

Implementing the UN Convention against Corruption (UNCAC)

Compliance and Gap Analysis Bangladesh

Partners: Ministry of Law, Justice and Parliamentary Affairs, Institute of Governance Studies (IGS) at BRAC University, Bangladesh, Basel Institute on Governance, Switzerland.
Country: Bangladesh

Background

Bangladesh has occupied a position at the lower end of Transparency International's Corruption Perception Index for several years now. In fact, endemic corruption is a major challenge to the country's development. In February 2007, the Government of Bangladesh took an important step towards countering corruption and enhancing good governance by acceding to the United Nations Convention against Corruption (UNCAC).

The United Nations Convention against Corruption (UNCAC) came into force in 2005. It provides a set of internationally agreed benchmarks to reduce corruption, addressing prevention, criminalisation and law enforcement, international cooperation, asset recovery, and technical assistance. 117 states have ratified the Convention to date (June 2008).

To comply with the Convention's provisions, Bangladesh opted for a systematic approach: the first step was to compare existing regulations and practices with UNCAC provisions and identify gaps and capacity needs in domestic legislation, practices and institutional realities. This was carried out with the help of a Compliance and Gap Analysis.

The process

In April 2007, an Inter-Ministerial Committee was formed led by the Secretary of the Ministry of Law, Justice and Parliamentary Affairs (MoLJPA) to conduct the Bangla-

desh Compliance and Gap Analysis (BCGA). The study was carried out in partnership with experts from the Institute of Governance Studies (IGS) at BRAC University Bangladesh, with financial and technical support from German Technical Cooperation (GTZ) and expert advice from the Basel Institute on Governance (BIG) in Switzerland.



The objective of the Analysis was to provide an overview of UNCAC provisions and the compatibility and compliance of national laws and practices and to identify key challenges for Bangladesh in implementing the Convention.

Between October 2007 and January 2008 a number of activities were undertaken, including the completion and submission of the UN Self Assessment Checklist on the UNCAC and the formation of a research team. An orientation and methodology workshop was held and desk based research, focus group discussions and interviews with technical specialists in Government ministries and departments conducted. In January 2008 the Government of Bangladesh presented the report to the 2nd Conference of States Parties in Bali and to the public.

Structure and content of the Compliance and Gap Analysis

The Bangladesh Compliance and Gap Analysis (BCGA) contains four chapters: introductory remarks, prevention, criminalisation and law enforcement, international cooperation, asset recovery, and conclusions. Each chapter consists of a narrative report and a matrix focusing on a number of *key priority areas* known to be of particular

importance for Bangladesh. This thematic approach – instead of an article by article approach – was agreed on in a stakeholder orientation workshop. The workshop identified the following priorities:

1. anti-corruption policies and measures (articles 5,6)
2. public sector integrity (articles 7,8)
3. public procurement and management of finances (article 9)
4. enforcement issues relating to existing criminal laws and procedures (articles 15-25, 30-40)
5. international cooperation including extradition and mutual legal assistance (articles 44-49)
6. Asset recovery focusing on laundering and proceeds of crime (articles 23, 52-59).

Findings

“The overall findings of the report indicate that in terms of legal regime, Bangladesh can be said to be largely compatible with standards and principles of the UNCAC. However, the report also identifies a number of weaknesses with regard to both gaps in the law and practice.”

With regard to **preventive** measures the study highlights that Bangladesh has a comprehensive legal regime and essential institutions in place. However, implementation of these laws in practice still lacks consistency. Training and capacity development with regard to the integrity of public officials, sound procurement practices, and management of public finances are identified as key priorities. A more coherent reward structure for public officials as a measure to provide incentives and promote greater integrity has also been identified as a useful tool to professionalise the public service.

It can be said that the existing laws of Bangladesh are largely in compliance with UNCAC requirements on **criminalisation**. Recently, the Anti-corruption Commission (ACC) as a specialised body entrusted with functional independence and mandated to enforce anti-corruption laws has investigated and brought to court a substantial number of cases. Improved witness protection is however recommended by the Analysis.

*“With regard to **international cooperation**, the UNCAC requires State Parties to provide the widest measure of mutual assistance necessary for the prevention, investigation and prosecution of offences mentioned in the Convention.”* Bangladesh is already cooperating on the basis of bi-lateral treaties under the Extradition Act (EA) of 1974 and the Money Laundering Prevention Act (MLPA) of 2002. However, there are still shortcomings. For example, numerous UNCAC offences are not recognised in the Extradition Act (EA) of 1974 and adaption of the legal framework and practice needs to be promoted.

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Since enactment of the Money Laundering Prevention Act (MLPA) in April 2002 considerable efforts have been made to prevent **money laundering**. Steps taken include enhanced supervision by the Bangladesh Bank, the introduction of “know your customer” practices by banks, training programmes, and jurisdiction over money laundering offences by special courts for corruption.

Disseminating the Analysis

After publication of the Bangladesh Compliance and Gap Analysis, a Needs Assessment Workshop designed to prepare a strategy for the future implementation of the principles and provisions of the UNCAC was organised. The workshop took place in May 2008 and was attended by high level representatives from the Ministry of Law, Justice and Parliamentary Affairs (MoLJPA), Anti-corruption Commission (ACC), Ministry of Home Affairs, Cabinet Division, Bangladesh Bank, Office of the Attorney General, Ministry of Foreign Affairs, Foreign Aided Projects Audit Directorate, and civil society (IGS).

Participants decided unanimously that the second phase of the work would be conducted under the leadership of the MoLJPA supported by the Inter-Ministerial Committee formed for the preparation of the Gap Analysis report. Issues requiring further support were identified. These are:

- (i) wider dissemination of the report,
- (ii) updating of the report with legislative and other changes,
- (iii) capacity building for the relevant Government officers,
- (iv) administrative efforts to update reforms on issues such as extradition and mutual legal assistance,
- (v) enhancing Bangladesh’s activities in the UNCAC working group meetings at the UN Office of Drugs and Crime (UNODC), and modes of coordination among the stakeholders. GTZ is ready to provide further support for this process.

References

All quotations are taken from the Bangladesh Compliance and Gap Analysis (2008).

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