

BUREAU OF ANTI-CORRUPTION (BAC)

Prime Minister's Office

FACT-FINDING REPORT

Transparency International Bangladesh (TIB)

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**Fact-Finding Report on Bureau of Anti-Corruption
Prime Minister's Office**

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PREFACE

Corruption is the main obstacle to the socio-economic development of the country. Nowadays, the developing countries of the world are emerging as newly industrialized and economically developed. But after 30 years of the Bangladeshi independence, the harmful phenomenon of corruption is gradually increasing in every sphere of the state.

TIB is working towards a corruption-free Bangladesh by advocating transparency and accountability in administration for stronger economic growth. An investigative programme to resist corruption has been undertaken by TIB, under a three-year-long National Integrity Programme (NIP), reviewing the country's legal and institutional structure and analyzing the endorsed rules of the government in the service-oriented sector. One of the watchdog agencies, the Bureau of Anti-Corruption (BAC), has been included in this investigation.

This investigative report on the BAC is implemented under the NIP, with the financial support of USAID. TIB conveys its appreciation to USAID for their assistance. TIB is also grateful to the Director General, BAC, for help in data collection and giving permission to visit a district office, to observe field-level activities. Gratitude is also due to the former Director of the BAC, Md. Momenul Haque, and all other staff and officials of the BAC at the main office and at field-level, for their generous support in data-collection.

TIB's Research Associate, M. Anwarul Amin, conducted data-collection, analysis and report-writing and overall management of the fact-finding exercise. Murad Hasan, former Research Associate of TIB, has also contributed to the fact-finding exercise at the primary level. TIB's Research Officer has given advice on the systematic representation of the information. All other personnel of different TIB teams have contributed their valued views for the development of the report.

Professor Dr. Jamal Munshi of the California State University, USA and Mr. Abu Zayed Mohammed (studying at Melbourne University, Australia) have given valuable advice and we convey our cordial thanks to them.

Professor Khan Sarwar Munshid (Chairman, TIB Board of Trustees) and Professor Muzaffer Ahmed (Member, TIB Board of Trustees) have acted as advisors to the investigation.

We hope that this report on the BAC will make people in all spheres aware of the performance of the Bureau. To make the role of the Bureau more effective in restraining corruption, we hope that the concerned authority will pay due attention to it and read it with an open mind. This report, initiated for the first time at the private level, will ultimately be a success if its suggestions are implemented and the Bureau is mobilised to act in accordance with the spirit of its founding.

Of the information included in this report, the most recent is collected from the BAC and dated 10 October 2001.

TIB is solely accountable for the subject matter of the report. Some mistakes are not impossible in such a report despite every care being taken. We hope these mistakes will be treated indulgently.

Manzoor Hasan
Executive Director

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Abbreviations

ACO	:	Anti-Corruption Officer
BAC	:	Bureau of Anti-Corruption
BCS	:	Bangladesh Civil Service
C&AG	:	Comptroller and Auditor General
C&B	:	Construction and Building
CD	:	Case Diary
CID	:	Criminal Investigation Department
CrPC	:	Criminal Procedure Code
DAB	:	District Anti-Corruption Bureau
DACO	:	District Anti-Corruption Officer
DC	:	Deputy Commissioner
DPHE	:	Department of Public Health Engineering
FIR	:	First Information Report
FRT	:	Final Report As True
GP	:	Government Pleader
GR	:	Government Records
PMO	:	Prime Minister's Office
PP	:	Public Prosecutor
PWD	:	Public Works Department
SP	:	Superintendent of Police
UNO	:	Upazilla Nirbahi Officer

Executive Summary

Bangladesh has been categorized as one of the most corrupt nations in the world in various reports by donor agencies. The high level of corruption has been impeding the process of good governance. Therefore, it is of prime importance that the issue of corruption is addressed soon. The Bureau of Anti-Corruption (BAC), a prime watchdog agency on the issues of corruption, has a crucial role to play in combating corruption.

There is a Director General at the top of the organizational hierarchy with six Directors working directly under him. It appears from the statistics on the Bureau's manpower that sanctioned manpower for its programs encompassing the whole of Bangladesh is 1,271. The sanctioned number of Class I posts in the Bureau is 12% of the total sanctioned posts. The number of sanctioned Class II posts in the Bureau is 14% of the total. Respectively 70% and 4% of the total sanctioned posts are of Class III category and Class IV category. Of the sanctioned posts, Public Relations Officer, Computer Operator and Computer Programmer have not yet been appointed. In the absence of a Public Relations Officer, the Bureau cannot develop relationships with the general public and the mass media. In the absence of a full-fledged computer unit, the Bureau cannot accelerate and maintain efficiently its filing and record-keeping systems.

The administrative activities of the Bureau revolve around its head office. All field-level activities of the BAC are directed from regional offices and district offices. The Bureau has 8 regional and 66 field-level offices. The Bureau follows the provisions and procedures as incorporated in the Anti-Corruption Act 1957, the Prevention of Corruption Act 1947, the Criminal Law Amendment Act 1958 and the Manual of the Bureau of Anti-Corruption 1970.

Consequently, the role of the Bureau has been emphasized by different regimes over different periods of time. For example, changes in the governance structure in the past have led to various changes in the reporting structure of the BAC. At one point it was brought under the control of the President and at another point it was shifted to the Prime Minister's Office. In addition, several functions of the BAC were activated through ordinance at various points in time. Despite many attempts to make it an effective agent for combating corruption, the efficacy of the BAC needs to be closely assessed.

To avoid undue harassment of any public servant, prior permission has to be obtained from the concerned government authority before commencing an investigation. However, according to the findings of TIB it has been observed that the process of providing such permission is often delayed, thus prolonging the investigation. A close examination of certain cases indicates that obtaining permission for carrying out an investigation from the Prime Minister's Office requires 4 to 9 years. TIB undertook a small survey to determine accurately the actual time required for granting permission. According to the findings of the survey, up until March 2001 the duration of cases filed with the BAC and awaiting approval from the PM for the commencement of investigation ran between 1 to 6 years. Paradoxically, the PM's Office has a maximum of six months' limit to grant such

permission. Due to the delay in granting permission, evidence is often ruined, resulting in actions not being taken against administrative and political corruption. Furthermore, the time-span between primary inquiry and subsequent investigation is unusually long due to other factors. For example, once permission is received, instead of arresting alleged offenders, charge-sheets are often presented showing them to be absconding. As a result there is a long delay before effective legal action is taken.

A close look at the figures obtained from the above-mentioned survey reveals that the number of complaints filed between the years 1994 and 2000 was 31,746, an average of 4,535 cases per year. The number of complaints, including those pending from previous years during the same period, amounted to 70,201, an average of 10,029 per year. The rate of settlement of cases was 41%, while the rate of pending cases had been 59%. Only 9% of the complaints filed were brought before the court. While 32% of complaints were filed, only 18% of the complaint sheets had been submitted. Every year, final reports for 6% of the cases were submitted due to complaints being proved false. It should be mentioned here that the rate of incomplete cases is 77%. Among the number of cases filed, an average of only 456 or 9.2% of cases were resolved, an average of 4% of the cases received sentences and 5.2% of the cases had resulted in acquittals. Every year 90.8% of the cases filed are left as pending for the following year. The number of cases at the Bureau both pending and awaiting inquiry, investigation and/or sentencing has neither increased nor decreased. The rate over the past seven years has fluctuated. The low rate of convictions fails to discourage dishonest people from carrying out corrupt practices and fails to induce fear of being implicated. Six District Anti-Corruption Bureaux (DABs) in three divisions of the country were visited. During the visit data were sought to ascertain patterns of corruption, to identify sectors with the highest level of corruption and to determine the number of cases brought before the court. However, no such data were available. Up until December 2000, the total number of complaints lodged with the Bureau was 9,330, including 6,896 under inquiry and 7,733 (2,902 + 4,831) under investigation. Between the seven months stretching from January 2001 to July 2001, the Bureau received 2,504 new complaints (not including complaints lodged in previous years). During this seven-month period the Bureau lodged 373 First Information Reports (FIRs) and submitted 241 charge-sheets. Within the seven-month period 118 people were sentenced and 203 people were acquitted. Between the years 1994 and 2001, a total of 1,373 people were sentenced and 1,822 people were acquitted. From 1991 to April 2001, there were only a handful of convictions: one former President and a few Ministers were found guilty in 9 anti-corruption cases.

According to data received until March 20, 2001, the number of cases awaiting permission from the PM's office to go ahead was 356. The numbers of senior officials, ministers and MPs accused were 72, 9 and 8 respectively. In the Chittagong region, the region with the highest number of cases, 28 cases appeared to be waiting for permission from the PM's office during the same period.

According to data received until March 20, 2001, 123 cases had been stayed or suspended by order of the court. During the same period the number of revision cases were 391 and appeal cases were 51. In July 2001 the number of writ, revision and appeal cases

amounted to 130, 410 and 55 respectively. Verdicts for many important cases are being delayed due to the writ and revision cases.

Various factors leading to inefficiency of the Bureau include:

- Negligence of officials at the inquiry/investigation stage
- Unnecessary time taken in conducting inquiry/investigation
- Lack of proper planning at the inquiry/investigation level
- Disruptive transfer of officials involved in investigation
- Delay in obtaining permission for carrying out investigation
- Stay or Suspension order of the court
- Renowned lawyer presenting the defendant
- Submission of weak charge-sheet
- Irresponsibility of the PPs and their weak conduct of cases
- Lack of witnesses, incapability of the inquiry/investigation officials
- Lack of proper training (from 1994 to 1999, only 90 BAC officials had received training)
- Inefficient administration
- Interference from various quarters

It should be noticed that no charges are usually brought against any person affiliated with the ruling party. This is because prior permission has to be obtained from the Prime Minister. The Bureau cannot take independent action on charges brought against members of the ruling party. According to data received until April 12, 2001, from February 1991 to June 1999, the Bureau filed 151 cases against prominent people including Ministers, MPs, former Secretaries, Additional Secretaries and a few senior officials of autonomous bodies. After completing inquiries and obtaining the permission of the concerned government authority, cases were filed. Charge-sheets for the filed cases had been submitted at the concerned courts. No cases have yet completed trial. All political cases of the years 1991 to 2000 are at either inquiry, investigation or trial stages. It is worth noticing that as a new party assumes office charges are brought against Ministers/MPs of the previous government.

The Bureau also lacks the authority to take action against senior officials. When the government decides on the promotion of officials, a list containing the names of the concerned officials is sent to the Bureau. The Bureau then has to send a report stating if there are cases filed against the concerned officials. The Bureau does not have the independence to write an independent report. Instead, if there is a case filed against an official considered for promotion, improper pressure is brought to bear upon the Bureau to write a note stating that there is no basis for the case filed and that there is no possibility of proving the case.

Legal complications and long bureaucratic processes delay the inquiry and investigation process and prolong the settlement of cases. The authority of the Bureau's Director General in conducting cases against senior officials and eminent personalities is limited. To this end a report of the Public Administration Reform Commission has described the condition of the Bureau as having to swim with its hands tied.

TIB conducted a brief opinion survey on the activities of the Bureau and government influence of it. The survey reveals that 64.3% of respondents think that the government uses or wants to use the Bureau as a weapon for repression of the opposition. 58.9% express their dissatisfaction with the Bureau. 46.4% spoke of some neutrality while 46.4% of respondents think the Bureau is unable to maintain neutrality in its activities. In short, respondents have expressed a lack of faith in the Bureau.

Close examination revealed that certain incidents were responsible for the reformation or achievement of independence of anti-corruption agencies and independent commissions in other countries. Anti-corruption agencies were created in Hong Kong and Singapore due to the high level of corruption in the police services. The agencies in both countries are considered to be successful in their activities. A glance at Australia reveals that a particular party was elected to power on a promise to create an anti-corruption agency to ensure honesty in New South Wales. The opposition too supported this.

Analysis of the overall condition of the Bureau of Anti-Corruption has exposed various problems and weaknesses. Transparency International Bangladesh puts forward certain recommendations to overcome these weaknesses. The identity of the Bureau has to be made transparent to the people and the Bureau should be made dynamic by establishing a publicity, publication and research cell.

For effective performance of the Bureau, TIB is proposing some other recommendations such as: applying modern technology, timely enquiry/completion of investigation, establishing an expert body, proper preservation of evidence and records, provisions for reward and punishment, changing the designation of anti-corruption officials, recording correct names and addresses, enhancement of the co-operation of the High Court, reforming appointment procedures, appointment of an efficient Director General, transfer of staff, appropriate training of officials and employees, provision of transport, administrative actions against lobbying, improvement of inter-departmental relations, reducing pending cases in all spheres, appointment of PPs in the Bureau, overcoming complexities relating to promotion, decentralisation of powers, law reform, independence of the Bureau.

People in different quarters believe that Bangladesh has been unable to achieve its expected level of development. There are many reasons behind this, corruption being one of them. Many reports have been published both domestically and internationally about the high level of corruption in the country, tarnishing its image. All political parties talk about combating corruption. In reality, nothing is done. In the lead-up to the eighth parliamentary election, all parties pledged their commitment to combating corruption. However, none of them discussed how to achieve that goal. The two leading political parties of the country have included the creation of an independent anti-corruption commission or anti-corruption council in their manifestos. From the statements of the political parties it can be easily deduced that corruption has been identified as a prime national concern and that the existing institutions have failed to address this problem. The

general public demands that an independent institution be set up to combat corruption to help attain a faster rate of development.

On the basis of the results of the fact-finding exercise, TIB has made some recommendations. These recommendations should be implemented by establishing an independent Anti-Corruption Commission.

It is of vital importance to make the Bureau independent and carry out the necessary restructuring to accelerate the pace of its activities. Having examined the existing anti-corruption structure and the anti-corruption agencies of various other countries, TIB proposes the creation of an independent Anti-Corruption Commission in the country. TIB has prepared a draft framework for an Independent Anti-Corruption Commission (IACC) and this draft will be considered as a working paper.
