



Anti-Corruption Commission of Bangladesh: Diagnosis of a Fading Hope

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Disclaimer:

This document represents part of the author's study programme while at the Institute of Social Studies. The views stated therein are those of the author and not necessarily those of the Institute.

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Dedicated to

Samyadip Das Writu

My nearly four-year old son – whenever I call him over phone or Skype, he instantly asks me “when will you come home, father?” I feel sorrow as well as guilty as depriving him of passionate company of a father!

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List of Acronyms

ACC	Anti-Corruption Commission
AL	(Bangladesh) Awami League
BAC	Bureau of Anti-Corruption
BNP	Bangladesh Nationalist Party
CCC	Committee of Concerned Citizens
CG	Caretaker Government
CPI	Corruption Perception Index
CPIB	Corrupt Practices Investigation Bureau
CSO	Civil Society Organization
ICAC	Independent Commission Against Corruption
IGS	Institute of Governance Studies
ISS	(International) Institute of Social Studies
JTF	Joint Task Force
KI	Key Informant
NCC	National Coordination Committee
NGO	Non-governmental Organization
NHS	National Household Survey
NIS	National Integrity System
TIB	Transparency International Bangladesh

Abstract

This study analyses design and performance of anti-corruption agencies – Bureau of Anti-Corruption (BAC) and Anti-Corruption Commission (ACC) of Bangladesh – under two different political regimes (democratic and authoritarian) and deep-rooted causes of their performance. It begins from the hopes of an effective and independent ACC that were created mainly by civil society and international development partners. However, the study finds the faded hope emanated by bad performance, and tries to understand it through assessing expectations, powers, safeguards, focus, resources, results and value-addition of anti-corruption agencies and highlighting complementary conditions and institutions regarding political space, leadership qualities, key NIS institution, social organization, civil society and markets.

The long-nurtured paralytic condition of ACC was not an accidental outcome, rather it is a programmatic error of initiation based on following principal-agent theory where both key actors are underperforming and not loyal to their respective duties in fertile conditions of clientelism, patrimonialism, and neo-patrimonialism. The coercive policy transfer – a shift from BAC to ACC that was a shift from multiple-agency paradigm to single agency approach – was insisted on by the international development partners who never tested the feasibility and followed up effectiveness continuously during implementation but compelled Bangladesh to replicate the Hong Kong ICAC-model. Although ACC achieved some stunning outcomes such as filing corruption charges against central leaders of political parties, bureaucrats and influential businesspersons and created dynamism and pro-activeness in the organization during the extra-constitutional arrangement of the authoritarian regime (2007-2008), then the new democratic government swept away all achievements and tamed it by their directives. Additionally, a culture of politicizing governance institutions was re-established, so key complementary institutions, for instance political leadership and commitment, judiciary, markets etc. are not conducive to make ACC independent and effective. Though strong civil society and social organizations are raising mass awareness against corruption, their coverage of audiences and access to policy level is quite a limited so they cannot compel or persuade political elites to make substantive change in policies regarding ACC and in implementation mechanisms for public interest.

Relevance to Development Studies

The concept of governance has been placed in the core of development studies. And, lack of governance in public, private and NGO sectors has been identified as a key barrier to economic and social development. The institutional approach to promote governance includes anti-corruption agencies that are not only concerned to clean corruption, but also to promote democracy, transparency and accountability at all levels which comprehensively contribute to (and are parts of) development. From this perspective, the study of the Anti-Corruption Commission is essential for understanding some key development challenges or threats. Thus, facing development challenges of entrenched corruption and unfavourable complementary conditions to curb it, Bangladesh established an ICAC-modelled single agency, the ACC, in place of its earlier multiple-agency paradigm, but it has failed to promote good governance. Consequently, the ineffectiveness of anti-corruption agencies and complementary institutions like political parties, leadership, judiciary aggravate misery and discrimination at the individual, society and state levels and have become counterproductive to development and democracy.

Keywords

Corruption, Anti-Corruption Commission (ACC) of Bangladesh, Anti-Corruption Performance Indicators, Clientelism, (Neo) Patrimonialism, ICAC Anti-Corruption Model, Principal-Agent Theory

Chapter One: Introduction

1.1 The Context

Corruption is a global phenomenon although it varies in nature and magnitude from one country to another. It has been widely considered as a deterrent to development and democratic governance. The developed countries responded to restrain corruption following different approaches such as establishing anti-corruption agencies. Addressing multi-dimensional aspects of corruption was real challenge that led to varieties of anti-corruption agencies which are categorized as multiple-agency approach and single-agency paradigm by Meagher (2005). The latter got momentum when good experiences of Hong Kong in this regard were circulated. Hong Kong's Independent Commission against Corruption (ICAC) has become model in the anti-corruption movement globally.

ICAC achieved tremendous successes to reduce corruption at all levels of the government and businesses, to raise awareness amongst the masses for promoting their ethical standards, and to engage citizens in their concerted efforts. The ICAC model was replicated in 30 to 40 countries in last two decades. Two agencies, namely NSW ICAC in New South Wales, Australia and The Directorate on Corruption and Economic Crime (DCEC) in Botswana were clones of ICAC. Others are Korea Independent Commission against Corruption (KICAC), The Anti Corruption Agency (ACA) in Malaysia, The Prevention of Corruption Bureau (PCB) in Tanzania, National Counter Corruption Commission (NCCC) in Thailand, etc. (Meagher 2005). Some countries, for instances Australia, Korea, Malaysia, Botswana, Chile, Lithuania got exemplary success in controlling corruption but some countries, such as Tanzania, Argentina, the Philippines failed to make the specialized anti-corruption agencies effective (ibid; Kaufmann 1997; Heilbrunn 2004; Persson 2010).

The governance paradigm and institutionalist approach to development came into the development discourse prominently in 1990s after the failure of almost two decades of experimentation (late 1970s-early 1990s) of neo-liberal orthodoxy along with Washington Consensus in least developed countries including Bangladesh. Neo-liberal policies were characterized mainly with market stabilization, free market, privatization, budget rationalization, and globalization that rationalized the state as a minimalist entity. But the policy failed to establish politico-institutional foundation that is prerequisite for effective and feasible economic reforms. In effect, liberalization process contributed to challenge the state legitimacy and effectiveness and opened windows of corruption and already existing governance problems were aggravated rapidly via weak state monitoring and intervention in the neo-liberal economy. Realizing the negative outcome, a noticeable shift in the policy focus of the two major proponents of Washington Consensus, namely WB and IMF, led to New Washington Consensus that prioritizes governance issues in state-business-civil society relations and focuses to establish anti-corruption agencies (Öniş and Şenses 2005; Ahrens 2000).

Thus, global concern against corruption was intensified in late 1990s in Bangladesh by the donors and donor-funded NGOs. In view of widespread corruption in the public sectors, repeatedly published by Transparency International Bangladesh (TIB)¹ in its different reports such as Corruption Database, Diagnostic Studies and also identified in the Corruption Perception Index (CPI) by which Bangladesh was recognized as most corrupt country in the world, the multi-lateral development organizations picked up the single-agency paradigm and pressurised the government of Bangladesh to abolish Bureau of Anti-Corruption (BAC), as dysfunctional and highly-corrupt, and to establish one specialized Anti-Corruption Commission (ACC). It was conditional to get foreign fund, so the government agreed to the donors and formed ACC in 2004.

In the meantime ACC has passed nine years. But what has it achieved? Have the development partners' objectives been met? Has the achievement gained by ICAC been equalled by ACC?

In response to these questions, simple answers cannot be made. Because control and prevention of entrenched corruption depends not only on the performance of the ACC (Meagher 2005; Klitgaard 1988; Doig 1995; Parnini 2011; Johnston 2001), but on socio-economic, political and market factors (Gillespie and Okruhlik 2013) and also on how policies are taken and implemented (Dolowitz and Marsh 2000). Corruption links to long-nourished (neo) patrimonialism and clientelism (Parnini 2011; Sobhan 2007).

1.2 Research Problem

On his last day in Office, in mid-2013, Chairman of ACC Ghulam Rahman commented, "Anti-Corruption Commission is a tooth-less tiger"² And people did not get surprised, because he remarked almost the same in 2009, immediately after his joining ACC when the current government initiated to amend the ACC Act. He told the media, "the ACC was in any case a toothless tiger, whereas the nails that it could use were now being chopped off" (Iftekaruzzaman 2011). Yet, he served full tenure of four years as a Chairman.

By law, ACC is an independent anti-corruption body. From the beginning, it has strong mandate to control and prevent corruption. It has received financial and technical support from the donors. NGOs have always supported and worked with ACC for building mass awareness against corruption. Citizens built up hope as the defunct BAC was abolished and a new entity with high ambition initiated. Political parties committed to strengthen ACC in their electoral manifestos and political speeches in national and international forums. And the government ratified the United Nations Convention against Corruption (UNCAC) by which it has mandated to make the ACC effective and strengthened. These favourable conditions, in fact, have not contributed to establish an effective ACC, which is obvious by the statement of the ACC Chairman. This requires deeper investigation and analysis to diagnose the reasons of it.

1.3 Research Objective

The main objective is to understand the factors contributing to bad performance of the anti-corruption agency in the context of governance structure of Bangladesh. This research also highlights the gap between policy decision of

ACC to promote people's hope and reality of policy implementation that faded people's hope.

1.4 Research Question

Why is Anti-Corruption Commission in Bangladesh failing to promote its independence and to challenge legal, institutional and political factors that have made the commission weak?

1.4.1 Research Sub-questions

1. What were the basic motives to initiate and design ACC?
2. Was the decision to set-up ACC taken after assessing feasibility and conditionality of policy formulation and implementation?
3. Why ACC is not effective despite having electoral commitment, CSO's and people's demand, and international pressure?
4. How far do the political interferences outweigh ACC's legal and administrative strength?

1.5 Justification of the Research

In nine-year of experience, there are many vicissitudes in performances by the ACC. Mostly it occupied newspaper spaces for its weak or partisan roles in fulfilling its anti-corruption mandate. But during the tenure of 1/11³ Caretaker Government (CG)⁴, ACC got attention for its hyperactive performance. Considering the importance of such National Integrity System (NIS) institution, ACC gets all the time attention. However, there is a lack of analytical research on the nine-year performance of ACC and reasons of its failure.

1.6 Scope of the Research

The research focuses mainly on the pivotal role of policy transfer on governance issues, a brief performance evaluation based on indicators by Meagher (2005), root causes of entrenched corruption, political hindrance to strengthening ACC and lack of support for NIS institutions.

1.7 Research Methodology

1.7.1 Research Approach

The nature of the research is analytical, focusing on qualitative data gathered mainly from key stakeholders of ACC, because they are relevant, reliable and authentic source of information to achieve the objective of this research. The respondents are of varied nature (see Appendix IV) could provide ins and outs of the BAC and ACC, current updates and statistics, problems and challenges. The responses were cross-checked with more than one key respondent and/or by secondary sources.

Collecting institutional, administrative and performance-based information on ACC and contacting KIs (KI) such as current chairman and officials of ACC, current and former bureaucrats were challenging but having eight-year research experience with TIB, I used professional contacts and experience to reach the KIs in very short time of data collection (July-August 2013). The analysis was triangulated with responses of different categories of respondents, secondary literature – research reports, articles, newspapers and observation.

1.7.2 Study Location

ACC Head Office is in Dhaka, the capital. It has 7 regional offices and 22 combined district offices. Most of the KIs were interviewed in Dhaka. Then for getting field experience on ACC's combined district offices, two officials from two districts, namely Rajshahi and Mymensingh, have been contacted.

1.7.3 Data Collection Techniques

A. KI Interview: After determining all categories of concerned stakeholders, respondents have been selected through non-random sampling techniques such as snow-ball method and head hunting. As the nature of the research is analytical, so a relevant range of KIs was covered; and the information obtained was checked for consistency. Eighteen KIs (see Appendix IV) from diverse categories such as ACC Chairman and Officials, Bureaucrats, NGO Professionals, Academics, Lawyer and Media were interviewed.

B. Case Studies: Case study is a useful qualitative tool to capture wide spectrum of interaction and to tell sequential stories about the actors and the context. Two corruption cases of ACC – Padma Bridge Scam and Hallmark-Sonali Bank Scam (see Appendices VI and VII) have got wide public attention through media coverage of alleged political intervention in ACC's independence. Although these case studies are not a central part of the methodology, but have a small supplementary role, in relation in particular to sub-question 4 of the study.

1.7.4 Data Collection Tools

A. Interview Guide: A detailed checklist (see Appendix I) was prepared for gathering information from the KIs. Although a respondent-specific checklist was not developed, appropriate questions from the checklist were asked to the different categories of KIs.

B. Guideline for the Checklist: A guideline (see Appendix II) was developed for the clarification, expansion, and extent of the checklist.

C. Informed Consent: An Informed Consent form/briefing note (see Appendix III) was prepared for making the respondent informed about the purpose of the study and the confidentiality of the responses.

1.7.5 Time Period

This research has been carried out part-time during April-November 2013. As my working station was in the Netherlands, I travelled to Bangladesh for field work during July-August 2013. In this research, experiences of the KIs and secondary data have covered the period from the formation of ACC (2004) to September 2013.

1.7.6 Data Analysis Plan

In relation to the sub-questions, specific areas and tools of investigation have been identified in Table 1.

Table 1: Data Analysis Plan

Sub-questions	Areas of Investigation	Tools used	Comments
1) What were the basic motives to initiate and design ACC?	<ul style="list-style-type: none"> - Corruption of BAC - TIB Campaign/ people's expectation - Donors' role - ICAC model and policy transfer - Political mandate 	<ul style="list-style-type: none"> - Document of ACC, Newspaper Reports, TIB Study and other Literatures 	Available documents found
2) Was the decision to set-up ACC taken after assessing feasibility and conditionality of policy formulation and implementation?	<ul style="list-style-type: none"> - Policy transfer - Role of Politics and Bureaucracy - Assessment of feasibility and conditionality 	<ul style="list-style-type: none"> - Literature review - Interviews 	Direct observers of the policy transfer interviewed
3) Why ACC is not effective despite having electoral commitment, CSO and people's demand, and international pressure?	<ul style="list-style-type: none"> - Political challenges - Legal challenges - Institutional challenges - Inter-departmental challenges - Market challenges - Societal/cultural challenges 	<ul style="list-style-type: none"> - Legal documents review - Study report review on ACC's challenges - Interviews - Realities of ACC branch offices 	<ul style="list-style-type: none"> - All targeted respondents not available - Interviews carried out to get optimum data
4) How far do the political interferences outweigh ACC's legal and administrative strength?	<ul style="list-style-type: none"> - Political mandate - Electoral mandate/commitments - ACC leadership - Political culture - Performance of other NIS (Judiciary) 	<ul style="list-style-type: none"> - Interviews - Case Studies - Role of ACC during CG - Document reviews 	Same as above

1.8 Challenges Encountered

- During field work, one opposition political party called four days strikes in mid-July that hampered to maintain the scheduled dates of interview.
- Reaching the high-ups of the ACC was difficult, because they were too busy to some important cases, including Padma Bridge Scam. Even the latest retired Chairman declined the request for interview.
- ACC lacks management information system, digitalization of their databases and efficient manpower, so getting statistics of cases is almost impossible. Only piecemeal or isolated information are provided after repeated requests. Another reason of unavailability of ACC's databases is its culture of secrecy.
- Two grand corruption cases – Padma Bridge Scam and Sonali Bank-Hallmark Scam are currently ongoing, so official documents are unavaila-

ble. Case studies of the scams prepared mainly on the reporting of newspapers.

- I have been involved with TIB since 2005 and have direct research experience on ACC-related issues. But my organizational views and values regarding ACC have never superseded the objective of academic research. I have always maintained academic integrity and research ethics.
- Due to time constraints for my sickness (also hospitalized) during fieldwork, some important KIs, such as political leaders and donors were not interviewed. Secondary literature used to fill up the gaps.
- In this relatively small qualitative study, the findings on the ACC might not be considered as sufficient for a confirmed and representative picture of the institution. So this report does not contain a full picture of the ACC. Rather, it presents a partial glance of the totality.

1.9 Structure of the Report

The first chapter has described the emergence of anti-corruption agencies in global and Bangladesh context, rationale, objective, scope, methodology and limitations of the research. The second chapter mainly focuses on the description of the governance of Bangladesh to know the importance of anti-corruption agencies. The third chapter reviews relevant literature and analyzes the root-causes of corruption in Bangladesh, aspects of policy transfer, theoretical and conceptual underpinnings for the failure of anti-corruption agencies. The fourth chapter summarizes the defunct BAC, emergence of ACC and its overall achievement under two political regimes – authoritarian and democratic, with performance indicators of current ACC. All findings to address the research questions have been described in chapter five and analyzed critically in chapter six. And the conclusion (chapter seven) summarizes the key points of the report and comments on the fundamental reasons to the faded hope of an effective and independent ACC.

Chapter Two:

Governance Situation in Bangladesh

2.1 State Governance System of Bangladesh

Bangladesh achieved its independence from West Pakistan in 1971. In the last four decades, there were many upheavals in the way to establish parliamentary democracy. At the beginning of the new state, the ruling Awami League (AL) instituted one-party system in 1974, but soon a military coup that killed the Father of the state and most of his family members. As consequences, the state was mostly captured by military and quasi-military rulers from 1975 to 1990. Then a parliamentary democratic government was established in 1991 through a free, fair and impartial election by a non-party Caretaker Government (CG) that was demanded by all major political parties. Under the CG system, the next general elections of 1996 and 2001 took place successfully. Before the parliamentary election in 2006, the politics of confrontation and mistrust paved the way of military rule in the name of CG in 2007. The military-backed CG violated the constitution that provided three months tenure: they forcibly occupied state power for two years in 2007-08. Failing to get continuous support from the citizens, bureaucrats, businesspeople and media, the CG was compelled to conduct parliamentary election in 2008 by which AL-grand alliance came into power. In nutshell, these types of state governance, long time of military and quasi-military regime and political confrontation have hindered democratic institutionalization.

2.2 Achievements in Four Decades

“Bangladesh has dysfunctional politics and a stunted private sector. Yet it has been surprisingly good at improving the lives of its poor” – this is quoted from the Economist (3 November 2012). It has also illustrated Bangladesh’s significant progress in education and health.

In addition, Bangladesh has been steadily proceeding to the institutionalization of parliamentary democracy in only 40 years of independence. Many democratic structures and watchdog bodies with enabling laws, rules and regulations have been formed. Among them, political parties, parliament, judiciary, executives, comptroller and auditor general, election commission, public service commission, ACC, information commission, human rights commission, and media are significant. Though there are many problems in their governance, the intention of the policy makers and existence of these democratic institutions show good will of the political system.

2.3 Bangladesh in Governance Indices

Corruption is rampant everywhere in Bangladesh and is considered as one of the main obstacles to development. Until late 1990s, it was not highlighted in the development discourses of Bangladesh, though some research reports were released on public sector corruption by TIB. When Bangladesh was placed lowest (corruption considered as a grave concern) of the CPI ranking and rec-

ognized popularly as most corrupt country for the first time in 2001, then corruption became hot issue in all forums. Each year TI and TIB's different reports on corruption and governance issues focusing on types, magnitude and cost of corruption especially in the public sectors have been widely circulated and disseminated in the media and have contributed to place corruption in development discourses. Now the politicians, bureaucrats, local government representatives, civil society, businesspeople and common citizens acknowledge presence of entrenched corruption and its debilitating impact on the society, policy and economy.

Box 1: A Snapshot of Bangladesh's Position in Governance Indices

- **Transparency International (TI)'s Corruption Perception Index (CPI) 2012:** Bangladesh was placed 144 out of 176 countries and territories and scored 26 out of 100 which falls in the most corrupt category. Yet, it is better index considering the previous record, when Bangladesh scored lowest for five consecutive years (2001-2005).
- **World Bank's Worldwide Governance Indicators (WGI):** Bangladesh was placed in lowest quarter of the percentile ranks (score 16.1) in terms of control of corruption.
- **World Economic Forum's Global Competitiveness Report 2012-2013:** Corruption as second most significant obstacle to doing business in Bangladesh, just after insufficient supply of infrastructure.
- **TP's Global Corruption Barometer 2011:** 72% of the Bangladeshi citizens experienced bribery.
- **TI UK's Government Defence Anti-Corruption Index 2013:** According to this report, 82 countries were ranked in six categories of corruption risk –very low, low, moderate, high, very high, critical – in terms of parliamentary oversight on defence. Bangladesh was placed in very high corruption risk category (lower score 16.7% - upper score 33.2%).

In World Bank's estimate, "if Bangladesh could reduce its corruption level to those prevailing in countries with highest reputation for honest dealing it could add between 2.1% and 2.9% to annual per capita GDP growth. This would contribute to a sustainable reduction in poverty" (World Bank 2000 in Iftekharuzzaman 2011:9-10). Referring TIB's National Household Survey (NHS) 2010, Iftekharuzzaman mentioned, "...only for bribery at the service delivery end the cost to the economy was 8.4% of the annual national budget and 1.4% of annual GDP. Based on data on the respondents' experiences, and not perception, the survey revealed further that the annual cost of petty corruption to the economy increased from Taka 54,430 million (€544 million) in 2007 to Taka 95,910 million (€959 million) in 2010" (2011:10). The NHS 2010 exposes that major service delivery public offices are highly corrupt. For instances, 96.6%, 52.7%, 47.7% of the respondents paid bribes to law enforcement agencies, land administration and judiciary respectively (Alam et al. 2010).

It is clear that corruption is unjust and exploitative; hence the importance of an independent and effective anti-corruption agency formed with strong mandate of curbing corruption.

Chapter Three: Conceptual and Analytical Framework

The performance of the ACC cannot be only connected to the institutional strength or weakness, but to some embedded contextual conditions, such as patrimonialism, neo-patrimonialism, clientelism. Concurrent to the corruption eruption in Bangladesh, anti-corruption policy and strategy were changed to accept ICAC-model which has become model in the world. But the policy transfer of single agency paradigm of anti-corruption agency and its performances can be assessed by an analytical framework developed from Meagher (2005) and Gillespie and Okruhlik (1991).

3.1 Corruption – Deep-roots, difficult to Uproot

Globally corruption is a big concern in recent times. To combat this, each country has either ad hoc or specialized agency or both. These anti-corruption watchdog bodies are an organizational/institutional approach to reduce corruption. But the organizations, embedded in the society and operated by a group of social beings, cannot get success until the context of society, political and economic relationship and power relations are understood and integrated in their plan of action/strategies.

“Corruption is principally a governance issue – a failure of institutions and a lack of capacity to manage society by means of a framework of social, judicial, political and economic checks and balances. When these formal and informal systems break down, it becomes harder to implement and enforce laws and policies that ensure accountability and transparency. From an institutional perspective, corruption arises when public officials have wide authority, little accountability and perverse incentives, or when their accountability responds to informal rather than formal forms of regulation” (Ehsan 2006:48).

Iftekhharuzzaman (2011) categorizes two factors of corruption – institutional and individual. He describes institutional factors as wide discretion without checks and balances, conflict of interest, collusion between key decision makers, inadequate rules and enforcement of rules, institutional incapability to deliver, lack of transparency and integrity in appointments, culture of secrecy, and lack of enforceable code of ethics. And the individual factors include motivation of wrong-doing by personal need and greed.

These governance problems have not been created in few years, but are legacy of long history. So these issues have become embedded into the socio-political fabric of Bangladesh society, which can be defined as “structural problem” (Sobhan 2007:141). Since independence, democratic institutions were never matured under the authoritarian and military regimes until 1991, instead administrative, political, social and economic institutions have been rigorously politicized one after another for the benefit of party or individuals. Even the democratic regimes have legacies of corruption. As a result, administrative, political, economic institutions have been inflicted with massive corruption.

This condition of Bangladesh can be described in Migdal’s (1988) terms as strong societies and weak states. He explains state capabilities (whether weak

or strong) depend on “penetrate society, regulate social relationships, extract resources, and appropriate or use resources in determined ways” (ibid: 4). He analyzed society as “a melange of social organizations” that is created of heterogeneous groups organizing social control (ibid: 28). White (1999) identified Bangladesh as weak state in a strong society. The state has been trying to penetrate society through re-organization of local administration but failed to establish any independence between executive and administrative bodies for weak institutionalization of the state. Failure to ensure independent judicial system hinders state’s regulation of social relationship. Weak, corrupt and politically motivated taxing system fails to extract sufficient revenues from the eligible citizens. And a big proportion of the public money is misappropriated or misused for corruption or private benefits. In such condition, “state is unable to guarantee the basic rights of any who do not have the power to seize them for themselves” (ibid: 319). Rulers, bureaucrats, businesspeople have powers to seize and live on patrimonialism, neo-patrimonialism and clientelism that enable conditions of pervasive corruption.

3.1.1 Patrimonialism and Neo-Patrimonialism

Max Weber (1947) introduced the term patrimonialism to specify one kind of traditional domination – the ruler acquires territory in an agrarian society and controls it by his own administrative staff and military force. The administration is run along “purely personal connections, favours, promises, and privileges” (Weber 1978: 1041 in Islam 2006). This patrimonialism is also seen in modern administration as the form of neo-patrimonialism that characterizes personal connection with political leaders for appointment, no grounds for dismissal, unspoken hierarchy, blurred public and private realm, verbal agreements in public contracts, etc. This system is contrary to the rational-legal administration. In many developing countries, the administration has been formed on the rational-legal bases, but it mostly depends on the patrimonial rule (Brinkerhoff and Goldsmith 2002). For example, in Bangladesh, “every government policy becomes riddled with exceptions and exemptions. This flows from the tradition of *tadbir* or personal contacts and lobbying for individual favours” (Kochanek 1993 in ibid: 8). This blend of rational-legal domination and patrimonialism gives a new paradigm of neo-patrimonialism that is found in the developing countries.

Islam (2006: 6) identified some characteristics of neo-patrimonialism such as, political leaders and administrators become extremely powerful and practises these without fear and restraint, they enjoy discretion without check and balance to manipulate the public resources as private, state authority centralizes in few hands, high state-interferences evolves in the economy and markets, public institutions become dominantly rent-seeking, culture of impunity established over lack or weak rule of law, weak civil society and disorganized social and cultural entities.

The above features fit well in the administrative, political and economic context of Bangladesh. Politicization of administration is clearly illustrated by Sharmin et al. (2012). They revealed the administration in Bangladesh has been highly politicized and controlled by the party politics. The politicians influence the senior and even the junior level recruitment, posting, promotion, punishment and capacity development for many reasons, for instance, money, political support, regionalism, nepotism, etc. On the other hand, the bureaucrats

play politics for getting promotion, superseding deserving senior candidates, or for better posting or capacity development opportunity. Besides, they also think to join party after their retirement for more attractive position in party or in administration (such as diplomat in foreign countries), so they show their allegiance to the party during their service with the government.

In the discussion of patrimonialism and neo-patrimonialism, the external factors such as influence of development partners, imposition of new thoughts and ideas without feasibility and implementation of new economic and political ideologies have yet not been considered, although they have crucial role in our governance and administration.

3.1.2 Clientelism

Clientelism, often called Patron-Clientage, is a complicated dyadic relationship between political patrons and their individual clients. “These bonds are founded on mutual material advantage: the patron furnishes excludable resources (money, jobs) to dependents and accomplices in return for their support and cooperation (votes, attendance at rallies).” (Brinkerhoff and Goldsmith 2002: 2) This explicitly defines that the patron who has power and resources gives protection and benefits to the client who reciprocates with any services demanded by the patron. According to Kaufman (1974: 285), it always manifests the following characteristics:

- (a) the relationship occurs between actors of unequal power and status;*
- (b) it is based on the principle of reciprocity; that is, it is a self-regulating form of interpersonal exchange, the maintenance of which depends on the return that each actor expects to obtain by rendering goods and services to each other and which ceases once the expected rewards fail to materialize;*
- (c) the relationship is particularistic and private, anchored only loosely in public law or community norms.*

Although Bangladesh has two decades experience of democratic practices in national and local levels, the governance system is still clientelistic. The major political parties rarely practice internal party democracy, let alone is there transparency and accountability of political finance and political parties, political leaders in power are less accountable to the voters, they maintain networks for gaining money and giving unethical/illegal favours for retaining their popularity. The ‘win-win game’⁵ culture prevails everywhere, so the power holders always try to keep their influence intact and maintain the channels for their own benefits. So the common citizens outside of the webs of clientelism are losing their rights and entitlements.

The principal-agent model of anti-corruption policies have been tried to solve the problems of systematic corruption. The experience of a successful anti-corruption model persuaded the bilateral and multi-lateral funding agencies that prescribed the same model to many developing countries where collective action problem is dominant.

3.2 Principal-Agent Model

This model is a well-accepted theory of corruption and has been predominantly used to formulate anti-corruption policies. The principal-agent theory has two main assumptions (Klitgaard 1988; Williams 1999 in Persson et al. 2010: 4):

1) a goal conflict exists between so-called principals (who are typically assumed to embody the public interest) and agents (who are assumed to have a preference in favour of corrupt transactions insofar the benefits of such transactions outweigh the costs); and

2) that agents have more information than the principals, which results in an information asymmetry between the two groups of actors.

It can be explained that the principal (may be public body/ruler/citizens) delegates or assigns some specific tasks and authority to the agent (may be another public body/bureaucrats/government for some specific purpose of wellbeing of the society, state and citizens. After gaining power, the agent may create information asymmetry (non provision of actual information to the principal) for their own private benefits. While using the principal-agent framework to analyze different types of corruption (bureaucratic corruption where rulers are the principal and bureaucrats the agent; and political corruption where citizens are principals and rulers the agent), it is assumed that the agent is corrupt, but the principal is free of it and always takes on the charge of controlling corruption. In reality, if the principal becomes corrupt, then the assumption of anti-corruption polices faces threat of failure (ibid).

3.3 Collective Action Theory

Whereas in the principal-agent model the principal specifies some actors to curb corruption, monitors the delegated work and punishes for their failure, on the other side, the collective action theory disregards the assumption that specifies principals as regulator of controlling corruption and the agents as implementers. It assumes that “all actors – i.e. rulers, bureaucrats and citizens alike – are maximizers of their self-interest” (Persson et al. 2010: 5). The act of anti-corruption does not depend on a specific actor, rather on all actors.

Anti-corruption policies of ICAC, defined as principal-agent model, for their success in curbing corruption have been prescribed to create hope for the corruption-torn countries.

3.4 Good Practices of ICAC

Heilbrunn (2004) identified four types of ACC. The first one is the universal model, an agency that has investigative, preventive and communicative functions, e.g. ICAC. Second, a small and centralized investigative body like Singapore’s Corrupt Practices Investigation Bureau (CPIB). Both models are organizationally accountable to the executive. Two other models are Parliamentary Model (reportable to parliamentary committee and independent from executive and judicial branches, like New South Wales ICAC) and Multi-agency Model (a number of individual offices work together, like the United States Office of Government Ethics). In Meagher’s analysis, universal model and investigative model are developed under single-agency approaches.

3.4.1 Multiple-agency and Single-agency Approaches

Patrick Meagher (2005) compares multiple-agency approaches and Single-agency paradigm. The former combines traditional state institutions with one or more specialized anti-corruption units or agencies. It is less ambitious, having no strong ‘lead’ agency, and lacks coordination among the multiple agencies fighting corruption. The latter got prominence after the success of CPIB and ICAC which unite anti-corruption functions such as investigation and prevention, into a single powerful agency. This arrangement helps to centralize

information and intelligence on corruption, and can greatly reduce the coordination problems. Before ACC, the anti-corruption mechanism in Bangladesh can be defined as multiple-agency approach, because BAC (not a strong 'lead' agency) and the other public agencies were engaged together in corruption prevention.

3.4.2 ICAC Anti-corruption Model

ICAC was established in February 1974 after an investigation into corruption of a Police Superintendent. The Governor had formed a commission under the chairmanship of Justice Alistair Blair-Kerr who gave an investigation report explaining the systematic forms of corruption in Hong Kong and identified high-ups of administration and police on the street as taking bribes.

ICAC is a success story of highly powerful single agency. It has controlled long tradition of widespread corruption of Hong Kong in late 1970s. Man-wai of UNAFEI (2012) identified the reasons of the success, the three-pronged strategy of ICAC: deterrence, prevention and education which encapsulates enforcement of laws, skilled officials, strong anti-corruption legal framework, review mechanism, equal treatment for both public and private corruption, engaging key stakeholders, and political will. As these policy strategies, new approaches of implementation and institutional reform got tremendous achievements in curbing corruption, so the ICAC-model has been replicated in many developing countries.

ICAC Commissioner Peter Williams summarizes some conditions to set up an independent anti-corruption agency in any country, referred by Klitgaard (1988): Entrenched corruption everywhere should be existent that will persuade political leaders to set-up a powerful anti-corruption agency, formation of independent and efficient anti-corruption body would build citizens' trust on it, staff at all levels must have highest possible integrity, laws and authorities of the agency must be welcoming to the greater citizens, a credible accountability grievance mechanism against the complaints of the new agency must be developed, and full funding support to achieve mandate, functions and independence of the agency should be secured by the state. Without ensuring these pre-requisites, Bangladesh has established ICAC-modelled ACC.

Dolowitz and Marsh model highlights how policy transfers can earn either policy successes or policy failures.

3.5 Coercive or Voluntary Policy Transfer

The Dolowitz and Marsh Model has identified nine key actors, namely, elected officials, political parties, bureaucrats/civil servants, pressure groups, policy entrepreneurs and experts, transnational corporations, think-tanks, supra-national government and non-governmental institutions and consultants who are involved to a policy transfer continuum (from lesson-drawing to coercive transfer). Among them, two actors' role should be highlighted:

“International Governing Organizations (IGOs), such as the OECD, G-7, IMF and the UN and its various agencies, are increasingly playing a role in the spread of ideas, programs and institutions around the globe. These organizations influence national policy-makers directly, through their policies and loan conditions, and indirectly, through the information and policies spread at their conferences and reports. In addition, international nongovernmental organizations (NGOs) are also increasing their influence over global public pol-

icy through their ability to spread ideas and information on an international level” (ibid).

They have identified eight things to transfer: policy goals, policy content, policy instruments, policy programs, institutions, ideologies, ideas and attitudes and negative lessons – at three levels of governance: international, national and local – to four different degrees: copying, emulation, combinations and inspiration. They have proposed three underlying factors of policy failure, 1) uninformed transfer, 2) incomplete transfer and 3) inappropriate transfer.

Under this conceptual framework of actors, continuum, category of transfer, level of governance, and degree, the policy transfer of the anti-corruption agency of Bangladesh will be analyzed. Additionally, an analytical framework will be developed below to assess the performance and function of ACC.

3.6 Analytical Matrix

Based on the assessment criteria of anti-corruption agencies by Meagher (2005) and Clean-ups strategies by Gillespie and Okruhlik (1991), the efficiency, effectiveness and sustainability of ACC can be interpreted in relation to the political system, mainly democratic and authoritarian regimes, as in Table 2.

Table 2: Assessment Indicators of Anti-Corruption Agencies

Indicators	<i>Political System</i>		
	Democratic		Authoritarian/Emergency Rule
	Multiple Agency	Dominant Agency	Dominant Agency
<i>Relevant Inputs of the Agency</i>			
Setting expectation			
Value Addition			
Results			
Focus			
Powers and Safeguard			
Resources			
<i>Complementary Institutions and Conditions</i>			
Political Space			
Leadership Qualities			
Key NIS Institutions (Judiciary)			
Society/Social Organizations			
Civil society			
Markets/Business			

Source: Author’s Own Construct based on Meagher (2005) and Gillespie and Okruhlik (1991)

3.6.1 Relevant Inputs of the Agency

To what extent ACC and former BAC have favourable indicators and what complementary conditions they experienced in delivering their mandates will be assessed, explored and analyzed in this study. We look at:

- **Setting Expectations:** The expectation in forming BAC and ACC, abolition of BAC and initiation of ACC, political commitment, the role of the government, political parties, bureaucrats, development partners, and NGOs;
- **Value Addition:** Focus on the legal, jurisdictional and administrative authorities and strengths added or not in the transformed ACC from BAC.
- **Results:** Statistics of performances of both BAC and ACC, the reasons to perform or not to perform;
- **Focus:** Specific mandate and objective – rhetorical or real – of the ACC and BAC;
- **Powers and Safeguards:** Powers include legal, administrative, financial and jurisdictional powers and authorities, constitutional framework, independence, political interference, of ACC and BAC; and safeguards include accountability measures of BAC and ACC- application of legal standards, the availability of judicial review systems for public complaints and oversight, appointment and removal;
- **Resources:** Number and quality of staff, allocation of funds, logistics, infrastructure, training, capacity building of BAC and ACC;

3.6.2 Complementary Institutions and Conditions

According to Gillespie and Okruhlik (1991), multi-faceted strategies using societal, legal, market and political understandings are required to clean corruption effectively. It is clear that the anti-corruption agency cannot solely achieve anything. Among the complementary conditions, political commitment of the ruling and opposition political parties is indispensable. To achieve this, strong leadership qualities in the state and the anti-corruption agency is mandatory. In fact, such leaders can change the society radically challenging long tradition of wide-spreading corruption. The anti-corruption institution needs support from NIS institutions such as judiciary, police, NBR, etc. to reach its mandate. Only this institutional approach to curb corruption may not get optimum result if it does not involve society or civil organizations, because society makes leaders and builds ethical and behavioural standards of its inhabitants. CSOs have much contribution to build mass awareness. Market factors are also crucial factor to create or reduce corruption. So without a comprehensive analysis of the complementary conditions, ACC's performance and effectiveness cannot be complete.

Chapter Four: Emergence and Phases of ACC

4.1 Bureau of Anti-Corruption

Anti-corruption activities in the Indian sub-continent have long history. The failure of the law enforcing agencies to prevent corruption effectively created the need to form a separate body.

In East Pakistan BAC was established as an ad hoc body by enactment of Anti-Corruption Act in 1957. Until announcing permanent status and recruitment procedure of BAC in 1969, all officials of BAC were from the Police on deputation. The organization published its own manual in 1970. After independence in 1971, organizational and infrastructural reform of BAC took place and BAC was given specific anti-corruption duties. The control of BAC came under the secretariat of the President in 1987 and later under the Prime Minister's Office in 1991 (TIB 2001).

The BAC had one headquarter and 66 regional and district offices and had approved manpower of 1,271. Of them, only 26% were class II and above officials who were actively involved in core-work. Additionally, lack of manpower and continuous vacancy was a big problem (ibid).

BAC defined corruption as “Everything unlawful is corruption. It can also be defined as abuse of power for private advantage in ways which transgress some form of rule and law” (ibid: 11) and followed Corruption Prevention Act 1947, The Criminal Law Amendment Act 1958 and Bureau of Anti-Corruption (Manual) 1970 to investigate corruption charges (ibid).

Box 2: Main Reasons of BAC Failure:

- Faulty processes of enquiry and investigation
- Abundant pending cases
- Low conviction and penalty
- Lack of training and skill of the inspection team members
- Political shelter to the accused
- Lack of effective prosecution
- Absence of witnesses at right time
- Lack of trust in the BAC
- Political pressure and lobbying
- Interference of bureaucracy
- lack of political will
- Involvement of BAC staff in corruption
- Procrastination
- Legal barriers

Source: TIB 2001

TIB's 2001 report revealed bad performance with corrupt practices at all levels and political interference (see Box-2), and prepared a working paper where TIB first recommended an independent ACC to the government.

4.2 Anti-Corruption Commission (2004-07)

The Bangladesh Parliament approved the Anti-Corruption Commission Bill that came into effect in May 2004. From the beginning the commission faced internal and external impediments, created controversy over legal actions and was not able to gain people's trust (see Box-3). The appointments of Chairman and two Commissioners were not welcomed warmly by the opposition parties

and civil society for their partisan background. Ignoring the demand of fresh appointments from the civil society organizations, the Commission was politically biased to re-appoint staff of defunct BAC and finally was obliged to absorb all by court order. Even the government appointed the Secretary of ACC without consultation with the Commission. Besides the top three members of the Commission had personality clash which sparked openly as a quarrel. They were always busy making new controversy but not proceeding to the inherited 20,000 cases and additional 7,000 new complaints. At the beginning of 2006, the commission filed a first corruption case (IGS 2007).

Box 3: Barriers to the Functionality of the ACC

- Legacy of the BAC: staff and workload
- Weak leadership
- Lack of political will
- Lack of ratified rules and organogram
- Internal conflicts
- Lack of coordination with other anti-corruption institutions

Source: IGS 2007

In these circumstances, the civil society organizations, development partners, media, academics and citizens were highly critical and demanded independent ACC. During this time, Bangladesh's rank in the CPI was unchanged until 2006. The commission could not complete its full tenure because 1/11 CG took state power and the then president requested them to resign.

4.3 Anti-Corruption Commission (11 January 2007-2008)

As part of massive anti-corruption drive throughout the country, the 1/11 CG appointed former advisor to the CG and former chief of Army as Chairman of ACC in February 2007 and also appointed two other Commissioners. The Chairman was reputed for his honesty, strong personality and gallantry. ACC worked with joint task forces (JTF)⁶ to compile evidence of corruption against political leaders. In addition to the JTF, National Coordination Committee (NCC) was set up on 8 March to support the ACC. JTF under the guidance of NCC could confiscate assets of corruption suspects, seize documents for investigation, conduct raids, issue arrest warrants, and recover illegal funds deposited in foreign banks.

During this time, comprehensive reform of legal, jurisdictional, administrative, logistical and capacity development of ACC were considered, enacted and enforced. ACC, being part of JTF and NCC, exercised extraordinary power and authority. To strengthen ACC, Anti-Corruption (Amendment) Act 2007 was enacted. ACC filed 701 and 979 cases and framed charges against 170 and 397 high profile people in 2007 and 2008 respectively (Source: ACC). Many of them were kept in jail and trial procedures were started. During that time, ACC was very much in news both in print and electronic media with their strong voices against corrupt high-officials and declared their names with corruption charges.

Overall, the anti-corruption drive and the role of ACC were commended by civil society, development partners and common citizens. As the action of ACC was commonly supported, so all major political parties had put anti-corruption agenda including strengthening ACC in their electoral manifestos⁷ in the ninth parliamentary election in 2008. However, this commitment was not sustained later under the party government.

4.4 Anti-Corruption Commission (2009 to date)

AL-led Grand Alliance has come into power with ground-breaking victory (263 seats out of 300) in 2008. At the beginning, the Prime Minister and other senior leaders repeatedly restated their electoral commitment of strengthening ACC in both national and international fora, but in reality they have taken initiatives to weaken the ACC. For instance, the government revived ACC Act, 2004 and tried to amend it so that ACC would be dependent on the executives⁸. Even the government has initiated to amend the Act in 2009, a bill has been presented. But long delay, it was approved by the Parliament in November 2013.

The ruling government was severely critical to the ACC for its activities especially arrest of politicians including party chiefs without valid grounds, disobedience to laws, high-spending for lawyers during the CG. Due to non-cooperation from the government, ACC Chairman resigned from his position. Later he was asked to appear before the parliamentary standing committee to make him accountable for the illegal actions taken by the ACC.

Most of the corruption charges during the CG were not acted on or were withdrawn. ACC submitted final report on current Prime Minister's cases. In fact, only 2 convicted people are in jail and most of others got stay orders or were acquitted from the Court.⁹

In the meantime, the government appointed commissions in 2009 and 2013. For the first time, one commission completed its full time tenure (2009-2013). Governance mechanism and performance of ACC is given below:

4.5 Facts and Figures of ACC

(See detailed information in Appendix V)

4.5.1 Resources and Capacity

- **Appointment of Chairman and Commissioners:** The President appoints Chairman and two Commissioners on the recommendation of a Selection Committee.
- **Tenure of Commissioners:** The Chairman and Commissioners are appointed for four years.
- **Manpower:** Currently approved manpower is 1,073. Among them, 38% are directly involved in enquiry and investigation.
- **Budget:** ACC prepares its own budget and submits the same to the Ministry of Finance for normal scrutiny. Budget allocation in 2012 was €3.46 million.

4.5.2 Independence

- **Legal Status:** The ACC is an independent and impartial statutory body.
- **Removal of Commissioners:** The Commissioners are well protected from any forceful and undue removal.
- **Support from other Law-enforcement:** The other law-enforcement agencies assist the ACC in order to arrest, search and seize any accused.

4.5.3 Transparency

ACC shall submit an annual report to the President who shall present it in the Parliament.

4.5.4 Accountability

The ACC is not accountable to the parliament and to any executive authority. It only submits an annual report to the President and the report is publicly available.

4.5.5 Integrity Mechanisms

There is no legal binding of the Commissioners and staff to declare their assets.

4.5.6 Prevention

The Commission has provision of research and mass-awareness campaign. It has started forming Corruption Prevention Committees in City, District and *Upazilla* (sub-district) levels.

4.5.7 Performance

During the period of 2007-12, ACC has enquired into 6,702 allegations and finally submitted 2,782 charge sheets to the judicial court for judgment. It has record of slow rate of disposition.

Chapter Five: Multi-Pronged Realities Making ACC A “Toothless Tiger”?

This chapter describes the findings gathered from the KIs and secondary literature on the expectation, powers and safeguards, focus, resources, actual powers, results, value addition of the defunct BAC and ACC in two different political systems— authoritarian and democratic. Additionally it explores the existence, participation and support of the complementary conditions created by political space, leadership qualities, Key NIS institutions, social organizations, civil society and markets. Deliberation, case studies and quotes from the KIs (anonymous for their confidentiality) follow the analytical matrix developed in the literature review section. The quotes used in the text are authentic and cross-checked and followed the rule of qualitative data analysis to make the report live and vivid as well as to present justified argumentation in respondents’ speech.

5.1 Setting Expectations

Creation of BAC was *ad hoc* to address corruption in food distribution and police department. After independence of Bangladesh, it became individual department having office infrastructure, own staff, enabling laws, and manuals, but it performed like other public offices under the executive without setting any high-expectations. Almost 4/5 years before its abolition, TIB released massive corruption and inefficiency in BAC and set people’s expectation for an independent anti-corruption watchdog. The BAC and the government did not heed the proposal of policy transfer, until donors pressure increased on the government.

ACC was formed as an independent and neutral body. And it was created with new name, new enthusiasm and new expectation supported by necessary manpower, revised pay-scale and benefits, and donor-funded capacity building projects. One KI highlighted that “*As a new organization, the ACC Act was not bad*” though one powerful minister declared the ACC as a part of the executive wing that should function under the framework of the government (Iftekharuzzaman 2006).

During the 1/11 CG, the ACC set expectations high and declared war against corruption. Its determination and commitment to courageous performance and dynamism were evident. The current government did not forward the anti-corruption drive as priority; rather it tried to weaken the ACC.

From the above discussion, it is clear that a demand for a specialized anti-corruption agency was grown in the context of policy transfer.

5.1.1 Policy Transfer

According to Dolowitz and Marsh Model, formation of independent ACC was coercive policy transfer. Based on the good practices and experiences of ICAC, donor organizations and donor-funded CSOs first set high expectation and campaigned at policy level and later insisted on establishing such watchdog

body as condition for financial aid to the government. The government did not have any internal exercise or research but accepted the proposal. The result was inappropriate policy transfer.

In Bangladesh, policy is formulated through discussion by the opinion leaders, and does not come from empirical research. The leaders especially the chief of the ruling party hold extreme power to take decisions on their own discretion without checks and balances. The ruling party mainly takes important part to formulate policies. Their thinking or policy ideas are rarely tested empirically to know the implication of the policy. Ruling party rules, on what it is interested in. It is not interested in good governance, so here policy comes through coercive transfer. Often policy recommendation of the International NGOs and Donor Agencies and the good experiences of other countries are sources of policy transfer on governance issues in Bangladesh. One academic commented:

“Always the policies regarding governance, good governance and anti-corruption issues have been directed by the donors or civil society, never thought about on its own by the government.”

It is found that public policy on governance is formulated on a piecemeal basis, not well connected and coordinated to a holistic approach of policy management. Instant benefits from development partners lured policy makers and restrained them to think comprehensively before policy formulation. Most of the reform proposals for strengthening administrative and regulatory systems by the consultants such as academics or former civil servants hired by bilateral or multi-lateral donor agencies have brought little considering the efforts and investments. Main reasons are: a) these proposals did not come from within Bangladesh; b) bureaucracy gets much private benefits from the traditional system, so they do not want change and c) rent-seeking mentality and patrimonialism of the system, so politicians do not want change either. For instances, 18 proposals on administrative reforms have been submitted by the internal experts and international consultants till date. In practice, very little change happened to the administration.

This has also happened to the ACC. The policy of formulating ACC is not ours. As a result, the government reluctantly formed the body, without political commitment and ownership. One KI passionately opined:

“It was an undesired baby, so parents did not pay attention to it, and even did not have state of mind to nourish it. The situation might be different, if parents take care properly wishing the baby could bring glory to them in future.”

5.2 Value Addition

ACC has some major functions, such as receiving complaints, inquiry and investigation, collecting intelligence, filing cases, review measures, prosecution, preventive research and analysis. Almost the same jobs assigned for the BAC that it failed to achieve. In this context, ACC added value by its name and fame. This hope did not last long due to lack of leadership skills, political interference, lack of internal coordination and absorption of all BAC staff.

The situation changed under the 1/11 CG. ACC became central to all corruption drives, supported by JTF and NCC, although there is rigorous criticism against these two parallel bodies. Many critics found that ACC was used by the CG to support these two extra-constitutional bodies. ACC's new leadership

radically changed the levels of commitment, dynamism and activism of the staff. Much neglected preventive measures were initiated at the grassroots levels with joint collaboration of CSOs.

After the new government took over state power in 2009, the hope faded soon. As one respondent pointed out:

“The methodology of investigation is the same as used by BAC and the influence of the government on the ACC is like before.”

Some respondents believed the existence of the independent ACC is still meaningful in anti-corruption drive. One KI portrayed the psychological value of the presence of ACC as below:

“There are still some hopes with ACC. It is working, filing cases and doing investigation in the corruption charges. The public officials know about the existence of ACC and its authority. So they are in fear of it. Even if it [only] gives notice to the corrupt officials, they face mental anguish and being stressed. Although they don’t get punishment for many reasons, but during the period of investigation and prosecution, they suffer psychologically a lot. This can be called another type of punishment.”

5.3 Results

“The ruling party always used BAC as their weapon against the opposition. So the cases against the opposition leaders were given approval to proceed and sometimes the BAC was pressurized to make the process faster. In fact, the BAC was completely biased organization.”

From the quote of a respondent, it is clear that BAC was a politically motivated organization. Its failure created scope for ACC. But the first two years of ACC failed to uphold its name as independent watchdog body. The CG in 2007 had started its mission with the popular agenda of curbing corruption and got support from the citizens, civil society, media and development partners. The then ACC exercised its power and authority beyond its jurisdiction. Political high-ups including current Prime Minister and Opposition leader were brought to justice on corruption allegations. Laws and regulations were not followed and maintained to file cases against them. Actually it was not independent; rather it was dictated by the CG, JTF and NCC. It got successes initially, but later their ulterior motive was disclosed. However, the government had agenda to capture the state power, so it used ACC to get mass support.

Ultimately nothing was achieved by the ACC. Almost all the arrested big fishes are free now and many cases were withdrawn. The new government along with CSO representatives criticized the over exercise of power avoiding rules and regulations. The then ACC chairman was called to the parliamentary standing committee for harassment. Later he resigned from his chairmanship due to non-cooperation of the government.

In last five years, number of ACC cases and investigation increased slightly, though number of conviction is yet quite low. Changes happened on paper, not in the implementation of the policies. One KI commented with anguish:

“During one decade, there are some achievements mostly on hardware – A big team, strong legal framework, big name and infrastructure, etc. But there are extreme lacks of changes in software – neutral actions against the culprits irrespective of any identity.”

The weak software of ACC can be analyzed by the following indicators:

5.3.1 Highly Centralized Body creating Lengthy Process

Given prior bad experience of misuse of power at local levels, currently district-level offices of ACC do not have power to take decision on investigation, arrest, filing cases and giving sanctions/punishment. They depend on the permission either of regional office or the Dhaka Office. This lengthy process of permission and lack of authority hinders the prosecution of cases and discourage local officials to be responsible and liable for the corruption cases.

5.3.2 Dealing Pending Jobs, Less New Investigation

Mainly field-based officials of ACC are mostly engaged with handling pending jobs left from the BAC. Thus they get less time to investigate new cases/complaints of corruption. This hangover of the past reduces their interest in work. “Experience shows that for a new IACC (*Independent ACC*) it is strategically more fruitful to devote greater share of energy and priority on the future rather than becoming crippled withstanding case loads. Enforcement of the new anti-corruption law over the pending cases is necessary, but not at the expense of the other key tasks of prevention and containment” (Iftekharuzzaman 2006: 12).

5.3.3 New Assignments under Section 408

ACC field offices are quite busy with handling section 408¹⁰ cases that are mainly complaints of fund mishandling or fraudulence against NGO and semi-government employees or clerks. So they get less time to investigate serious corruption issues in the public offices.

5.4 Focus

Before liberation, the BAC had limited work to watch and investigate corruption mainly in the police department. Later the focus became widespread to look into corruption in the public offices. It was a big list of work such as receiving complaints, inquiry, filing cases, investigation, prosecution, prevention, research, national anti-corruption strategy development. although it was unable to deliver on the tasks assigned. The newly formed ACC had almost the same tasks as BAC, but it had leadership and coordination problems which became doubled with two other challenges – burden of old cases and old staff. Thus the ACC pre-2007 could not set focus strategically.

The ACC under 1/11 CG had very specific focus to catch big fishes, especially political leaders and businesspeople. They had strong strategy of investigation and prosecution supported by JTF and NCC. They along with CSOs and donors first considered mass campaigning for awareness building at national and grassroots levels and formed citizens’ body.

The new government in 2009 was highly critical to the ACC’s role to catch political high ups and later the ACC discarded its previous focus. Its jurisdiction has been widened –it looks into petty corruption under section 408 and on the other hand it digs into grand corruption like Padma Bridge Scam. Additionally, it has a big burden of BAC cases. So the ACC cannot concentrate on the cases of grand corruption, building coordination and preventive activities for mass awareness.

5.4.1 Big Fishes out of Reach

High-ranking corrupt officers in police and other public departments are always out of reach of the ACC. On the other side, low ranking officials and employees have been caught and found guilty, though without having had permission or sharing of bribes with their higher authorities they cannot do any corruption in the public offices. It is a chain of receiving bribes - starting from the top to bottom. In this regard, the following comments highlight the issue:

“Giant corrupt players have money, political power and networks, so they use these to stay their cases in the Court.”

“Without involvement of high-ups, the lower tier officials or employees would never take bribes or do unlawful activities. ACC could not do anything to bring the high-ups into justice till now.”

“You will not find any millionaire businesspeople or bureaucrats or senior political leaders in the jail. How is it possible? Only the commoners are the corrupt? It is so easy to answer... the influential people always get unlawful support from the politicians and corrupt system because they have money, muscle and power.”

5.4.2 Lack of Coordination

ACC cannot perform well alone. It is a part of the total system of governance. Many other bodies have interconnected roles to support the anti-corruption drive and coordinated relations to bring the corrupt people to justice. In reality, everywhere in the national integrity system has been afflicted with corruption in varied degree. Those people having power and authority are the beneficiaries of the corrupt system. So they do not want any changes and create hindrance for the other organizations. In this context, ACC does not have a strong position for its task of coordination. The other organizations do not voluntarily support it.

5.4.3 Small-scale Preventive Activities

There are some awareness-building programs for instance, day observance, debate, human chains at local level organized by district offices and ACC-inspired school-based Integrity Units. Some governance-based NGOs support their activities, although ACC does not have any formal alliance building with CSOs. It is found that the preventive activities of ACC are going on in very small scale in isolated manner which is not reaching most citizens with their awareness messages in contrast to ICAC-model. One Key Respondent illustrated:

“The preventing activities are not being given due attention owing to institutional deficiency and huge burden of work. Even the organizational strength of ACC is not commensurate with its workload. It can be concluded that the ACC’s competence with regard to corruption prevention is not at all satisfactory.”

Although population has doubled and financial budgets have quadrupled, but number of staff and budget of ACC were no longer increased substantively. Reversely number of district level offices was reduced sharply. Ultimately it is negatively affecting the performance of the staff.

5.5 Power and Safeguards

The BAC was a part of the executive. So it had not independence to initiate inquiry or investigation against any accused high officials. In every step it re-

quired approval of the Prime Minister's Office (PMO). And the appointments and removal or termination of Director General and other staff depended on the controlling PMO. So the initiation of ACC was an effort to free the anti-corruption watchdog body from the executive. The ACC Act gives substantive power to the Chairman and Commissioners who cannot be removed by the executive. But, there are some weaknesses mentioned below:

5.5.1 Legal Constraints

According to the ACC Act 2004, the ACC spends government's "approved and specified" budget but it has no authority to prepare budget on its own.¹¹, the ACC uses government-imposed organogram¹², the ACC has to take "guidance of direction" of the government for any vagueness in the provisions of the Act¹³ (Iftekhazzaman 2006: 6-7), the two sections, 12(2)¹⁴ and 24¹⁵, regarding independence of the commissioners in discharging their duties are contradictory¹⁶.

The ACC Act 2004 was amended thoroughly to strengthen ACC more under the 1/11 CG. But the party government did not approve the ordinance in the parliament, and instead follows the original one. And, it took initiative to amend the Act that what drafted in 2011 and approved in September 2013.

5.5.2 Lack of Independence

Since the appointment of the Commission is not immune from political consideration there are instances of the Commission acting in partisan manner. ACC is supposed to be, but on various occasions it appeared to be not totally, politically impartial. There are quite a few instances of political interference as is perceived by the people.

In this regard two case studies illustrate political interference threatening ACC's independence. 1) The Padma Bridge Scam came into lights when WB suspended funding of \$1.2 billion and raised corruption allegations against former Communication Minister, even though his name has not been included in the ACC Charge Sheet. 2) The Hallmark-Sonali Bank Scam got huge public attention when Hallmark Group swindled loans worth Tk. 35,470 million (\$422 million). It is a massive corruption in sanctioning and disbursing state-owned bank alleged collusion of one ruling high up and Hallmark, although his name has not been included in the charge sheet. (See detailed case studies in Appendices VI and VII). The cases clearly show neo-patrimonial role of the government that puts down ACC's independence by influencing ACC so as to save the alleged corrupt party high-ups in particular and party image in general.

5.5.3 Lack of Transparency

Information and database is poorly managed. Sometimes the conventional culture in public offices adds restriction on information disclosure. The ACC website is not active till date.

5.5.4 Lack of Integrity

Major penalty has been imposed over 23 staff members and minor penalty over 25 staff members from 2008 to 2012 for violation of the code of conduct or other ethical standards.

There are various major and minor punishments. Major punishment includes (a) reduction in rank or downgrading to a lower pay scale; (b) realization of money lost due to negligence, dereliction of duty; (c) compulsory retirement; (d) removal from service; (e) dismissal from service. In case of dismissal from service the person becomes ineligible for employment in any other government department or body corporate established by or under an Act of Parliament. Minor penalty includes (a) censure; (b) deferment of normal increase of pay or promotion in case the employee does not fulfill normal conditions as applicable; (c) stoppage of grant of time scale for certain period

5.6 Resources

When the BAC was abolished, the total approved and appointed manpower were 1,271 and 968 respectively. There were 66 offices outside Dhaka that included all 64 districts. But specific financial budget was not found, then the concerned high-ups informed that money was not problem for the functions of the BAC. But in ACC, budget for the fiscal year 2012-13 is €3.80 million that shows insufficiency of financial resources to achieve anti-corruption mandate. Because national population and budget increased rapidly each year, but number of staff and local offices reduced when ACC was reformed during CG period. And, budget of ACC is almost the same as it was during BAC. This situation of resources is antithetical to ACC's mandate.

Modern devices for investigation and computerization of the offices for rapid communication, data management have recently been started to install.

5.6.1 Insufficient Manpower

The ACC has, at least in the Head Office, a large number of staff of various categories who were in the defunct BAC and were absorbed in the ACC. On the other hand, in the field level, in addition to issues of credibility and expertise, under-staffing remains a problem. One Respondent informed:

“Poor infrastructure, insufficient logistics and lack of manpower are mostly common at field-level ACC offices. This situation is created by decision makers’ passing-over attitude for years that has negative impact on the morale and spirit of the staff.”

Almost 100 mid-level staff members have recently been recruited. Currently the approved manpower in ACC is 1,073 (38% are Class I and II and the rest 62% are Class III and IV) according to the approved Organogram, that is much less than BAC. Among them, many posts are still vacant (specific number not found).

5.6.2 Lack of Infrastructure

The decision to reduce district offices (from 66 to 22) has negative impact on the anti-corruption drive. ACC faces challenges to cover its services in all districts through 22 combined offices. People living in the districts where ACC offices do not exist are deprived of ACC services, because distant offices become disincentives for them to file complaints.

5.6.3 Lack of Skill

The ACC's legal and prosecution capacity remains weak for lack of specialized training. One respondent said:

“There are many staff aged more than 50 assigned in the investigation. They do not have energy, skill, courage and patience to handle such cases.”

5.6.4 Anomalies in Recruitment

All other members of staff including the Director General are appointed directly through recruitment/on deputation/by promotion where scope for political consideration cannot be ruled out altogether. Additionally, money transaction or bribery is also determinant factor in the appointment. One respondent informed that:

“Recently one list of promotion has been prepared, where some junior officers superseded their seniors who got low grades on efficiency. But some other factors including bribes and political identity influenced the decision.”

5.6.5 Insufficient Salaries and Benefits

Salaries and benefits of public officials (include ACC Officials and employees) are insufficient to maintain their livelihoods. Salary of an IV-class employee starts from €54 in a month. From their salaries and benefits, one small family faces difficulty to maintain livelihood at the sub-towns. If the family size of an employee is big, then it is so difficult for them to survive on this amount of salary.

5.7 Complementary Institutions or Conditions

The entrenched corruption is deeply rooted in the society, economy, politics and all other spectrum of governance in Bangladesh. As we have learnt from our literature review, patrimonialism, neo-patrimonialism, clientelism, and political economy of malgovernance prevent rational coherence of the society and economy. In this circumstances, only single or even multiple anti-corruption organizations cannot effectively control the highly expanding corruptions. That task needs support from the polity, society, CSOs and markets.

5.7.1 Political Space and Commitment

The crucial issue for independence of ACC is political commitment. Without it, the authority or power of laws given to any organizations would not have any effect in reality. For instance, there are many stringent laws and authorities in the police, but the concerned officials do not or cannot perform independently because of political interferences. The ruling parties and influential people always try to manipulate the system of governance for their own benefits and do not let the institutions be free and effective. Considering this issue, one respondent commented:

“Many ruling party leaders are not honest and they do not want to make it independent, only for their own interest. They do not want to make their future life hell, because they are fearful of the independence of ACC. If the government has good will to curb corruption, then the defunct BAC could do it. So the basic problem is not the institution, but the political commitment.”

This lack of political commitment has been decisive because of electoral dictatorship in the name of democratic system. Political parties do not exercise internal democracy. Now money, muscle power and connections have become dominant qualification to be elected. Bad governance everywhere is not for the lack of legal and administrative institutions, but for failure of political com-

mitment to promote governance. Political leaders from two major political parties showed their utter commitment to curb corruption through strengthening ACC in their electoral manifestos. As one KI pointed out:

“Political commitment can be measured by the acts of leaders, like, how their words made visible and measurable changes in the institutions. And it seems the political leaders are flatter box—much talk, less outcome.”

In practice the ruling party and the main opposition did not take any initiative to uphold their commitments, rather the ruling party appointed “their own people” at the top-most responsible positions manipulating appointment procedure and proposed some amendments (see endnote 8) of the ACC Act to make it subservient entity of the government. The Padma Bridge Scam case study shows that the government played role of Patron and ACC became client. ACC’s primary investigation and WB’s enquiry report found the Minister’s involvement in the scam. But the ACC dropped his name from the charge sheet under government’s pressure, although the ACC supposed to be independent. As Chairman and Commissioners are politically appointed, so they are loyal to the ruling party. (see details in Appendix VI).

5.7.2 Politicization Weakening Leadership

The ACC is *de jure* independent from the executive body of the state and has “strong power and mandate” to control corruption, but appointment of top leadership and nature of corruption charges made with fear and favour expose its *de facto* political linkage. Although there is an appointment procedure¹⁷ for the Chairman and Commissioners, but there are following snags which leave ample scope for political consideration:

1. In terms of Article 48(3) the President has to act on the advice of the Prime Minister;
2. All the members of the Selection Committee are originally appointed by the President on the advice of the Prime Minister; and
3. The process of selection is not transparent, it is done confidentially and sometimes existence of the selection committee was not publicly visible.

In practice the selections so far made ever since the Anti-Corruption Act was passed and the Commission was created to support the general perception that the selections were made by the Prime Minister. Formalities of recommendations of the Selection Committee were obtained, but the consent of the Selection Committee members is manipulated, they gave their consent to what has been desired by the Prime Minister. About formation of the Selection Committee, one KI mentioned:

“The selection committee of the commissioners consists of un-elected officials. They work to satisfy the government and do what the government wants.”

Personality and courage of the Chairman of ACC would have tremendous effect on the exercise of independence as was shown by the Chairman of ACC during 1/11 CG. But such type of courageous, honest and non-partisan chairman was not selected by the party-based governments, because the ruling party leaders fear independence and effectiveness of ACC.

Sultan-Commission¹⁸ was entirely handicapped by political influence and did not have courage, enthusiasm and pro-activism to envision the anti-

corruption mandate; rather the three commissioners had rarely consensus on any issue. One commentator told:

“The commissioners were incompetent and incapable to deliver services fairly and independently. They had extreme lack of coordination among themselves and one did not agree to other – it was like four parties formed by three commissioners.”

Their lack of strategic direction and plan of action misguided the officials and allowed dishonesty, irresponsibility and lack of accountability and transparency in the commission. Even their partisan role ensured reappointment of defunct BAC staff.

Ghulam-Commission¹⁹ sometimes tried to make decisions independently, but failed to get support from the government, and eventually accommodated with the government's intention. There were many corruption allegations against some top ruling party leaders (ministers, parliamentarians) floated in the media but he moved at snail's pace and was not able to ensure trial. The commission submitted final report on the present prime minister and some other AL leaders, but kept the case of opposition leaders pending. At last day in office, he commented to the media that ACC is a toothless tiger. A KI criticized his position by:

“He wanted to ignore his weaknesses and responsibilities by saying this. To claim that he tried to drive changes in ACC and to take actions against alleged ruling party leaders – no, he did not do anything substantive; rather he always showed his loyalty to the ruling party.”

The appointment of current chairman is questionable for not maintaining process of appointment. One KI remarked:

“Appointing the former Director General of BAC as Chairman of ACC conveys wrong message to the citizens. The decision was guided by the partisan consideration. He was a man of AL during BAC and now reinstated as ACC Chairman. BAC was abolished as inefficient and corrupt body. So for being chief of that body, he should have equal responsibility and liability of the failure of BAC. In reality, by giving him chairmanship, he has been rewarded.”

The second tier leadership – Secretary, Director General, Director – is not free from government's control. Being appointed as deputed high officials at the second tier leadership, they maintain accountability to their parent organizations which can certainly affect ACC's independence.

5.7.3 Lengthy Judicial Process and Judicial Corruption

Independence of Judiciary and its support to the ACC are indispensable for the independence of ACC. If ACC is given quality leadership, full independence, sufficient logistics and no political interference, then it still could not be functional until the judiciary proceeds quickly and fairly. One Respondent argued that:

“ACC makes enquiries, files cases against the alleged and submits charge sheets to the court. Sometimes the process took some months and involves huge resources (manpower and money) because these cases are so complicated in nature and magnitude. When these cases are stayed by court order and alleged persons become free, then ACC officials got demoralized and frustrated. Big fishes are always out of conviction.”

In fact, judicial process is lengthy and procrastinating due to lack of judges and lower tier staff, inefficient and partisan public prosecutors, shortage of in-

frastructure and logistics, manual system of file management, and huge backlog of cases including a good number of ACC cases. And it is also alleged that a section of judges and staff of the court take bribes to stay cases. One KI pointed out:

“The judicial process is now corrupted, so rich people, politicians and bureaucrats can manipulate the system for their own benefits. In that context, nothing would be in hands of ACC. Besides, the internal and logistical constraints of the judicial system hinder justice. For instances, not receiving support from the Judiciary to gear up prosecution of many cases, it is a big challenge of the ACC. Many cases are withheld or pended months after months in the court.”

ACC takes politically motivated decision on investigation and submission of charge sheets. The ruling party is getting benefit from the ACC, and the other side, the opposition leaders are being accused of corruption charges regularly. Sometimes the charge sheets against the ruling party leaders are prepared so weakly, so that the lawyer can easily defend the charges and the court gives verdict in favor of the accused. In addition, the high profile expert lawyers of the rich and powerful clients argue diligently in the court and find loopholes in the corruption cases and consequently appeal to the court to stay the case for more clarification, evidence and consistency of the allegation. One KI mentioned:

“Sometimes Judiciary was convinced to issue stay order for loopholes in the ACC cases – lack of information/evidences, incoherence in the charges on the facts, weak prosecution. It is also true that there are lacks in judicial system. Because some appointee judges such as Divisional Special Judges and staff have been appointed on political consideration and Law ministry can interfere with the judiciary for many reasons.”

In some cases senior leaders of political parties are kept on corruption charges, and on the day of prosecution, a good number of partisan lawyers created nuisance by shouting together inside the courtroom to influence the Judge. This culture of politics is unfavourable to institutionalize democracy in the institution and society.

5.7.4 Society/Social Organizations

Gillespie and Okruhlik (1991) have mentioned three major components in societal strategies: ethical norms, education and public vigilance. During the period of BAC, corruption issues were much neglected and out of public and community discussion. It came out very nakedly when Bangladesh repeatedly held the lowest position in the CPI. So the three components are basically considered in the period of ACC. During one decade experience of ACC, it has concentrated little on building ethical norms and education. Even the ACC has very inadequate competences in education on anti-corruption. Recently the initiative to form integrity units and interaction of school boys and girls with the anti-corruption staff have been considered, but lack of manpower and insufficient coverage are decisive constraints. Public vigilance is seen in very isolated manner. Social clubs, community people or traders form vigilance teams to face evil practices and corruption such as extortion, embezzlements. For instance, traders of a market/area formed unity to resist the demand of extortionists. On the other side, media is playing quite active role in disseminating public views and focusing corruption news widely to make people aware against the evils of corruption.

5.7.5 CSOs

Microcredit development NGOs became prevalent during the 1970s and 1980s in Bangladesh for women empowerment and poverty reduction. Governance or rights-based NGOs/CSOs came late in the 1990s – TIB substantively started its work in 1996 and it found massive corruption in the public offices. It was the beginning. Then each year it along with TI published many reports on governance issues and the media publicized the negative news widely. And the CPI report and Bangladesh's lowest position made the corruption issue popular at individual, group or social gatherings. Sometimes the ACC under 1/11 CG conjointly worked with TIB mainly for mass awareness campaign. TIB and its 45 CCCs and all other governance CSOs including Institute of Governance Studies (IGS), Campaign for Good Governance (SUPRO), Citizens for Good Governance (SUJAN), have been campaigning with different strategies to raise citizens' voice, to carry out research for gathering facts of corruption and to consult with policy makers for positive change in the corrupt sectors.

Unfortunately as the ACC does not have comprehensive strategies to promote prevention, so they very rarely work with CSOs except through the committees formed at various levels. The CSOs with foreign funds do their campaigning throughout the country. But their coverage area is quite small and they can reach very few people by their intervention.

5.7.6 Markets

Corruption is less challenged in the markets, because the markets mostly rely on the intervention of the government. Gillespie and Okruhlik (1991: 81) mentioned that "corruption is encouraged by heavy reliance on government intervention in the economy or by excessive bureaucratic overlay." so he suggested to free the market and reduce the government's intervention. But in our political and bureaucratic system, the two main actors (parties) are highly influential and dominant in both public and private spheres. Besides, the government has unethical collusion with bureaucrats and businesspeople. It is a win-win game for the three groups. They are all making profits by depriving the common citizens. Some efforts were made to privatize some public institutions, but it made conditions worse due to lack of commitment, regulation, monitoring and excessive corrupt practices even in the business sector that create disequilibrium between supply and demand for goods and services.

Table 3 summarizes the above findings in terms of the ACC assessment indicators in two political regimes.

Table 3: Performance of Anti-Corruption Agencies

Indicators	Political System		
	Democratic		Authoritarian/ Emergency Rule
	Multiple Agency (1957-2004)	DOMINANT Agency (2004- 07 & 2009 - September 2013)	DOMINANT Agency (2007-08)
Key Inputs of the Agency			
Setting expectation	- Minimum expectation as the body established long ago	- High expectation by the CSO and Donors - Lack of ownership	- High expectation
Value Addition	- No value addition	- A legal framework of independent ACC	- Strong mandate of anti-corruption drive - Effort to bring the corrupt influentials to justice
Results	- Less performing in investigation, FIR, Charge sheets - Huge pending list of cases - Political considerations - Rampant corruption in BAC - No prevention campaign - Bangladesh placed as top corrupt country in CPI	- The commission (2004-07) was quite less performing - Recently speeding up the cases of corruption - Huge backlog from BAC and also piled up new cases - Political considerations - Corruption allegation found - Prevention campaign at small scale	- High performing, big fishes caught - Prevention campaign with CSOs - Dynamism and pro-activism stimulated the staff - misuse of power to catch high ups
Focus	- Control of public sector corruption - Political weapon used against the opposition	- Control and prevention of public sector corruption	- Curbing political and administrative corruption - Bring politicians into justice, even violating rules - Preventive measure
Powers and Safeguards	- An executive branch of the government - Accountable to the Prime Minister - Appointment and removal depend on the controlling authority	- Independent ACC by enacting ACC Act - An annual report submitted to the President - Appointment by selection committee - Removal not on executive order	- Independent ACC - Act amended for more power - Appointed by the CG with discretion
Resources	- Approved manpower 1271, but posted 968 - 66 branches other than Dhaka Head Office - Insufficient budget - Lack of efficiency and corruption allegation	- Approved manpower 1073 - 22 combined branches - Budget Tk. 380 million - Same workforce from defunct BAC – very recently few Assistant Directors added	- Same workforce of defunct BAC - Budget not found, but abundant money flow from ADB, WB, UNDP
Complementary Institutions and Conditions			
Political Space	- No political commitment	- Less expectation of the government	- Political mandate to curb corruption
Leadership Qualities	- Subservient to ruling party	- Subservient to ruling party	- Dynamic, committed, and visionary - Participatory

Indicators	Political System		
	Democratic		Authoritarian/ Emergency Rule
	Multiple Agency (1957-2004)	DOMINANT Agency (2004- 07 & 2009 - September 2013)	DOMINANT Agency (2007-08)
Key Inputs of the Agency			
Key NIS Institutions (Judiciary)	- Judicial constraints	- Judicial constraints	- Judiciary got sudden momentum
Society/Social Organizations	- Common people were victim - Unaware of the loss from corruption - Lack of social organization on this issue	- Common people are victim - People are now becoming aware - Many social organizations working on	- Distinctive efforts to aware people - Social organizations supported
Civil society	- Less civil society campaign; only TIB carried out - Foreign funded programs	- Foreign funded programs widespread - Awareness programs, but no holistic approach	- Foreign funds available to CSOs - Piecemeal approach to support ACC
Markets/Business	- Collusion with power holders - Win-win game - No market pressure to control corruption	- Collusion with power holders - Win-win game - No market pressure to control corruption	- No market pressure

Chapter Six

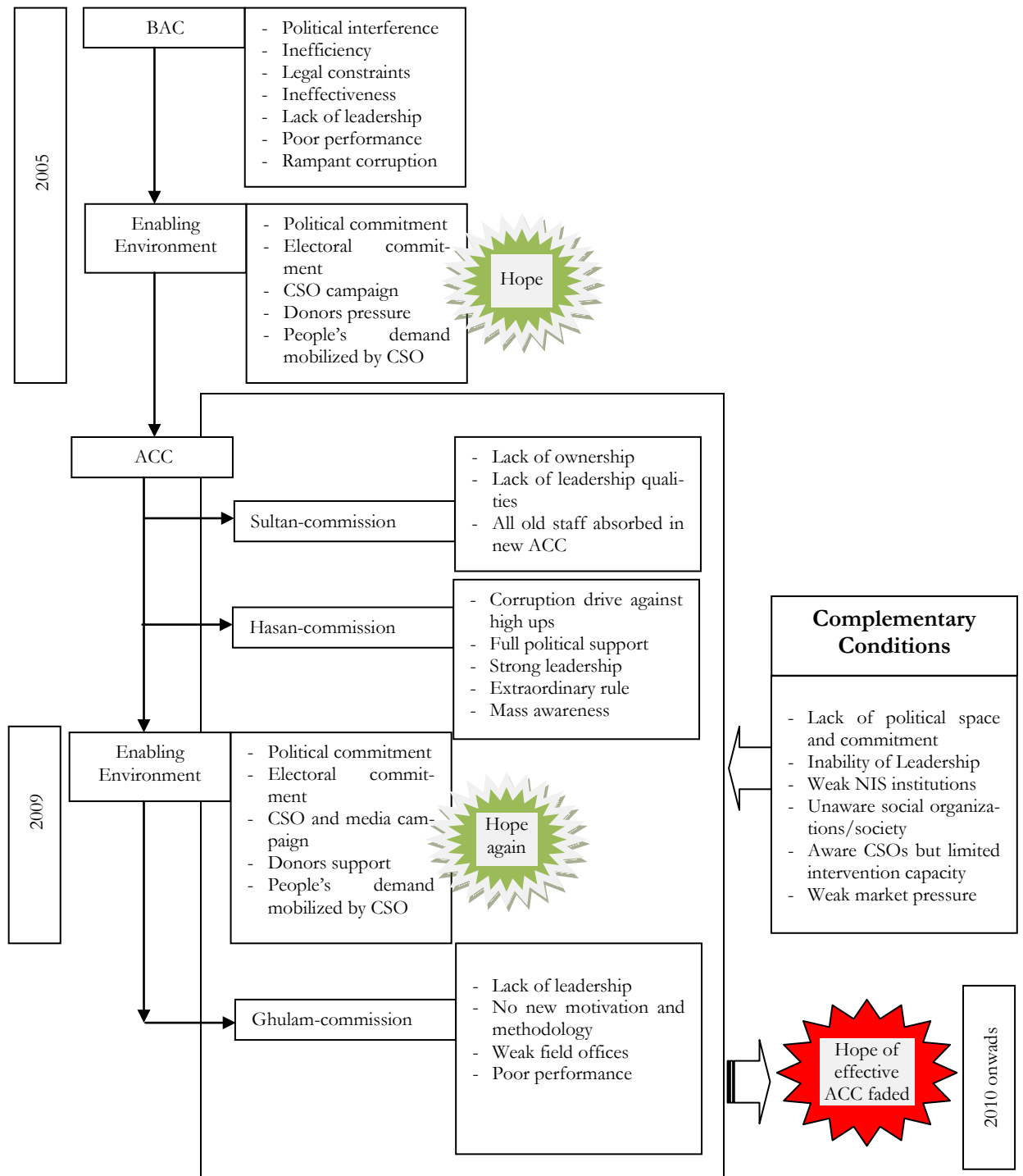
Independence and Effectiveness – ACC Not Yet Ready

Based on theoretical underpinnings (chapter three) and ACC's performance (chapter five), this chapter analyzes the internal and external conditions that lead the ACC not to grow as independent and effective anti-corruption agency. Still prevalent patrimonialism, neo-patrimonialism, and clientelism explain the conditions of deep-rooted corruption in the weak state of Bangladesh. In such conditions, principal-agent model of anti-corruption reform inspired by ICAC model was prescribed and coercive policy transfer was enforced that abolished BAC and constituted ACC. Under this social, political, economical, governance and policy conditionality, almost one decade of ACC's input and output towards anti-corruption mandate is revisited and complementary conditions analyzed to respond to the main research question (why Anti-Corruption Commission in Bangladesh is failing to promote its independence and to challenge legal, institutional and political factors?).

6.1 ACC – Hope Raised but Faded in Reality

The Flow chart-1 summarizes the context and its impact on ACC. The creation of a powerful and independent anti-corruption body made people hopeful that ACC would function to curb entrenched corruption mainly in public offices. But the appointment and performance of the first commission (Sultan-commission) and absorption of BAC staff in the new body was unacceptable to the concerned citizens and development partners. The scenario was changed when the CG took state power and reconstituted with strong leadership (Hasan-commission). For the first time, corruption was established as a punishable offence and whosoever the corrupt were placed in the court of justice. The two-year long aggressive anti-corruption drive throughout the country had a lesson for the political parties. Many top leaders including party head of two major parties, bureaucrats, influential business leaders faced corruption allegations and were arrested. The politicians welcomed the mass support and demand for anti-corruption agenda and committed to strengthen anti-corruption agency and action in their electoral manifesto. After the new party government came into power, the commitment has not been upheld, rather given a weak leadership (Ghulam-commission and later) who never showed strong commitment, boldness and dynamism to promote ACC's mandate. As a consequence, the hope of ACC's independence and effectiveness faded. The failure of ACC is not by only itself, but reflects the other complementary conditions and institutions (see Flow Chart 1).

Flow Chart 1: Why ACC cannot Uphold the Hope?



6.2 Undesired Baby – Less Nourishment

Frequent failure of the Washington Consensus and structural adjustment approach to reform public institutions and increase economic growth in developing countries including Bangladesh pushed corruption and governance up in the development discourse in 1990s. Although corruption already existed in the society and state in the fertile conditions of patrimonialism, Neopatrimonialism and clientelism, it erupted in the regime of post-Washington Consensus. New anti-corruption organizations – globally and nationally – were grown and identified massive corruption in public institutions especially in BAC.

BAC – an inefficient, ineffective and corrupt body – was a part of the executives and a weapon of the ruling government to subdue opposition. The rulers and bureaucrats practised ‘winner takes all’ policy for long time and maintained patron-client relations for optimum gain and protection in their jurisdiction. So BAC’s partisan role was not unusual in such a weak state (Migdal 1988). At that time, TIB published research findings and recommended ICAC-modelled ACC. It campaigned at the policy level and with development partners who later compelled the government through coercive policy transfer (loan conditional) to constitute ACC. But this was mere copying of the ICAC model and no internal analysis was done, that resulted in inappropriate transfer which is described as underlying factor of policy failure by Dolowitz and Marsh (2000). Transition to single agency approach from multiple agency paradigms failed to make substantive difference in achieving outcomes.

6.3 Wrong Assumption – No Change

The programme logic of ACC can be described by the principal-agent theory. These two actors may be changed in different context of corruption like bureaucratic corruption, political corruption. For instance, the government is the ‘principal’ and the ACC is the ‘agent’ in bureaucratic corruption. The principal has created the agent to reduce corruption and it is assumed that the principal is itself free from corruption. If it is not, then the program logic does not work. Thus, the involvement of Minister in the Padma Scam and Advisor to Prime Minister in the Hallmark-Sonali Bank Loan Scam seems to be discouragement of the ACC, because the principal does not want to see ACC active in this regard. As the political leaders are corrupt and still not ready to reduce corruption, so they cannot play a perfect role of principal. Consequently, the agent would not be free to perform. So the principal-agent model often cannot address the current governance failure and its remedies of Bangladesh.

On the other hand, this context is conceptualized clearly in collective action theories. It assumes that the rulers, bureaucrats and citizens act to maximize their self-interest. Thus, one person does not protest to the act of corruption that took place in front of him, because others of the society never react or protest to the corruptors’ act. So he does not react. It is called collective action problem. The officials and employees of ACC are part of this game.

6.4 Weak Complementary Conditions – Rhetorical ACC Mandate

Analysing the key inputs and outputs of the anti-corruption agency, ACC became vibrant, pro-active and outcome oriented entity during the authoritarian regime of CG. It raised people’s expectation, added value by its dynamism and

treatment of corruption and corruptors, achieved results by quick investigation, filing cases against many big fishes and placing charge sheets to the court. It had extreme power and safeguards and worked jointly with high-powered JTF. And, it got sufficient financial and technical resources from the government, CSOs and the development partners. But the arrangement was extra-constitutional as it violated democratic and legal norms itself to achieve CG's ulterior motive – maligning politicians and occupying state power for long. During the anti-corruption drive, only the ACC was strengthened, but the other complementary institutions were not. The power holders include CG, ACC, Military, Police also practiced neo-patrimonial and patron-client relations for their private gain.

The ACC has gone again on the back foot when the party government regained state power. Now-a-days the performance of ACC is getting momentum – number of cases and charge sheets increased. But the big fishes, mainly the political leaders and bureaucrats are out of their grip. Though safeguard of the Chairman and Commissioners is strong and the ACC has strong power and jurisdiction, given lack of complementary conditions, it does not perform independently to achieve its mandate.

The political leaders and bureaucrats are getting private benefit from the long-nourished corrupt system (linked to clientelism and neo-patrimonialism) so they do not want to lose them. And the culture of confrontational politics retards the political leaders to create such agency that could be used against them on political consideration. In addition, they always prefer to appoint like-minded people in the ACC who perform what the ruling party guides or instructs (see appendices VI and VII). This weak political space for the independent ACC is also applicable to all NIS institutions that are similarly weak in their functions and authority. The judiciary cannot provide whole support all the time to the ACC for many reasons including political interference. State failure to provide basic services to people has created scope for social organizations and civil society to grow. Then they have insufficient interventions of mass-awareness programmes to reach a large number of population and wide geographical coverage. And, finally the market cannot perform independently and it has collusion with the political leaders and bureaucrats. For instances, ready-made garments sector, the largest private sector in Bangladesh, can influence or manipulate policy decisions because 10% of the current parliamentarians directly involved in this business (Mawla et al. 2013). In this regard, Sobhan described three major influential professional classes, political establishment, bureaucracy and business community, “use their personal connections to get round the malfunctioning of the systems of governance” (2007: 219). So it cannot create demand of anti-corruption measures against their partners, and even against itself.

Chapter Seven: Conclusion

The hope of an independent and effective ACC in Bangladesh is fading mainly for the lack of political commitment that underlies continuous legal, administrative and operational hindrances to strengthen it. The governments before 2004 were not ready to form the ACC because they along with bureaucracy could manipulate the BAC for their own benefit and did not face any pressure for change from the businesses and commoners. But the government was forced to implement a coercive policy transfer by the donors' pressure and donor-funded civil society mobilization. That led to a moderately strong hardware of legal and institutional framework but weak software of leadership and methodology. This approach to run the ACC was continued under each democratic government. A reversed outlook of the ACC with high commitment, strong leadership, committed and dynamic workforce, and goal-oriented approach was found during the two-year period of the CG, although it manipulated the legal and administrative procedures to achieve the goals and was supported by the extraordinarily powerful parallel bodies, such as JTF and NCC which were created at that time. This so-called hyper active experience could not contribute to strengthen the institution; rather it created fear among the political leaders and bureaucrats who later tried to make ACC subservient to the government.

The unprecedented anti-corruption drive during the CG, prioritization of anti-corruption commitment in electoral manifestos of both major parties, and lip-service by the political leaders including ministers and parliamentarians could not eventually contribute to strengthen the ACC. In fact, the ruling party government took initiatives to weaken ACC by amending some sections of the ACC Act at the beginning of their rule. In reality they both cut the claws and removed the teeth, although the tiger was not already toothless. A combined effort of the ACC, CSOs and development partners tried to restrain the government to amend some sections especially on the mandatory prior permission of the government is required for the ACC to file case against any government officials but failed. The government passed it on the final day of last parliamentary session on 10 November 2013. So long time campaigner Iftekharuzzaman aguishly uttered, "The substance and process of the move is unconstitutional, discriminatory, deceitful, self-defeating and deeply disappointing"²⁰. Besides the government appointed its like-minded people as chairman and commissioners, holds down the ACC not to investigate big fishes, interfered to free ruling party leaders and to keep the cases against opposition leaders. These political interferences promote inertia in the performance of the ACC.

The analytical matrix of the ACC's performance shows that the ACC was first established without setting any high expectation from the democratic government, for whom the Finance Minister considered ACC as an executive branch of the government. Despite having powers and safeguards, this inefficient leadership, low support from the government and reappointment of all BAC staff without vetting, resulted in an ineffective watchdog body. For this, ACC was called old wine in a new bottle. In the changed context under the CG, a nation-wide anti-corruption drive was set by the ACC which was strong-

ly supported by the CG. ACC added extra value by its methodology and targets and was clear on its focus. So the ACC got financial and technical assistance from the government, CSOs and donors, and built up capacities, strengthened legal framework and achieved operational successes. The complementary bodies such as law enforcing agencies, tax departments, state and defence intelligence agencies, and judiciary provided full support to the ACC's anti-corruption drive. It had also wide-spread mass campaign supported by the CSOs. This enabling atmosphere left when the party government came into power in 2009. The ACC went into low profile – politically motivated leadership and lack of political commitment failed to uphold ACC's image established in the CG, rather made it controversial and partisan. That has an effect on its results. Following Acts and guidelines, ACC receives complaints, inquiries, files cases and submits charge sheets against small fishes, but their activities are intervened politically when it files cases against big fishes. Only some cases of the accused influential political leaders, businesspeople and bureaucrats were processed and a very few of them convicted by the court. Besides, number of staff of ACC has become fewer than that of BAC and financial resources are very small considering population size of Bangladesh and corruption intensity. The district offices face challenges of insufficient resources, lack of authority and surfeit of old cases from during the time of BAC. These constraints have negative impact on its performance and results. One important additional reason is the blocked judicial process.

Uncompromising and fair support from the judiciary are not guaranteed. In fact, lack of skilled investigation staff of ACC for filing cases with fool-proof evidence, inefficiency and lack of ethics of ACC lawyers, political treatment of anti-corruption cases, political influence in judicial process and internal governance challenges of judiciary have prevented fair trial and justice. Also, lack of coordination between ACC and judiciary is evident.

In addition, the ACC has less focus on the preventive mechanism to educate ordinary people against corruption and has no formal mechanism to build alliance with the CSOs. Although it has recently started to build local level integrity units, such as in schools, these are not fully functional for lack of resources (manpower and finance), less prioritization, heavy workload of field level staff and low coverage at grassroots levels. On the other hand, the social pressure from existing values, norms, ethics, and market pressure such as for less government and bureaucratic control on the products, do not create anti-corruption demand in the society and market.

These social-economic and political conditions conducive to corruption have been cultivated long ago. Legacies of bureaucratic supremacy, military and quasi-military rule, lack of internal party democracy, culture of impunity, lack of rule of law, weak NIS institutions and lack of integration and coordination among NIS institutions, lack of mass-awareness and win-win game/unethical nexus among the politics, bureaucracy and business have built the path of clientelism, patrimonialism and neo-patrimonialism that ultimately institutionalizes corruption at all levels of society, policy and economy. To get released from these ill-factors, many developed (such as Hong Kong, Singapore, Australia, Korea, Malaysia) and developing countries (such as Botswana, Indonesia) have dedicated political commitment to follow very strong principles of governance in the forms of either multiple agency or single agency anti-corruption bodies. But in the past nine years, Bangladesh government has only followed the do-

nors' and CSOs' guidance to form single agency paradigm to combat corruption, and has failed to show its political commitment in such unfavourable contexts of entrenched corruption. That is the most crucial and essential element which should come first to strengthen anti-corruption watchdog agencies, that can be learnt from the experience of the success stories of other countries.

Some important areas for more research should be highlighted in the concluding remarks.

1. In this study, the main hindrance to the free run of the ACC is lack of political commitment. Each political party, from its beginning, uses this body as its weapon against opposition. With this approach of misuse, the major political parties each became victim of it. So did no ruling party want to make ACC effective and institutionally functional so that they would not be later victimized by the opposition? Is it only for immediate gain? Or being part of corrupt practices, do they fear to strengthen it? Why the political commitment to the people does not work?
2. Context and conditions of corruption, reasons of ACC's ineffectiveness, lack of enabling complementary conditions for functioning and independence of ACC have been shown, but focus was not given to the suggestions (see appendix VIII) collected through KI Interviews. This requires more in-depth study to develop policy recommendations for prioritization based on policy traditions, policy implementation, and social, political and financial capabilities of the state.

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¹TIB was established in 1996 as an accredited national chapter of Berlin-based Transparency International (TI). It has comprehensive approach to create social movement against corruption through researching, civic engagement, outreach and communica-

tion. It has almost 266 full time staff in Dhaka and 45-CCCs and about 5,985 volunteers in different forms such as CCC members, youth volunteers, etc. The diverse activities to raise anti-corruption demand among the citizens and to create pressure on the policy makers have already achieved many successes in the way of establishing good governance in public offices in varied scale.

² The Daily Star, 21 June 2013 (www.thedailystar.net)

³ It is the short form of 11/1/2007 when the military-backed non-party caretaker government took over the state power uprooting forcibly Iajudding Ahmed-led caretaker government (sworn in 29/10/2006) and ruled the state almost two years violating the constitutional provision of 3 months tenure of caretaker government. But the 1/11 regime is mostly remembered for its anti-corruption drive that caught many big fishes.

⁴ According to the Article 58(B)(1) of the Constitution of Bangladesh, “There shall be a Non-Party Care-taker Government during the period from the date on which the Chief Adviser of such government enters upon office after Parliament is dissolved or stands dissolved by reason of expiration of its term till the date on which a new Prime Minister enters upon his office after the constitution of Parliament.” The system was first put in place informally in 1991 (later ratified by eleventh amendment) and was repealed by 15th amendment of the constitution in July 2011.

⁵ Both corrupt and watchdog agencies/rulers/administrators maintain collusion for their own financial or any kind of benefits.

⁶ Twelve JTF were formed – each team consisted of one member each from ACC, Directorate General of Forces Intelligence, National Security Intelligence, National Board of Revenue, Rapid Action Battalion, the Army, and the Special Branch of Police. Later seven regional and 64 district-based JTF had been established (Source: The Daily Star, 11 February 2007 and 14 March 2007).

⁷ AL’s commitment, “to ensure independence of the ACC, to take multi-sectoral action against corruption, and to take stern steps for preventing and uprooting bribe, corruption, illegal income, loan default, extortion, manipulation of tender, black money and muscle power at all stages of the state and the society” and BNP’s commitment, “Take stern steps to prevent corruption and close the sources of corruption, Assist the Anti-Corruption Commission in achieving independent, neutral and effective role, Ensure transparency and accountability in state and state-controlled procurement and Build mass awareness against corruption” (Source: Sharmin et al. 2011).

⁸ The following four proposed amendments were, ACC will take permission from the government for filling case against public officials, the government will appoint Secretary of the ACC, the ACC will be accountable to the President, and five-year imprisonment to be imposed in case of false corruption cases.

⁹ The Daily New Age, 14 September 2013.

¹⁰ Section 408 of Penal Code, “Whoever, being a clerk or servant or employed as a clerk or servant, and being in any manner entrusted in such capacity with property, or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

¹¹ Section 25(1) of the ACC Act 2004, “The government shall allocate a certain sum in favour of the commission for expenditure. It shall not be necessary for the Commission to obtain any permission in advance from the government in order spend the allocated money.”

¹² Section 30 of ACC Act 2004, “The organizational set-up of the commission and its budget shall be determined by the government.”

¹³ Section 36 of ACC Act 2004, “If a situation arises where it is difficult to apply and execute this law because of vagueness about the powers and responsibilities of the commission under it, the government will explain and clarify the matter and give the commission directives and guidelines about what is to be done through an official gazette notification and in accordance with other rules and regulations.”

¹⁴ Section 12(2) of ACC Act 2004, “Other commissioners shall carry out the duties entrusted to them under the overall supervision and control of the chairman and the commissioners shall be accountable to the chairman.”

¹⁵ Section 24 of ACC Act 2004, “Freedom [or ‘independence’] to perform duties – The commissioners shall be free to discharge their duties under this Act subject to its terms.”

¹⁶ Ikhteder Ahmed, “Anti-Corruption Commission: A Self-Contradictory Body” Daily New Age, 30 November 2012 (www.newagebd.com).

¹⁷ Section 6(1) and 7 of ACC Act, the commissioners shall be appointed by the President on the recommendations of the selection committee consisting of a) Judge of the Appellate Division, nominated by the Chief Justice; b) A Judge of the High Court Division, nominated by the Chief Justice; c) The Comptroller and Auditor General of Bangladesh; d) The Chairman of the Public Service Commission; and e) The latest retired Cabinet Secretary.

¹⁸ The Commission consists of Justice Sultan Hossain Khan, a former High Court judge, as Chairman of the ACC and two commissioners, Monir Uddin Ahmed and Prof. Maniruzzaman Miah.

¹⁹ The Commission consisted of Ghulam Rahman (former Secretary), Md. Badiuzzaman (Former Director General of BAC and Commissioner of ACC) and Md. Sahabuddin Chuppu (Retired District Judge).

²⁰ The Daily Star, 14 November 2013. (www.thedailystar.net).

Appendices

Appendix I: Checklist for KIs

1. What were the basic causes to initiate and design of ACC?
2. So far what achieved?
3. Can we differentiate the achievements/roles of ACC during the CG and democratic governments? If any, why?
4. Coordination with other related institutions such as judiciary, law enforcing agencies, law ministries for service delivery, and UNCAC implementation
5. Integrity of NIS institutions and strengthening of ACC – how will ACC be effective, if NIS institutions are not effective?
6. What challenges ACC face and how?
7. How will one single body prevent corruption under multi-various challenges including apolitical?
8. Any recommendations

Table 1: Assessment matrix of different forms of ACC under different political system:

Forms of ACC	Political System		
	Democratic		Authoritarian/ Emergency Rule
	Multiple Agency	DOMINANT Agency	DOMINANT Agency
Assessment Indicators of ACC			
Setting expectation			
Formal Powers and Safeguards			
Focus			
Resources			
Staffing			
Actual Powers			
Results			
Value Added			
Complementary Institutions and Conditions			
Political Space			
Leadership Qualities			
Key NIS Institutions			
Society/Social Organizations			
Civil society			
Markets/Business			

Appendix II: Guidelines to the Checklist (for the Interviewer)

The above checklist shows the basic questions for the respondents, but it is important to remember that the different categories of respondents will not know all the aspects and context of the ACC. So depending upon the responses of the respondents, the interviewer will ask appropriate questions (not always following the order of questions but depending on the rhythm of responses) to make the interview session live. The interviewer will keep in mind the following queries, aspects and directions in addition to the questions while interviewing the respondents.

Q. 1: Failure of BAC, Assessment of the context, Donor's guidance and NGO activism, and political mandate

Q. 2: Institutional, Legal- enabling legal environment, Administrative, Political, Independence in terms of delivery and finance, and people's trust?

Q. 3: A) Role, expectations, and focus, B) Resources, staffing and actual powers. C) Value added and results.

Q. 6: Legal, Administrative, manpower, logistical, and Political challenges

Q. 8: How Political parties, NGOs, Citizens, NIS institutions, market force, businesses, could contribute to make the ACC independent, effective and efficient?

Table 1: The respondents have to be specific and focused to respond the questions in the matrix. Be careful to avoid repetition while asking questions, like, if the respondent covers answers during the checklist session then, don't repeat the question in the matrix session.

Appendix III: Informed Consent

It is obligatory to take consent of the respondent before interviewing. If they give consent prior to the interview, then they have rights not to honour the words and they can change their minds at any time even at the times of interview.

“The information extracted from the discussion will be used only in research purpose. The confidentiality of the information provided by you will be highly restricted. Your name and profile will not be used in any analysis of the report. I shall take almost one hour to complete the interview. During the interview if you do not want to answer to any particular questions, then you can discontinue the interview or if you do not feel free to respond to the certain questions, you may restrain yourself to answer the particular questions. We will not pay you any money for participating in the interview.”

Appendix IV: List of KIs Interview

Name	Position and Organization	Date and Place of Interview
Md. Manzoor Morshed	Deputy Director Anti-Corruption Commission Rajshahi Combined District Office	21 July 2013, Rajshahi
M Rahman (Liton)	Staff Correspondent The Daily Star	28 July 2013, Kazi Nazrul Islam Avenue, Dhaka
Pronab Chakraborty	Public Relations Officer Anti-Corruption Commission	29 July 2013, Segunbagicha, Dhaka
Alamgir Swapon	Journalist ATN Bangla	30 July 2013, Karwan Bazar, Dhaka
Devabrata Chakraborty	PS to Gowhar Rizvi Prime Minister's Office	1 August 2013, Tejgaon, Dhaka
Gazi Kalimullah	PS to Advisor to the Prime Minister Prime Minister's Office	1 August 2013, Tejgaon, Dhaka
M Hafizuddin Khan	Former Advisor to Caretaker Government and Former CAG, GoB	2 August 2013, Uttara, Dhaka
Md. Abdul Kalam Azad	Deputy Director Anti-Corruption Commission	4 August 2013, Mymensingh
Badiul Alam Majumder	Secretary SHUJAN (Citizens for Good Governance)	7 August 2013, Asad Gate, Dhaka
Md. Badiuzzaman	Chairman Anti-Corruption Commission	8 August 2013, Segunbagicha, Dhaka
Samia Ahmed	Former Director SUPRO (Campaign for Good Governance)	19 August 2013, Mohammadpur, Dhaka
Iftekharuzzaman	Executive Director Transparency International Bangladesh (TIB)	20 August 2013, Banani, Dhaka
Ikteder Ahmed	Former Judge and Former Registrar Supreme Court	24 August 2013, Ramna, Dhaka
Moshin Habib	Assistant Editor Daily Kaler Kantha	15 September 2013, By Telephone Interview (Dhaka)
Asif Shahan	Lecturer Development Studies, University of Dhaka and Former Researcher of IGS	16 September 2013 By Skype Interview (USA)
Akter Hossain Azad	Additional Deputy Commissioner (ADC) Kurigram DC Office	16 September 2013, By Telephone Interview (Kurigram)
M A Noman	Staff Reporter Daily Amar Desh	11 October 2013, By Telephone Interview (Dhaka)
Naren Das	Joint Secretary Legislative Drafting Division Ministry of Law, Justice and Parliamentary Affairs, GoB Bangladesh Secretariat	11 October 2013, By Telephone Interview (Dhaka)

Appendix V: Detailed Facts and Figures

ACC's punitive actions mainly include enquiries, investigations, filing cases and preparation of charge sheets against corruption allegations committed in any organizations of the state, civil society or business, or by their employees. ACC lodges and pursues corruption cases under relevant laws¹. This section is based on the information provided by KI M Hafizuddin Khan, former Advisor to the Caretaker Government, GoB.

1. Resources and Capacity

A. Appointment of Chairman and Commissioners: According to the Anti-Corruption Commission Act, the President appoints the Chairman and two Commissioners on the recommendation of the following Selection Committee:

- A Judge of the appellate Division, nominated by the Chief Justice
- A Judge of the High Court Division nominated by the Chief Justice
- The Comptroller and Auditor General of Bangladesh
- The Chairman of the Public Service Commission
- The last retired Cabinet Secretary

B. Tenure of Commissioners: The Chairman and Commissioners are appointed for four years. There is no provision for their reappointment in ACC.

C. Manpower: ACC has a government approved organogram stipulating the number of staff of various categories. For appointing staff from Directors General (DG) to Class IV employee, ACC does not require any permission from the government and follows own service rules focusing merit based recruitment procedures. Currently approved manpower is 1,073. Among them, 38% are directly involved in enquiry and investigation (Table 1).

Table 1: Manpower of ACC

Class of Manpower	Number	Percentage
Class I & II	407	38%
Class III & IV	666	62%
Total	1,073	100%

Source: ACC, 2013

Before final selection, candidates have to pass through the process of police verification to ascertain their antecedents, particularly involvement in any political or criminal activities. All appointed new staff members receive theoretical and practical training.

¹ According to the Section 2(e) of the Anti-Corruption Commission Act-2004, Corruption means the offences set out in the schedule to this law which follows: Offences under Anti-Corruption Act 2004 (Possession of property disproportionate to known source of income); Offences punishable under the Prevention of Corruption Act, 1947 (Act 11 of 1947); Offences under Money Laundering Prevention Act -2009; Offences punishable under sections 161-169, 217, 218, 408, 409 and 477A of the Penal Code, 160 (Act XLV of 1960); Offences of abetment, conspiracy and attempts as defined respectively in section 109, 120B and 511 of the Penal Code, 1860 (Act XLV of 1860) in relation to clauses (a) to (c)

D. Budget: The ACC prepares its own budget and submits the same to the Ministry of Finance for normal scrutiny. Then it is incorporated in the national budget for approval in the parliament. The ACC budget is not “charged expenditure”². So there is no formal Guarantee of fiscal stability over time. Table 2 shows budget allocation in three financial years:

Table 2: Budget Allocation of ACC

Financial Year	Budget Allocation (million €)
2010	2.98
2011	3.21
2012	3.46

* Conversion rate: €1 = Tk. 100 (as of 15/10/2013)

2. Independence

A. Legal Status: The ACC is a statutory body created by the Anti-corruption Commission Act, 2004. According to Clause 3 of the Act, it is an independent and impartial body. It is not accountable to any other authority excepting the Office of the Comptroller and Auditor General for integrity of its financial operations. There is no scope for political interference in carrying out its mandate. Even staff members are not allowed to engage in political activities. The Commission is totally independent in terms of investigation power.

B. Removal of Commissioners: The Commissioners are well protected from any forceful and undue removal. According to section 10 of ACC Act, 2004, no Commissioner shall be removed from office except on similar grounds and in accordance with the similar procedures as apply to the removal of a Judge of the Supreme Court. The procedure of removal of the Judges of the Supreme Court is that there shall be a Supreme Judicial Council consisting of the Chief Justice and the two next senior judges who, on reference from the President of the Republic, will enquire into complaints of physical or mental incapacity or gross misconduct and if proved the President shall, by order, remove the judge.

C. Support from other Law-enforcement: The other law-enforcement agencies assist the ACC in order to arrest, search and seize any accused. While performing duties, the Investigation officers of ACC have the power of an officer-in-charge of the police station according to the section 20(2) of ACC Act, 2004.

3. Transparency

According to Section 29 of the ACC Act, 2004, ACC shall submit an annual report by March of each year to the President who shall present it in the Parliament. The Right to Information Act, 2009 is applicable to ACC. ACC discloses information as per its Information Disclosure Policy 2011. And it has an own website.

² The ‘charged expenditure’ proposals can be only discussed in the parliament but are not subject to vote of the parliament

4. Accountability

The ACC is not accountable to the parliament and to any executive authority. It only submits an annual report to the President and the report is publicly available. However, all its activities are subject to judicial scrutiny. Moreover, the financial operations of the Commission are subject to audit by the CAG.

There is no oversight committee formed for ACC. But TIB and some such organizations do perform oversight function on a limited scale.

5. Integrity Mechanisms

ACC follows the Anti-Corruption Commission (Servant) Service Rule, 2008 and The Government Servants Conduct Rules, 1979 as codes of conduct. As of now there is no legal binding of the Commissioners and staff to declare their assets. Basic integrity and ethical issues are taught in the foundation training of the staff.

6. Prevention

The Commission has provision of preventive measures, such as, research, promoting values and integrity, identifying sources of different types of corruption, etc. As part of this, ACC started forming Corruption Prevention Committees in City, District and *Upazilla* (sub-district) levels. Moreover, ACC observes Corruption Prevention Week, International Anti- Corruption Day, etc. It also conducts mass awareness program through media and CSOs.

7. Performance

The Table 3 shows that in six years ACC has enquired into 6702 allegations and finally submitted 2782 charge sheets to the judicial court for judgment (2007-2012).

Table 3: The Performance of ACC (2007-2012)

Subjects	Numbers
Notice for asset disclosure	681
Enquiry	6702
Case file	2549
FIR	3074
Charge sheet	2782
Final Report	1505

Source: ACC, 2013

The Table 4 depicts slow rate of disposition. In 2012, only 217 cases (both ACC and BAC) were disposed of, by punishment (57 cases) or acquittal (160 cases). A big number of cases are either under judgment or prosecution ongoing in the court.

Table 4: ACC Cases in the Judicial Court (up to 2012)

Description	Numbers of Cases (filed during ACC)	Numbers of Cases (filed during BAC)
Under judgment	2118	1232
Prosecution ongoing	1717	904
Judgment postponed	401	328
Punishment (2012)	42	15
Acquittal (2012)	89	71
Total disposed cases (2012)	131	86

Source: ACC, 2013

Appendix VI: Case Study on Padma Bridge Scam

The World Bank (WB) suspended its \$1.2 billion funding of the \$2.9 billion cost for Padma Multipurpose Bridge Project (PMBP) in September 2011 over allegations that former Communications Minister and his family-owned company sought to coerce multiple companies into using his company as a paid "silent agent" in order to get permission to bid for the contract of the main bridge. It also alleged that some SNC-Lavalin officials had tried to manipulate the bid results. The WB on 29 June 2012 cancelled its credit for the PMBP after it had found 'credible evidence' of corruption by high-level government functionaries in awarding the contract for the selection of project's Construction Supervision Consultant to SNC-Lavalin. Reacting to the World Bank decision to cancel the credit, Executive Director of TIB said, "(the decision) comes as an acid-test for the Government, which must demonstrate to the nation that it has the courage and capacity to bring to justice those against whom allegation of corruption has been raised and provide exemplary punishment, if found guilty." He also added that the slow response and lack of commitment of the ruling government to address the corruption allegations against Minister and other high-ups questioned its credibility. Also, a noted Academician heartrendingly comments, "The scam also showed how the interest of the country can be so callously sacrificed for preserving the 'good name' of a couple of political heavyweights."

In September 2012, the WB revived the funding to PMBP on four conditions, including a credible and impartial investigation into the graft allegations by the ACC. WB's Integrity Vice Presidency handed over a report to the ACC in November 2012 that presented the then Communications Minister was to get 4 percent of the fees (project commercial/commitment cost), former state minister for foreign affairs 2 percent, the prime minister's one nephew 2 percent, and One Advisor to the Prime Minister 1 percent and Bridges Division Secretary 1 percent. But the WB was quite dissatisfied to the ACC for its inertia in investigation and later law-suit excluding former Communications Minister. That was also reflected in the External Panel's report where ACC is labelled as "puppet" of the high-level government officials.

After more than one year investigation, the ACC filed cases to a police station on 17 December 2012 and sued seven people on charges of conspiring to commit bribery. The accused includes former secretary of the Bridges Division, Superintendent Engineer of Bangladesh Bridge Authority (BBA), Executive Engineer of Roads and Highway Department, Deputy Managing Director of Engineering and Planning Consultant, a local agent Canadian firm SNC Lavalin, and SNC Lavalin's three officials. But the anti-graft body did not include in the case former Communications Minister and former State Minister for Foreign Affairs for not having enough evidence of corruption against them. In this context, the government withdrew itself from the loan of WB on 31 January 2013, although the final report of the WB's External Panel of Experts mentioned that "there was no legal reason to exclude the name of the former Minister of Communications, from the initial list of persons to be investigated."

As latest, the ACC probe found the corruption link after the former State Minister of Foreign Affairs, who acted as broker to help SNC Lavalin win the

consultancy, had been charged with corruption in Canada by the Royal Canadian Mounted Police (RCMP).

(Source: TIB Media Release 30 June 2012, TIB Press Release 21 September 2012; Daily Star: 4 April 2012, 21 April 2013, 18 March 2013, 14 June 2013; New Age: 6 September 2013, 28 September 2013)

Appendix VII: Case Study on Sonali Bank-Hallmark Loan Scam

In May 2012, a central bank investigation revealed massive irregularities in sanctioning and disbursing loans worth Tk 35,470 million (\$422 million), mostly to little-known Hallmark Group, by the Sonali Bank's Ruposhi Bangla Hotel branch. Of the sum, Hallmark alone allegedly swindled Tk. 26,860 million (\$320 million) in the country's biggest scam in the banking sector. The ACC filed 11 cases with police station against 27 top officials of Sonali Bank and Hallmark Group on charges of misappropriation on October 2012. Also, a parliamentary standing committee on the finance ministry formed a three-member subcommittee to probe the scam and submit its report in two weeks.

Anti-Corruption Commission chairman Ghulam Rahman said, 'Government officials may not have been the main actors in Hallmark scam but without the help of some government officials such big frauds would not have taken place.' During the interrogation of the bank officials, the ACC inquiry team found involvement of an Advisor to the Prime Minister who had 'some connections with the Hallmark Group.' His name first came up during the investigation as he introduced Managing Director (MD) of Hallmark with former manager of the branch. From different sources it is found that the Advisor was directly involved with the high-ups of the Hallmark Group and interfered into the investigation of Bangladesh Bank (BB). When the BB investigation team reached to the Ruposhi Bangla Hotel branch of Sonali Bank, then the Advisor also reached and stayed as long as the investigation went on. He gave his business card to the team members. Realizing his involvement, he was interrogated by the ACC and was called to the parliamentary standing committee and asked the reasons of the card distribution. But the Advisor did not give any straight answer to the question, according to the House Committee Report. Besides, the MD of Hallmark admitted that he gave Tk. 30 million (\$0.36 million) as bribe to ruling party leader and Sonali Bank's former Director.

Many big fishes including Advisor, ruling party leader, high-ups of Sonali Bank were not accused in the ACC probe report or charge sheet for political interferences. It is alleged that a powerful quarter pressurized the investigators to not include some political figures. Even some in the commission tried to exclude them to show their loyalty to ruling party. But the ACC repeatedly said that there are no directions from the government regarding the investigation of Hallmark issues. The ACC [claims it] is working independently but it is taking time given the volume of work involved with these cases. Recently charge sheet was submitted to the Court on 7 October 2013 framing charges against 25 officials of Sonali Bank and Hallmark Group.

(Source: New Age: 4 September 2012, 6 September 2012, 28 March 2013, 12 June 2013 and Daily Star: 30 August 2012, 22 April 2013, 13 September 2013)

Appendix VIII: Suggestions of KIs to Reform ACC

A. Legal reform

1. ACC Act and enabling Laws should be updated to make them uniform and ensure ACC's independence.
2. Legal authority and jurisdiction of the ACC should be reformed to those of judiciary.
3. ACC should only be engaged when the interest and asset or resources of the government involved.
4. The jurisdiction of the ACC to take cases under section 408 should be erased.

B. Selection of Commissioners and Second Tier Management

5. The Selection Committee for the appointment of Chairman and Commissioners should be formed either by the equal representation of the civil and opposition benches or by the Speaker, and equal number of members from the ruling and main opposition parties.
6. Politically motivated persons having proven example of political obedience should not be appointed as Chairman or Commissioners.

C. ACC's Capacity Building

7. Intelligent, meritorious, skilled and efficient workforce is needed in the ACC to deal the court and its procedures.
8. Aged (45+) officials should not be assigned as Investigation Officer in ACC. It would be better if officers aged 25-35 are posted in investigation. Because the nature of activities in investigation needs the spirit of taking challenges, vigour and enthusiasm which are mostly absent in the older officers.
9. Management Information System (MIS), information technology and updated investigation devices and technologies should be introduced for digitalization of the institution, precise and quick investigation, and easy accessibility to information.
10. Fresh appointments for all positions through merit based recruitment procedures should be taken to replace the staffers absorbed from BAC without verification and vetting.

D. Complementary Conditions: Political Commitment

11. Culture of zero-level tolerance to the corruptors and helpers/supporters to the corruptors should be established in all public institutions.
12. Political commitment and comprehensive political support to the ACC needed for its independence and effectiveness.
13. Rule of law should be established at all institutions especially in the police, NBR, Customs, tax, judiciary.
14. Visibility and measurability of the political commitment to strengthen and effective ACC should be ensured. Visibility is related to who has been appointed, what process maintained, how the political parties make distance to ACC, how the ACC heads play their roles, and what actions taken to whom and on what basis, all the responses to these questions will ensure the visibility of the ACC's neutrality and independence. When it has been established, then measurability will come on the types and numbers of ac-

tions taken, to whom the investigation process started, how many high-ups of bureaucracy and political top leaders been convicted, etc.

15. Each public and private institution should be brought under strong accountable and transparent system, where people would have easy access to know about.
16. Realization of an independent ACC should come to the political leaders, when the political leaders and bureaucrats would be regular victims of widespread corruption.

E. Complementary Conditions: Leadership Quality of the Commission

17. Man of strong personality having guts and bravery to challenge any pressure coming from outside, even from the political arena should be appointed as Chairman and members of the commission.
18. The Chairman and Commissioners should have non-partisan attitude, personality and boldness to the truth.
19. The second tier leaders of the ACC such as Secretary, Director Generals and Directors should competent and free from government's control.

F. Complementary Conditions: Judicial reform

20. Special Court (like International Crimes Tribunal) may be formed to gear up the judicial process of the long pending ACC cases. And there would be only one appeal-stage.
21. In Judiciary, many inefficient, less qualified and partisan people have become responsible post holders and are accomplishing their duties in favor of the political party, not to ensure justice. By these partisan judges and lawyers, the judiciary never functions fairly. So immediate political consensus is a must to clean-up judiciary for the betterment of the state and people.

G. Complementary Conditions: Civil Society

22. Civil Society can create pressure with the voices of citizens, if they speak out fairly and independently without favour and prejudice.
23. Right to Information (RTI) Act should be implemented widely and thoroughly in all private and public institutions for increasing accessibility, transparency and accountability of the institutions.
24. Civil society organizations such as TIB, SUJAN, should continue their campaign until they achieve substantive change in governance including strengthening ACC.
25. Strong civil society contributes to more accountable governance. Monitoring and advocacy of the civil society should be strengthened.

H. Complementary Conditions: Society and Social Institutions

26. Good, honest, educated and patriotic people should come forward in the politics and contest for qualitative change in the politics and state.
27. People are becoming aware of their rights and are being informed about the reasons of ineffectiveness of ACC. So they have started to raise their voices. And it should be continued, until their goal is achieved.
28. New generation is the hope. They are aware of the evil practices in the society and state. Self-reflection of the youths is much more needed to make change happened.

I. Complementary Conditions: Economic Factors

29. Improve taxing system for collecting more revenues, engage large populations productively and do effort more to establish industries – these are crucial to economic development that is complementary to political governance.

J. Complementary Conditions: Development Partners

30. International donors should pressurize the government continuously, not only for the policy formulation, but for proper implementation for definitive change in governance.
31. Political satiability is indispensable for the democratic institutionalization and functioning.
32. A strong interconnected relation should be established among the three major actors such as, the government, civil society, and private business.

K. Making Examples as Deterrent for Corruptors:

33. Cases against the corrupt high-ups should be filed and ensured exemplary punishments so that the in-service officials would fear to do the same offences again. The example would be considered as mental deterrent. If the big fishes of the police and judiciary are caught in red hands and captivated for their misdeeds under judicial process, then corruption will be decreased.

L. Without Lamp, No Lights

34. The ACC is not performing well and being used as weapon to suppress the opposition. But it should not be given up. Some other days, the situation will be changed when the politicians will be motivated by the citizens' outcry to bring positive changes in the ACC. Definitely it will take time to reach the perfection.

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