris Principles to keep the provision for complainants, especially poor and marginalized persons, to get legal aid in conducting the proceedings of the Commission.

Recommendation-19: To ensure legal aid for the victimized persons, a section must be attached stating 'Establishment of legal proceedings unit of the Commission – 1. There shall be a separate unit of the Commission for the purpose of conducting legal aid activities; 2. In the case where it appears to the Commission that an effective remedy for any allegation or incident of human rights violation is possible by any court, settlement institution or any other similar institution under the prevailing law or system, the Commission may, through the unit mentioned in sub-section (1), file and conduct cases or other legal proceedings in the appropriate court or institution on behalf of the complainant, provide legal aid and protection to the complainant and victim and take any other necessary steps; and 3. The Commission shall, for conducting cases or legal proceedings, form a panel consisting of experienced lawyers and may determine the terms of their appointment or the amount of honorarium by regulation.

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