

ERADICATION OF CORRUPTION

1. Introduction

Corruption in Bangladesh is so widespread that the Transparency International in its annual corruption perception indexes found Bangladesh occupying the top position in the list of highly corrupt countries of the world in consecutive two years. The CPD Task Force, in its Final Report published before last general election, recommended a few short and long-term measures the sum and substance of which is that the agency to fight corruption should be reorganized and made independent with all necessary powers including power to institute cases, without the requirement of obtaining prior permission from Prime Minister or any other executive authority, against government servants from lowest to the highest level and against political office holders so that cases can be filed against any political office holders belonging to or supporting the party in power. The above recommendations are based on the fact the present organization to prevent corruption, the Bureau of Anti-Corruption, is inefficient, reputed to be itself corrupt, susceptible to outside/political influence, ineffective and/or has been rendered ineffective.

None of the recommendations has been implemented as yet. From a discussion with the Finance Minister on the 13th May it revealed that the Ministry of Law placed a draft bill in the Cabinet meeting held on the 12th May for the formation of an independent commission to fight the scourge of corruption, which was approved by the Cabinet in principle. In other words, the Government has accepted in principle the idea of constituting an independent commission against corruption. The Cabinet could not go into details of the bill due to time constraint and referred the bill to the Secretary's Committee on Administrative Development for examining the current set-up and laws of the Bureau of Anti-Corruption, fate of its staff in the event of formation of the Commission, but no time limit has been prescribed as to when the SCAD will report back. There was, however, strong grapevine that the said Cabinet meeting would put its final seal of approval on the bill for constitution of an all-powerful independent anti-corruption commission and the bill would be passed in the budget session of the Parliament commencing in the first week of June, 2003. But this has not come true and now it is anybody's guess when and whether at all the nation is going to get such a commission and the present government will fulfill one of its major election pledges. Although the creation of an independent and powerful body to fight corruption brooks no delay the nation will, seemingly, have to wait for an indefinite period of time to see the birth of such an agency. Moreover it is not clear whether the proposed organization will actually be independent fully insulated against political interference and powerful enough to effectively fight corruption.

The Task Force deliberated upon the issues involved and has decided to recommend the following:

- a. Establishment of an independent anti-corruption commission should be hastened. The commission should be truly independent of any executive or political control having full authority to investigate into allegations of corruption against any individual, public servant and political office holders irrespective of their rank and status and prosecute them. The present system of obtaining prior sanction/ approval of the Prime Minister or any other executive under the PM should be dispensed with forthwith. This action is absolutely and singularly important to make the anti-corruption body truly independent. All and unfettered powers to investigate and prosecute should necessarily vest in the proposed anti-corruption agency. Necessary revision of existing laws, legal procedures etc concerning prevention of corruption should be also carried out.
- b. The new anti-corruption body should have its own prosecutors and staff members to be appointed by it and accountable to it for their activities and performances.
- c. The commission should have its own budget and statutory delegation of financial powers.
- d. The term of appointment of the Chairman and members of the commission should be clearly spelt out in the statute with the provision that the Chairman or Members will be appointed for a non-renewable fixed stint and not removable from their posts except in the manner a Judge of the Supreme Court is removed. Provision for adequate perk and fringe benefits commensurate with their onerous responsibility would be necessary.
- e. The method of selection of the incumbents and appointment is of vital importance to ensure their independence and to see that political bias does not play any role in the process. It was recommended by the Transparency International that there should be constituted a Search Committee to be constituted in either of the following two methods:

Method One: The Chief Justice will be the first member. The Prime Minister and the leader of the Opposition will each nominate one member from amongst the civil society or from the Parliament. These three members will discuss among themselves and co-opt two more members. The Chief justice will preside over the meetings of the Search Committee. Appointment of the Chairman and Members of the Commission will be made on the basis of the recommendations of the Search Committee.

Method Two: The Chief Justice and the Cabinet Secretary will form a committee and prepare a list of persons for selection of the Chairman and Members of the Commission.

The list will be placed in the Parliament and the Parliament Members will finally select them through secret ballot.

As far as it could be gathered the draft bill submitted to the Cabinet on the 12th May provided for a Search Committee consisting of two Cabinet Ministers, two judges of the Supreme Court to be nominated by the Chief Justice, The C& AG, and the Chairman of the PSC. The Cabinet Secretary will provide secretarial support to this Search Committee. Perhaps formation of a Search Committee as contained in the draft bill will be easier than the two proposals of the Transparency International.

- f. The Anti-Corruption Commission should be accountable to the Parliament through one of its appropriate Committees.
- g. It was also proposed by TI and the Task Force finds it acceptable that the Anti-Corruption Commission should consist of two Departments, viz (i) Operations Department with separate teams for case registration, case working, corruption investigation and legal. The other Department will be known as the Corruption Prevention Department having two teams under it, one is Corruption prevention team and the other is community relations team.
- h. The proposed anti-corruption agency should have forensic experts, engineers and other technical personnel to enable it to carry out investigations where such specialised knowledge will be necessary.
- i. With the passage of time the modus operandi of committing corruption undergoes changes. Hence to deal with any new mode of corruption the Agency should have a research cell.
- j. At present investigation or proceedings in various courts of law have been stayed under orders from the Supreme Court. This generally happens when the accused or the person being investigated against is a well-to-do/otherwise influential person. Some legal reform will be necessary to address this particular problem.
- k. Corruption exists from union level up to the highest level and elimination of corruption will not happen automatically with the creation of the proposed Commission. Appropriate measures have to be devised and adopted to fight corruption at all levels of administration. While doing this care should be taken to prevent any possible harassment meted out by the anti-corruption agency. At the same time the existing committees at various field levels will need reform to ensure their independence from executive control.

1. No single agency, however strong, independent or powerful it might be, can successfully fight corruption in isolation unless there exists a congenial environment the creation of which depends upon the following measures:

- (i) Existence of strong political will and commitment to eradicate corruption is a prerequisite, which, unfortunately, has been seriously lacking in our country. While no solution to this problem can be prescribed it is the public awareness, voice of the civil society and the media, which can play an important role in inducing commitment and will among the political leaders.
- (ii) There should be reform in our political party system. Democracy and democratic norms should prevail among the political parties without which we cannot expect democratic behaviour and traditions in running the government by the political parties.
- (iii) There should be well articulated Code of Conduct for public servants as well as political office bearers making it obligatory on them to follow the Code of Conduct in discharging their duties.
- (iv) Over time, politicisation of bureaucracy has become the order of the day. Political consideration prevails over merit, efficiency, etc, in manning the bureaucracy. So initiation of a process of depoliticisation is urgently necessary. Here again, there must prevail political will do away with politicization of bureaucracy.
- (v) Present pay structure is a direct inducement to corruption. And hence it should be substantially increased so as to provide for basic human needs. The pay structure should be comparable with that of India, Pakistan and Sri Lanka qualitatively and quantitatively (from the point of view of purchasing power). Also pay structure should be based on the nature of duty and job hazard and the present system of placing the public servants into 20 grades in a straight jacket method should be done away with. Rightsizing the Government, eliminating unnecessary expenditure are some of the measures which can augment the revenue of the state to meet additional expenditure necessary for enhancing pay and perk of the public servants.
- (vi) Reform in the public procurement system making it transparent is essential. To ensure compliance with the rules and regulations governing public procurement cases of deviation should be made punishable offence and the officials sanctioning or responsible for procurement accountable for their decisions.
- (vii) At present statutory audit conducted by C&AG is deficient in many ways. This is due to the existence of some serious flaws in the system itself. Moreover the

institutional arrangement to take appropriate action on the reports of C&AG is also totally unsatisfactory. Volumes of studies and recommendations have been made to make the C&AG an effective organization to establish transparency and accountability of administration but no action worth mentioning has yet been made. To complement the endeavour of the proposed anti-corruption agency the problems now being faced by the C&AG and the system of statutory audit and follow up action should be addressed immediately.

- (viii) In the Ministries and Directorates there does not exist any system of internal audit, which leaves room for corruption to flourish. Recommendations to introduce strong and effective internal audit have been made by various studies on administrative improvement. Necessary steps to implement those recommendations should be taken without any more delay.
- (ix) At present the system of appointment to constitutional posts (Judges of the Supreme Court, Chairman and Members of the Election Commission, Public Service Commission, the C&AG, etc) is not at all satisfactory in as much as there exists almost total discretion in the hands of the appointing authority to appoint any body to these posts. Excepting the Judges of the Supreme Court no qualification has been prescribed for the other Constitutional posts. The qualifications prescribed for the Judges do not appear to be adequate and there exists scope for political bias while making such appointments. This should be looked into and laws/rules/ regulations need be framed to regulate appointment to these posts so that the scope for resorting to 'spoils system' can be eliminated altogether.
- (x) In addition to class I and II posts recruitment to class III posts should also be made through a Public Service Commission specifically constituted for this purpose.
- (xi) Other Watchdog agencies such as the Parliament and its Committees, and the Judiciary should be allowed to function properly. Moreover the office of the Ombudsman, a constitutional post, should be made operational.
- (xii) Finally public awareness, eternal vigilance exercised by the members of the civil society together with an effective and responsible media will definitely impact upon the effort of the nation to eradicate corruption. Also campaign against corruption should be a part of school educational curriculum.