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***Institutional Approach to Anti-corruption: An Evaluation
of the Anti Corruption Commission in Bangladesh***

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Institutional Approach to Anti-corruption: An Evaluation of the Anti Corruption Commission in Bangladesh

Md. Harun-Or-Rashid¹

Introduction

Corruption is the main impediment to good governance that gradually weakens the key national institutions and spoils all sorts of development initiatives. By distorting the political and economic structures and weakening the social fabric, corruption can also be a potential source of insecurity of the state (Zaman, 2011). Corruption has slowed down the economic development, prejudiced investor confidence and development of public education and health, weakened democracy and called into question the rule of law in Bangladesh since its inception. Corruption has brought Bangladesh to the edge of being a failed state.

International donors, investors along with the national representatives of the civil society show much apprehension about the rise of corruption in Bangladesh. With the course of time, people started to look at anti corruption agencies to take effectual measures. But gradually, confusion rises whether these institutions are effective enough to fight corruption at a satisfactory level. This confusion is not meaningless if we closely look at the former Bureau of Anti-Corruption (BAC) that proved to be completely ineffective in stemming the tide of corruption overwhelming the state. However, it seems that the new Anti-Corruption Commission (ACC), established in November 2004, still remains almost dysfunctional. "Its effectiveness and independence have been intensely debated in the media and beyond. It has been under direct and indirect pressures politically and administratively. It has been ridiculed in the parliament and outside. Its leadership has been intensely debated. The degree of professional excellence, integrity and credibility of its staff has been criticized "(Zaman, 2013). In fact, lack of

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organisational rules and clarity of its functions, weak and divided leadership, weak investigative capacity, and most of all, a hostile political environment affected the ACC's independence and its ability to function. Based on the primary and secondary data, this research analyses the governance of the ACC based on three indicators; independence (how free ACC is from the executive, political and other controls); accountability (the accountability mechanism followed by ACC regarding its functions and its internal accountability mechanism); and efficiency (the capacity of the secretariat staff of ACC to carry out their respective duties).

Institutional Approach to Anti corruption

Because of the multifaceted nature of corruption, the way in which a state opts to respond to corruption and corruption risks will necessarily involve a variety of state and non-state institutions. States may respond through existing institutions, create new ones, or choose a combination of both. States also need to clarify the mandates and functions of the respective institutions and determine how these will interact with one another: in other words, a state needs to define its institutional arrangements for anti-corruption efforts (Hussmann, Hechler and Peñailillo, 2009).

UNCAC and the Provision on Anti Corruption Agency:

According to the Article 6 of the United Nations Convention against Corruption, "each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as: (a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies; (b) Increasing and disseminating knowledge about the prevention of corruption. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary

material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption” (UNCAC, 2004).

So, Article 6 of the UNCAC focused specifically on establishing preventive anti-corruption bodies. It also focused on implementing, coordinating and supervising anti-corruption policies, as well as increasing and disseminating knowledge about corruption prevention. In addition, States Parties are required to grant the body or bodies not only the necessary independence to perform its or their functions, but also the resources necessary to do so.

Article 6 refers to a variety of key functions that a preventive body or bodies should perform. Firstly, implementing anti-corruption policies, second function is the oversight of anti-corruption policies. The third function conferred to the body or bodies described in Article 6 are the coordination for anti-corruption policy implementation. This is important due to the fact that a multitude of public institutions are engaged in implementation. A fourth function of Article 6 refers to the increase and dissemination of knowledge about the prevention of corruption. Considering the many needs and opportunities for corruption prevention research, it is neither manageable nor useful to have the research efforts concentrated in just one government organisation. Finally, Article 6 requires that anti-corruption body or bodies shall be granted the necessary independence as well as the necessary material resources and specialised staff to carry out its or their functions effectively.

ICAC of Hong Kong: A Model of Anti Corruption Agency

The Independent Commission Against Corruption (ICAC) of Hong Kong is considered as a model in fighting corruption. Many countries have followed Hong Kong’s example in setting up a dedicated anti-corruption agency. It has a three pronged approach: deterrence, prevention and education. As a result, the Commission consists of three separate departments: the Operations

Department to investigate corruption; Corruption Prevention Department to examine the systems and procedures in the public sector, to identify corruption opportunities and to make recommendations to plug the loopholes; and the Community Relations Department to educate the public against the evil of corruption and to enlist their support and partnership in fighting corruption. It devotes over 70 percent of its resources to the Operations Department. Apart from professionalism, all ICAC staffs are expected to uphold a high level of integrity and to possess a passion and sense of mission in carrying out their duties. The ICAC is one of the first agencies in the world to videotape interviews of all suspects; they have a dedicated surveillance team with over 120 specially trained agents for whom surveillance is their life-long career. They also have a number of specialized units such as witness protection, computer forensics and financial investigation.

The ICAC's strategy to ensure effective enforcement consists of the components like, an effective public complaint system to encourage reporting of corruption by members of the public and referrals from other institutions. The ICAC has a report centre manned on a 24 hours basis and there is a highly publicized telephone hotline to facilitate public reporting. It also has a quick response system to deal with complaints that require prompt action. At any time, there is an investigation team standing by, ready to be called into action. All reports of corruption, irrespective of whether it is serious or relatively minor in nature are properly investigated by them. There is a review system to ensure all investigations are professionally and promptly investigated. Any successful enforcement is publicized in the media to demonstrate effectiveness and to deter the corrupt. The corruption prevention strategy aims at reducing the corruption opportunities in government departments and public institutions through different methodologies like enhanced system control, staff integrity, streamlining procedures, ensuring proper supervisory checks and control, transparency and accountability, promoting a staff code of ethics and effective Education Strategy. Hong Kong has comprehensive legislation to deal with corruption. In terms of offences, apart from the normal bribery offences, it created two unique offences: firstly, offence for any civil servant to accept gifts, loans, discounts and passage, even if there are no related corrupt dealings, unless specific permission is given.

Secondly, offence for any civil servant to be in possession of assets disproportionate to his official income; or living above means.

On investigative power, apart from the normal police power of search, arrest and detention, the ICAC has the power to check bank accounts, require witnesses to answer questions on oath, restrain properties suspected to be derived from corruption, and hold the suspects' travel documents to prevent them from fleeing the jurisdiction. Not only are they empowered to investigate corruption offences, both in the Government and private sectors, they can investigate all crimes which are connected with corruption. With the provision of wide investigative power, there is an elaborate check and balance system to prevent abuse of such wide power. One unique feature is the Operations Review Committee. It is a high powered committee, with the majority of its members coming from the private sector, appointed by the Chief Executive. The committee reviews each and every report of corruption and investigation, to ensure all complaints are properly dealt with and there is no "whitewashing". It publishes an annual report, to be tabled before the Legislature for debate, thus ensuring public transparency and accountability. In addition, there is an independent Complaint Committee where members of the public can lodge any complaint against the ICAC and/or its officers and there will be an independent investigation.

Hong Kong is amongst one of the earliest jurisdictions to criminalize private sector corruption. The ICAC places equal emphasis on public and private sector corruption. The rationale is that there should not be double standards in society. Private sector corruption can cause as much damage to society, if not more so than public sector corruption. Serious corruption in financial institutions can cause market instability; corruption in the construction sector can result in dangerous structures. Effective enforcement against private sector corruption can be seen as a safeguard for foreign investment and ensures Hong Kong maintains a level playing field in its business environment.

The ICAC adopts a partnership approach to mobilize all sectors to fight corruption together. The key strategic partners of ICAC include the Civil Service Commission, all government

departments, business community, professional bodies, civic societies & community organisations, educational institutions, mass media and international networking.

In Hong Kong, there is clearly a top political will to eradicate corruption, which enables the ICAC to be a truly independent agency. The ICAC is directly responsible to the very top, the Chief Executive of Hong Kong. This ensures that the ICAC is free from any interference in conducting their investigations. The strong political support was translated into financial support. The ICAC is probably one of the most expensive anti-corruption agencies in the world! In 2002, its annual budget amounted to US\$90M, about US\$15 per capita (Tony Kwok Man Wai, 2005).

Corruption scenario in Bangladesh

Currently, corruption is one of the most discussed topics in the everyday life of Bangladeshi people. They experience it at almost every stage from the top lair of the bureaucracy to the petty grocery shop. Not only citizens accepted corruption as a part of their daily life, they also more frighteningly feel themselves powerless to address the phenomenon at any level (Parnini, 2011).

According to a survey by the TIB, in public and private service sectors, 84.2 percent service seekers (who were surveyed in 2010) fell victim to corruption, though the number dropped to 55.8 percent in another survey in 2012. The 2012 survey also showed that, bribe rate rose to Tk 6,100 from Tk 3,184 per household, according to the survey done between May 2011 and April 2012. Besides, a household had to pay on an average Tk 13,084 in bribe for receiving service during the period.

Besides the individual life, the overall impact of corruption on the socio economic development of Bangladesh is also huge. According to an estimate of the Finance Division of the Ministry of Finance shows that over a period of twenty-two years, i.e. Bangladesh received approximately US\$3000 billion in the last 3 decades, of which US\$2250 billion went back to the donors and the rest of the money absorbed by local beneficiaries. Bangladeshi economy loses more than US\$ 100 million dollars a year as a result of corruption representing roughly 25 percent of its GDP

(Transparency International, 2009 (Parini). The recent Padma Bridge controversy is one of such incidents of corruption for which the World Bank, one of the largest donors of Bangladesh, cancelled its \$1.2 billion credit for the Padma bridge blaming that there was an attempt to corruption in the project by the top government officials (Daily Star 2012). Besides, in case of numbers of high profile corruptions, like the Hall-Mark, Destiny, railway, share market etc, ACC has found itself in a relentless test of credibility and confidence nationally and internationally (Zaman, 2013).

The presence of widespread corruption and its devastating impact in the society, polity and economy are acknowledged by all major political parties - in the Government or outside. (Zaman 2011).

According to the annual Corruption Perceptions Index (CPI) published by the Transparency International-Bangladesh (TIB), the country was ranked as the top most corrupt country for five successive years from 2001 to 2005.

CPI 2012 – Results South Asia

Country	CPI 2012		CPI 2011*		Change	
	Score	Rank/176	Score	Rank/183	Score	Rank
Bhutan	63	33	57	38	+6.00	+5
Sri Lanka	40	79	33	86	+7.00	+7
India	36	94	27	120	+5.00	1
Pakistan	27	139	25	134	+2.00	-5
Nepal	27	139	22	154	+5.00	15
Bangladesh	26	144	27	120	-1.00	-24
Afghanistan	8	174	15	180	-7.00	+6

Ranking from top

** 2011 score converted into 2012 scale*

Maldives was not included in the 2012 Index for shortage of minimum 3 data source



Source: TIB, 2012

Both the major political parties in Bangladesh included the issue as a top priority in their election manifesto. The current Awami League government included the issue of anti corruption in their top five priority issues mentioning “The institutions of the State will be made more effective along with the independent and strong Anti-corruption Commission for curbing

corruption. Social resistance to corruption will be promoted alongside legal steps. All possible steps will be taken to stop corruption such as Charter of Citizens' Rights, Right to Information, Computerisation of Official Documents, and Decentralisation of Power" (BAL, 2008). Besides, the 3rd main issue of BNP's election manifesto in 2008 was regarding ACC. According to the BNP Manifesto, the Anticorruption Commission will be given opportunity to work independently and neutrally according to the constitution and other rules and regulations (BNP, 2008).

Politics corruption nexus/clientalism

To understand the exact scenario of corruption in Bangladesh, it is obvious to look at the nature of Bangladeshi politics. The long tradition of power oriented politics created an informal structure of governance and such informal governance structure is largely defined by the patron-client relations. A personal contact with politicians or officials is often a more successful solution to grievance resolution than formal complaint channels, particularly in service delivery (IGS, 2006).

Patron-clientalism could be defined from two perspectives in the informal governance structure of Bangladesh; horizontal and vertical. Horizontally, political parties create loyalties and allegiances and collude with key state actors and organisations. This patron-clientalism is predominantly evident in the administration where all kinds of appointments, promotions and transfers are often decided based on political affiliation, when the party in power.

In the vertical form, followers of certain political party are rewarded based on their loyalty to the immediate party leaders. Such relationship spreads downwards in a chain of leaders-followers. The relationship produces *mastans* who collect extortion and mobilize a vote bank for their patrons. In return, patrons provide them incentives in the forms of protections, giving pie of the collection, and promotion within party hierarchy. In a field survey conducted by Parnini, respondents opined that most of the political elites and bureaucrats do not care about the role of the anti-corruption measures and ACC, as they deem themselves more powerful and

consider themselves beyond the reach of the ACC or any kind of anti-corruption actions. (Parnini, 2011).

Legal Frameworks for Anti corruption in Bangladesh

The Prevention of Corruption Act 1947 is the early piece of legislation relating to anti corruption in Bangladesh, through which the Bureau of Anti Corruption was established. Some of the other legislations are the Anti-Corruption Act 1957, the Anti-Corruption Rules 1957, Criminal Law Amendment Act 1958.

The current Anti Corruption Commission was established by the Anti Corruption Commission Act 2004. The Anti Corruption Commission (ACC) Rules, 2007, The Anti Money Laundering Act 2009, The Right to Information Act 2009, Representation of the People's Order (RPO), 1972, The Whistleblower Act 2010 are also some of the important legislations for anti corruption drive.

Besides the national legislations, Bangladesh has also ratified the United Nations Convention against Corruption (UNCAC) on February 27, 2007 that has been a significant and symbolic step, expressing the government's commitment to take swift and effective reform measures necessary to promote good governance, and prevent and fight corruption in compliance with international standards. UNCAC is the first global legally binding instrument that addresses the full scope of institutional and legal settings need to be in place to effectively combat corruption, ranging from prevention and criminalisation to international co-operation and asset recovery. This establishes a foundation for the government to address corruption both nationally and globally (Parnini, 2011). As part of the process of implementing UNCAC, Bangladesh has conducted an analysis of the entire set of anti-corruption laws, institutions and processes against the UNCAC requirements and issued the "UNCAC - A Bangladesh Compliance and Gap Analysis" (BCGA) report in January 2008. The report provided an overview of the compatibility and compliance of national laws and practices with UNCAC standards; it identified gaps and made recommendations for further action.

ACC Act 2004:

Anti Corruption Commission Bangladesh was formed through an act promulgated on 23 February 2004 that into force on 9 May 2004. . It comprises of three Commissioners whose independence stems from the fact that they are appointed by the President and that they are not eligible for re-appointment. Also, no Commissioner shall be removed from office except on grounds and in accordance with procedures similar to those applied to the removal of Supreme Court judges.

Mission: to controls corruption by identifying hot spots and areas of vulnerabilities for targeted investigative and prosecution action, prevention and curative treatment beside preventive education and advocacy.

It ultimately suppresses corruption through the effective and cumulative effects of its combating, controlling and prevention efforts enumerated above.

Chairman and commissioners: The commission is mandated as independent, self-governed and neutral entity. It consists of three Commissioners; of them one as the chairman and all appointed by the President on the recommendation of the Selection Committee for a period of four years from the date of their appointment. While the commissioners function on full time basis loses eligibility for reappointment on expiry of the term in their office.

Functions of the commission:

- To enquire into and conduct investigation of offences mentioned in the schedule
- To file cases on the basis of enquiry or investigation and conduct cases
- To hold enquiry into allegations of corruption on its own motion or on the application of aggrieved person or any person on his behalf
- To perform any function assigned to Commission by any Act in respect of corruption
- To review any recognized provisions of any law for prevention of corruption and submit recommendation to the President for their effective implementation
- To undertake research, prepare plan for prevention of corruption and submit to the President, recommendation for action based on the result of such research
- To raise awareness and create feeling of honesty and integrity among people with a view to preventing corruption
- To organize seminar, symposium, workshop etc. on the subjects falling within the functions and duties of the Commission
- To identify various causes of corruption in the context of socio-economic conditions of Bangladesh and make recommendation to the President for taking necessary steps
- To determine the procedure of enquiry, investigation, filing of cases and also the procedure of according sanction of the Commission for filing case against corruption and
- To perform any other duty as may be considered necessary for prevention of corruption.

Power to make rules: The Commission for carrying out the purpose of Anti Corruption Act, 2004 has been vested with the power to make rules by notification published in the official Gazette with the prior approval of the President.

Anti Corruption Agencies in Bangladesh: From BAC to ACC

An anti corruption agency could be simply defined as a publically funded body of a durable nature with specific mission to fight corruption and associated crimes and to reduce the opportunity structures favourable to its occurrence through preventive and repressive strategies (Charron, 2008).

In Bangladesh, the Bureau of Anti-Corruption (BAC) was such kind of agency for anti corruption that was initially set up as an ad-hoc organisation in East Pakistan in 1957, and became permanent organisation in 1967. Around the same time, the Anti-Corruption Act was passed in 1958. After the independence of Bangladesh in 1971, the organisation was reformed to include the duties of the Special Police, after the Special Police was abolished. The next administrative changes were made in 1988 when the divisional anti-corruption offices were transformed into regional offices. With the return to democracy in 1991, the BAC came under the auspices of the Prime Minister's Office and failed to be an effective anti corruption agency due to the administrative control and widespread politicisation of the public sector.

Despite the existence of such a specialized agency, corruption in Bangladesh slowly worsened over time, although there were discussions on corruption during the reign of every government. However, the issue became a burning one when Bangladesh was placed at the bottom of the report titled Corruption Perceptions Index (CPI) of the Transparency International (TI) in June 2001. Donors and international organisations expressed serious concern over widespread corruption in Bangladesh and even on many occasions foreign assistance were tied with the effectiveness of the anti-corruption measures of the Government of Bangladesh (Parnini, 2011). Few of the most significant failures of the BAC were its low conviction rate, high number of pending cases, weak prosecution, stays and delays granted by the courts, absconding suspects, lack of preservation of evidence, unwillingness of witnesses to testify, weak monitoring and no research capacity. These factors, along with the influence of politicians and influence peddlers, often made cases difficult to prosecute (TIB 2001). An unwritten rule of the Bureau was its inability to investigate sitting Members of Parliament (MPs) or Ministers because its position under the PMO gave the Executive authority to use

discretion over which cases to investigate and prosecute. Scholars started to criticize it as a toothless watchdog. Consequently, the Anti Corruption Commission was established in 2004.

The Anti-Corruption Commission in 2004

On 17 February 2004, the Bangladesh Parliament enacted the Anti-Corruption Commission Act (ACC Act) which came into effect on 9 May 2004. The beginning days of the ACC were marred by political and logistical obstacles. Besides determining the fate of the BAC staff, the Commission also inherited approximately 20,000 pending cases, some of which were outside the BAC's jurisdiction. To exacerbate matters, the ACC met political resistance as the then opposition party leaders announced their disapproval of the ACC and declared it inherently biased. (IGS policy note 2007).

From 2001 to 2005

During the non party Caretaker Government (2007-2008) the commission performed better than the political governments, that achieved good news from the Corruption Perception Index (CPI)-2009 that released by Transparency International (TI) on November 17, 2009. The index showed that Bangladesh, among nine out of the 180 countries included in this survey that have achieved "notable improvements." On a scale of 0-10 Bangladesh scored 2.4, compared to 2.1 in 2008. In terms of ranking, Bangladesh has become 13th from below which is 139th among 180, whereas in 2008 it was 10th from below or 147th among 180. However, it may be recalled that Bangladesh was earlier placed at the very bottom of the list for the fifth successive year from 2001-2005. Bangladesh was ranked number 3 in 2006, number 7 in 2007, and number 10 in 2008.

Evaluating ACC: Theoretical Perspective

Doig et al (2007: 252) pointed out one or more of the three common features of an anti corruption agency. Firstly, independent investigation and enforcement power for maintaining the credibility of the body's assessments and findings of corruption in a society. Secondly,

corruption prevention activities are another important functions of an anti-corruption agency. Most of such effective agencies including the Hong-Kong ICAC offer advice on macro and micro strategies for averting corruption via corruption prevention departments. Such capacities include workshops on anti-corruption and consultative and assistance aid to public and private sector employees. Thirdly, to raise public awareness and educate on matters of corruption in addition to prevention and investigation, such agencies should undertake a broader role to conduct research and monitor and promote reform in the public service and/or the criminal justice system generally (Charron, 2008).

Independence of ACC: Theory and Practice

Independence of ACC means, it must be politically independent both in law and in practice from the government and have the political will to carry out its mandate (Charron 2008). Independence implies the institution should act free from any pressure- external or internal, and, should have the discretion to draw resources and spend them to fulfill its mandate. In this connection the issue of leadership becomes a crucial element of independence. The leadership's ability and will to act objectively in a non-partisan manner increases the institution's independence and credibility. Besides, there should be institutional protections for the appointment and removal of senior heads. (Meagher 2004: 94) argues that a primary reason as to why the African ASA's have remained ineffective is due to no structural independence or only partial autonomy from the governments. On the other hand the CPIB in Singapore has succeeded due in part to its strong bureaucratic autonomy, in particular from law enforcement.

In theory the ACC is deemed as independent. The independence and autonomy of ACC has been guaranteed by the Anti-Corruption Commission Act (2004). The government cannot remove the leadership of the institution at their will. The ACC is not a constitutional body but plays a crucial role as a horizontal accountability institution. The institution has the statutory independence, which is consistent with theory but in practice that indicates deviation. Although the ACC is not a constitutional body, but an independent, autonomous and neutral organisation

(ACC Act 2004, Section-3). Despite of it being an independent and self governing authority and having comparatively transparent appointment process, record indicates that the institution has been largely ineffective. Lack of organisational rules and clarity of its functions, weak and divided leadership in the early years, affected the ACC's independence and its ability to function. The new government came in power with giving the anti corruption top priority in its manifesto. The ACC also got new leadership with the changes of government. Public interest in the Commission's effectiveness intensified after the grand coalition government led by Bangladesh Awami League came in power, which identified corruption control as one of its top strategic priorities. Among a series of related commitments was a pledge to strengthen the independence and effectiveness of the ACC. However, within a year of assuming power, the government introduced a set of amendments to the Anti-corruption Act that could have further curtailed the independence and effectiveness of the Commission (Zaman, 2013)

Strong and able leadership can be argued as the key catalyst ensuring independence of these bodies. Constitutional and statutory protections are the necessary condition for independence but strong leadership is the sufficient condition that ensures independence in practice.

Relationship with the Executive

Since the formation of ACC in 2004, the executive interference in the functions of ACC was notable, especially on the two issues: Appointment of secretary and the transfer of the BAC staffs in the ACC. Matters were complicated in the first ACC body when the BNP-led government attempted to appoint a Secretary of the ACC without consulting the Commissioners. This conflicted with the ACC's desire to appoint a secretary by its own choice. On the other hand the Commissioners blamed the Cabinet Division for its interference in the function of ACC as the cabinet division sent a letter to the ACC stating that the Cabinet Division has the sole jurisdiction to transfer the staff of the defunct Bureau of Anti-Corruption (BAC). The letter was issued against the backdrop of transfer order of eight BAC staff by a BAC Director to different offices of the ACC. The transfer order has triggered a feud between the ACC chairman and a commissioner. Rift resurfaced in the three-member Anti-Corruption

Commission as it decided — two votes to one — to send a letter to the Cabinet Division, asking it not to interfere with the commission's activities and thus make the commission inoperative. In 2010, the cabinet, in its regular weekly meeting approved in principle certain amendments to the Anti-Corruption Commission Act (ACC), 2004. As reported in the newspapers, the proposed amendments include; obtaining of prior government approval by the ACC for filing cases of corruption against government officials, making the ACC accountable to the president of the republic, prescribing punishment of up to five years imprisonment with fines for filing a false complaint or case against any individual, and appointing of the ACC's secretary by the government.

Transparency International Bangladesh (TIB) and some civil society members have criticised the proposed amendments to the ACC law. The World Bank and the European Union have also expressed concern and stressed that the "ACC should work independently -- financially and politically." (Daily Star, 2010)

Financial Autonomy

Fiscal autonomy is another important aspect of independence for the ACC to function effectively. The role of the Ministry of Finance (MoF) and the Parliament is of crucial importance in this respect. According to the Anti-Corruption Act (2004), government will allocate a certain sum in favor of the Commission in expenditure though obtaining permission to spend the allocated money is not required for the Commission. (Section 25, ACC Act, 2004). However, there is no any permanent source of funding for the ACC so that it can take initiatives independently for various purposes essential for anti-corruption drive. In order to make the ACC more independent in this regard, a long-term block grant could be provided by the parliament at the beginning of each new term but the specific amount may be fixed in the annual budget and open to Parliamentary debate.

Compared to successful countries of Asia, it is also proved that, ACC's budget appears to be inadequate. Besides, the Commission could not fully utilize the fund allotted to it. There is always a huge gap between budget allocation and utilisation. Section 30 of the ACC Act, 2004

creates a scope for retaining financial control of the ACC in the hands of the Government. Government not only retains the power of budget allocation but also specify the items on which it is to be spent as mentioned in Section 25 of the ACC Act. This limits the autonomy of utilisation of funds are visible. Unlike constitutional bodies, such as the Election Commission or the Public Service Commission, ACC gets its budget as 'other expenditure' that is subject to vote of Parliament. These provisions are contrary to financial independence of the ACC. (Parnini, 2011).

Section 30 states that Commission's organisational structure and budget will be determined by the Government, which poses limits to Commission's independence. Section 34 subjects the exercise of the power of the Commission to make rules to the prior approval of the President. Section 36 allows the government to intervene and resolve difficulties that may arise due to the vagueness of the ACC Act as to the power and responsibilities of the Commission (Parnini, 2011).

Appointment Process

The appointment process is an important aspect related to independence and it is expected that the leadership should act in a non-partisan manner. The ACC 2004 clearly describes about the appointing the leadership positions for the ACC. The ACC Act, 2004 and ACC Rule, 2007 clearly defines the process, criteria for selecting the Chairman and Commissioners along with the non-eligibility criteria as well. The search committee makes the nominations and the President appoints the Chairman as well as the Commissioners from the list of nominees suggested by the search committee (Section 5-13, ACC Act 2004). But as per Article 48(3) the President need advice from the Prime Minister. Despite these advantages, the appointment of the first Chairman and Commissioners created controversy due to politicisation (IGS, 2007). Although, the process is well defined but lacks transparency in the process. The process does not include the civil society, media and the opposition in the process.

The selection and appointment of the executive(s) of the ACC should be a shared responsibility of several institutions (Parnini, 2008) that did not happen. Apart from selection of ACA leadership, it should also have the freedom to hire its own staff. However, as has already been mentioned, ACC had to absorb more than eighty per cent of the now defunct BAC staff whose honesty and integrity were not beyond question.

Accountability of ACC

Linked to independence is accountability—greater the independence, greater will be demand for accountability. A watchdog body created in public interest by public money must be accountable to the people; rigorous self-regulatory as well as external accountability mechanism must be in place. In Hong Kong, there are oversight committees to monitor the activities of the ICAC. Three oversight committees are—the Operations Review Committee, the Corruption Prevention Advisory Committee and the Citizen Advisory Committee on Community Relations (Parnini, 2008). The oversight committees seek to ensure that ICAC's investigations are undertaken with highest level of integrity. Australia (New South Wales) has established two internal oversight committees and two external oversight committees. The internal committees review the organisations policies and procedures on prevention, education, research and investigation, while the external committees ensure that it remains accountable to the public (IGS, 2007). In Bangladesh, no such committees exist to hold the ACC accountable. In fact, the ability of an anticorruption agency to work in an unbiased way also depends on appropriate checks and balances as well as constant scrutiny through various oversight mechanisms.

Public accountability of such an institution could be twofold. First, a critical part of its success (or failure) is the involvement of the public. Everyday citizen complaints and oversight of abuses of corruption provide the agencies salient information they can then use to potentially investigate crimes. Yet the Agency must also be accountable to the public via legislative and/ or executive oversight so as not to breed suspicion that the agency itself might be abusing its power. Hong Kong's ICAC and the CPIB have been effective because of the strong government oversight of the agency itself so as to prevent ASA members from becoming corruptible while

giving the agency a sense of legitimacy with the public. Citing the strong public oversight in the case of Ecuador's Comisión de Control Cívico de la Corrupción (CCCC), Meagher (2004: 93) argues that strong linkages to oversight and accountability can "go some way towards counteracting weakness in other areas" that the ASA might suffer from. A strong connection to civil society and established citizen organisations is also helpful (Charron, 2008).

Structurally, accountability could be defined as "A is accountable to B when A is obliged to inform B about A's actions and decisions, to justify them, and to suffer punishment in the case of eventual misconduct" (Schedler, 1999: 13). This process starts with providing an incumbent with clearly stated responsibilities and ascertaining his/her knowledgeable consent followed by periodic upward reporting by the incumbent about his/her performance of responsibilities. To put it in another way we define accountability, in strict sense, as the relationship between two parties; one is the 'holder of accountability' and the other is the 'giver of accountability'. Therefore, whenever a relationship is established in which the 'holder' has the right to seek information about, to investigate and to scrutinize the actions of the 'giver', we can term that relationship as accountability (Mulgan, 2002:3).

If we analyze the accountability of ACC as per the 'holder-giver' relationship, we can analyze it from three aspects-

- relationship between the President as holder and the ACC as giver
- relationship between the ACC as holder and the ACC's own administration as giver. This is an analysis of the internal accountability mechanisms.
- relationship between the citizens as holder and the ACC as giver

Relationship between the President as 'holder' and ACC as 'giver'

According to the Clause 29 of the Anti-Corruption Commission Act (2004), the Commission shall submit its annual report by 1 March every year to the President. The President has the onus to

present the report to the Parliament. Since inception in 2004, the Commission produced only one Annual Report (2007-2008) so far, and it was during the non party caretaker government.

The statutes do not specify any deadline for the President to present the annual report of ACC to the Parliament. The role of parliament is of crucial importance here. The President can play a significant role by ensuring a pro-active role with the annual reports by facilitating timely placement in the Parliament. Parliamentary discussion on these reports, on the other hand, is likely to increase accountability and legitimacy of the ACC. The statutes do not provide a clear indication as to how the parliament can play a role in this regard. The MPs, as per the Constitution, use the committees and/or use tools such as questions, and various types of motions to exact accountability. Since 1990s the, the Parliament has been more or less active vis-à-vis their predecessors. There is not much evidence available as to how the MPs have fared in discussing issues related to the accountability of the oversight institutions, neither in the house nor in the committees. It can be argued that the ACC is less serious in producing a credible annual report in Bangladesh. The statutes also lack specific directions or guidelines regarding the preparation of the annual report.

Internal accountability: ACC as 'holder' and its own administration as 'giver'

According to the ACC Act (2004) clause 16 the Anti-Corruption Commission's administration is headed by a secretary who is directly recruited by the Commission. The Commission also has the authority to employ its own staff. The Act further states that the personnel of the Commission shall be subject to the rules laid down by the Commission. Under clause 22 section 8 of the ACC Rules (2007), the Commission can ask the government to send officers on deputation and at the same time ACC personnel can be sent to other government offices. The Anti-Corruption Commission Rules (2007) Section 7 states that the Commission shall have the Internal Corruption Investigation Unit headed by the Chairman. The Unit shall investigate if there is a complaint against any of its own staff and has the authority to seek help from other law enforcing and investigating agencies if required. If any person is found guilty, the Commission has the authority to take criminal charges. The ACC (Officials) Service Rules (2008)

defines the internal accountability mechanisms adopted by the Commission. The officers and staff have to follow the rules while working at the Commission. Staff and Officers have to submit their own as well as their family members' wealth statement within 7 days of joining the Commission and they have to submit similar wealth statement by 31st December each year. The main feature of the service rules is the flexibility in recruitment of personnel. The Commission recruit substantive vacant positions through direct induction, promotion, deputation and on contractual basis. The Commission shall have a promotion and recruitment committee to address issues related to recruitment and promotion. The Commission is entitled to exercise the power of the parent organisation in initiating departmental proceedings against officials working in the Commission on deputation (ACC Annual Report, 2007-2008; 47).

Relationship between the citizens' as 'holder' and the ACC as 'giver'

The Constitution guarantees freedom of thought, and conscience and of speech under Article 39. The citizens have the right to know about the functions and activities of the state institutions to develop an informed opinion. Besides, the oversight institutions receive money from the government coffers, which is composed of tax money received from the citizens'. Hence, accountability to the citizens' is another dimension of the oversight institution's accountability.

The ACC has been under media scrutiny from the very beginning. The ACC Chairman meets the press from time to time and updates about its activities. Thus media has become a conduit between the citizens and the Commission. The Commission also acknowledges the role of media in fighting corruption. Objective journalism could contribute to the fight against corruption along with other social problems (ACC Annual Report, 2007-08; 49).

Efficiency of ACC

Organisational Structure and culture matters for efficiency

Bangladesh Anti-Corruption Commission has an organogram consisting of 1264 total staff which consists of beside the Chairman and the two commissioners; one secretary, six Director Generals, 19 Directors, and the rest are subordinate investigating officers and clerical/supporting staffs. Currently there are two types of staff in the commission such as the staff of former Bureau of Anti-Corruption (BAC) and the ACC recruited officials. As a result two types of culture exists within the Commission. According to our observation, currently, most of the officials in the ACC are from BAC, though the BAC was highly criticized for its malfunctioning. However it might be a threat for the efficient running of the ACC.

Capacity in Human resource management

We have discussed earlier that, there are two types of staff in the ACC consisting of the former BAC officials and ACC recruited officials. On the other hand, ACC is suffering from lack of expertise officials for certain sections. Such as, though there is a research section in the ACC, but the section is completely inactive due to the absence of qualified researcher. One of the high officials claimed that, no qualified researcher would like to join at the section due to the low salary scale and the officials we have are not competent enough to conduct any type of research. The existing deputation system might hamper the effective running of the ACC; this is because the deputed officers might feel uncomfortable to take any action against certain government agencies.

According to the ACC Act (2004) it can recruit sufficient officials for the sake of effective running of its activities. However, one of the ACC high officials claims that, “efficient person don’t want to join at the ACC because of low salary structure. Till date the research cell could not get an efficient researcher. As a result the section is completely inactive. So, the section 16 of the ACC Act 2004 is not in practice within ACC.

Regulatory and Technical Efficiency

The regulatory capacity of the ACC is always questionable. The main task of the ACC is to regulate cases against corrupt government officials, politicians and other private sectors. But most of the cases undertaken by the ACC is going to the uncertainty. One former ACC Chairman recognized the fact that most of them could not realize the future constraint to regulate corruption cases on the basis of new ACC rules and regulations. Besides the matter, the Commission has failed to take proper initiative against corrupt government officials though the corruption history of the administration is clear to all.

ACC's workforce constitutes less than 0.1 per cent of the total number of posts in the civil employment in Bangladesh, which is 11, 82765 (Parnini, 2008). A total of 1264 staffs seems to be inadequate to fight against corruption in a country with a population of about 140 million (BBS, 2008:3). In the context of huge population in Bangladesh and successful experience in other countries, it appears that the ACC is running with inadequate staff in combating corruption. It is also recognized that adequate staff even cannot effectively check corruption if they themselves are not honest and competent. To ensure its integrity, honest and competent personnel must be appointed in the ACC. However, in reality, ACC absorbed eighty-five percent of staffs of now defunct BAC personnel without any screening process. Apart from civilian staff; officials from the armed forces are also deputed in the top positions (Parnini, 2008).

Conclusion

Researchers and practitioners are still struggling with the crucial question- "How can we determine with any confidence the value-added of any anti-corruption institution in carrying out its mission to contribute towards reducing corruption?" No anti-corruption institution, notwithstanding its mandate, functions, powers and management will succeed alone to eradicate corruption in a given country. Its purpose is, however, to play a leading role in the reduction and control of corruption (OECD, 2008).

Linking the success of an anti-corruption institution like ACC with the level of corruption in a given country entails a number of risks. While the reasons differ in depth and length, they generally refer to a list of political, economic, governance, legal, organisational, performance and public confidence factors, also known as Seven Deadly Sins. These are- **political sins**-a lack of genuine political commitment; **economic sins**-include a variety of factors on the macro- and

micro-economic level--the institution will more likely fail if it is operating in an environment of endemic corruption, in a highly state-controlled economy, or in an environment that lacks basic macro-economic stability and a transparent tax system; **governance sins**-no anti-corruption institution can work in a vacuum. An institution's effectiveness is closely linked to the overall performance of other institutions; **legal sins** include a number of factors related to the general state of the Rule of Law in a particular country, the functioning of the criminal justice system, and in particular the courts – all of which has an indirect impact on the performance of any anticorruption institution; **organisational sins** Inappropriate organisational structures (e.g. modelled on foreign models without adequate appreciation of local specificities), priorities and focus can significantly contribute to the failure of anti-corruption institutions; **public confidence sins**-in the first place, the public should be aware of the existence, mandate, functions and performance of an anti-corruption institution (OECD, 2008).

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