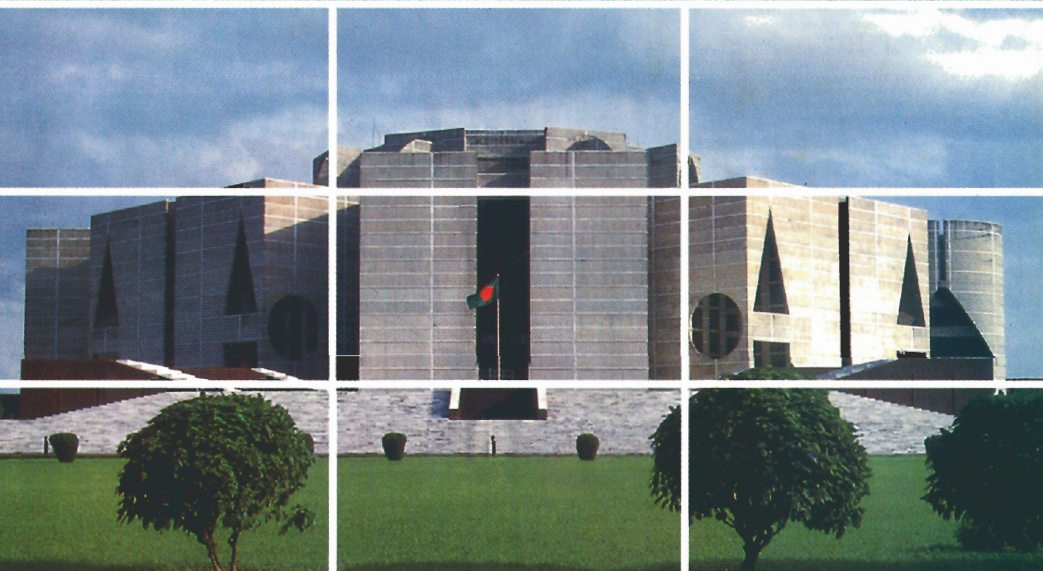


State of Democracy in Bangladesh



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International
IDEA

State of Democracy in Bangladesh

International IDEA Country Study

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*Dedicated
to those
who worked
and have been working
for democracy*

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However, the authors remain responsible for all observations, inferences and limitations.

Abbreviations

AAPP	Asian Association of Parliamentarians for Peace
ABC	Audit Bureau of Circulation
ADAB	Association of Development Agencies in Bangladesh
ADB	Asian Development Bank
ADP	Annual Development Plan
ADR	Alternative Dispute Resolution
AL	Awami League
ASK	Ain O Salis Kendra
BAC	Bureau of Anti Corruption
BBC	British Broadcasting Corporation
BCP	Bangladesh Communist Party
BFUJ	Bangladesh Federation of Unions of Journalists
BKSAK	Bangladesh Krisak Sramik Awami League
BNP	Bangladesh Nationalist Party
BRAC	Bangladesh Rural Advancement Committee
BSP	Bangladesh Sangbadpatra Parisad
BSS	Bangladesh Sangbad Sangstha
BTTB	Bangladesh Telegraph and Telephone Board
BTV	Bangladesh Television
CAT	Covenant against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment
CEC	Chief Election Commissioner
CEDAW	Convention on Elimination of All Forms of Discrimination Against Women
CHT	Chittagong Hill Tracts
COG	Commonwealth Observer Group
CPD	Centre for Policy Dialogue

CPJ	Committee to Protect Journalist
CRC	Convention of the Rights of the Child
DGFI	Directorate General of Field Intelligence
DRU	Dhaka Reporters Unity
EC	Election Commission
EPZ	Export Processing Zone
ETV	Ekushey Television
EU	European Union
FEMA	Fair Election Monitoring Alliance
FYP	Five-Year Plan
GDP	Gross Domestic Product
GLEW	Group Leaders and Extension Workers
GNP	Gross National Product
GP	Gram Parisad
HDI	Human Development Index
ICCPR	International Convention on Civil and Political Rights
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
IDA	International Development Agency
IFADEP	Integrated Food Assisted Programme
IFDC	Institutional Feeding and Development Centre
ILO	International Labor Organization
IOJ	Islamie Oikya Jote
JI	Jammat -I-Islam
JP	Jatiya Party
JSD	Jatiya Samajtantrik Dal

LDC	Least Developed Country
LDF	Left Democratic Front
MFA	Multi-fiber Agreement
MP	Member of Parliament
NAM	Non-aligned Movement
NDI	National Democratic Institute for International Relations
NGO	Non-government Organization
NSI	National Security Intelligence
NTB	Non Tariff Barrier
OECD	Organization of Economic Co-operation & Development
OPEC	Oil and Petrol Exporting Countries
PCJSS	Pahari Chhatra Jana Sanghati Samiti
PDB	Power Development Board
PIB	Press Institute of Bangladesh
PKSF	Palli Karma Sahayak Foundation
PM	Prime Minister
PMO	Prime Minister's Office
PRB	Peoples' Republic of Bangladesh
PSA	Public Safety Act
PSI	Pre-shipment Inspection
RMG	Readymade Garments
SAARC	South Asian Association for Regional Cooperation
SB	Special Branch
SIPRI	Stockholm International Peace Research Institute
SPA	Special Power Act
SSF	Special Security Force

TIB	Transparency International, Bangladesh
TV	Television
UAE	United Arab Emirates
UCM	United Citizens Movement
UDHR	Universal Declaration of Human Rights
UNB	United News, Bangladesh
UNDP	United Nations Development Programme
UNESCO	United Nations Education, Science & Cultural Organization
UNFPA	United Nations Fund for Population Assistance
UP	Union Parisad
UPVGD	Union Parisad Vulnerable Group Development
USA	United States of America
UZ-	Upazila
VGD	Vulnerable Group Development
VIC	Voter's Identity Card
VIP	Very Important Person
VPA	Vested Property Act
WFP	World Food Programme
WTC	Women's Training Centre
ZP	Zila Parisad

Introduction to country reports for the IDEA State of Democracy Project

David Beetham

This report on the condition of democracy in Bangladesh forms part of a much larger research project established by the International Institute for Democracy and Electoral Assistance (IDEA) in Stockholm, Sweden. The aim of the project, called *The State of Democracy*, is to initiate a global survey of the condition of democracy and its progress, both on a country-by-country basis and also comparatively. A key feature of the project has been the development of an original research framework and method for the systematic assessment of any country's democracy, to be used by partners in the country concerned. This framework and method was evolved with the assistance of international experts from every region of the world, and is intended to be as applicable to long established democracies as to developing or transitional ones. It has now been successfully tested in a pilot phase in eight countries from Africa, Asia/Pacific, Europe and Latin America; this report on the state of democracy in Bangladesh forms part of these first assessments.

Why conduct democracy assessments?

With the widespread establishment or re-establishment of democratic forms of government in all regions in the 1990s has come a desire to assess how well they are doing, and how much progress has in fact been made. What are the key problems faced by recently established democracies? Can some aspects of the democratic process be more easily introduced and become rooted than others, and, if so, which? What are the distinctive features of democratic development in individual countries? Such questions are given added urgency by a common perception among electorates that their democratic arrangements have not delivered anything like what they have promised, and that the global triumph of democratic norms has not been matched by comparable changes in governmental practice.

A similar feeling of disillusionment with the political process has

also been prevalent in longer established democracies, as evidenced by declining electoral turnouts, declining membership of political parties, and other indicators. Governments often appear to be more concerned with presentation than performance, and to be remote from citizens' daily concerns. In all countries people have come to feel that many of the decisions that matter for the quality of their lives are no longer within the competence of the elected government, but have escaped beyond the borders of the nation-state, to international organisations, transnational companies, or the imperatives of globalisation and international markets.

It is in this context of a general commitment to the norms of democracy, but of worries about their practical realisation, that the idea of democracy assessment should be located. This idea involves a systematic assessment by its own citizens of a country's political life in order to answer the question: how democratic is it in practice? Where is it satisfactory from a democratic point of view, and what features should be a cause for concern? How far have we progressed, and what remains still to be done? How can we improve on what we have already achieved? Such an assessment can serve a number of purposes. From the perspective of a country's citizens it can:

- serve to raise public awareness about what democracy involves, and public debate about what standards of performance people should expect from their government;
- provide systematic evidence to substantiate popular concerns about how they are governed, and set these in perspective by identifying both strengths and weaknesses;
- contribute to public debate about ongoing reform, and help to identify priorities for a reform programme;
- provide an instrument for assessing how effectively reforms are working out in practice.

In all these ways a democracy assessment through its publication and dissemination can make a contribution to a country's democratic advance, whether in developed, developing or transitional democracies.

From a more comparative perspective, democracy assessments can also:

- serve to highlight common problems shared by a number of countries;
- help identify what is distinctive about a given country's situation or democratic institutions, by comparison with others;
- bring to light examples of good practice or innovative problem-solving.

So, as well as this assessment report on Bangladesh, International IDEA will also be publishing a comparative volume on the overall results of the pilot phase, comprising summaries of all the country assessments, a series of comparative tables and some tentative conclusions about the condition of democracy worldwide.

What is distinctive about International IDEA's assessment framework and method?

With the world-wide expansion of democracy in the 1990s, and its promotion by international institutions, there have been many attempts to assess its progress. International IDEA's assessment framework and method has aroused widespread interest because of a number of distinctive features, which are exemplified in this assessment report. These distinctive features can be summarised as follows:

- **clarity of principles:** rather than offering an arbitrary check-list of items, the method derives the institutions and criteria for assessment in a systematic manner from basic democratic principles and values.
- **comprehensiveness of framework:** the framework provides the most comprehensive overview of the essential features of democracy, while encouraging a differentiated assessment of strengths and weaknesses in each area, rather than aggregating them into a single conclusion or numerical 'score'.
- **flexibility of assessment:** within a common framework of analysis, country experts are able to determine their own

standards and comparators for assessing progress or the lack of it, and their own selection of appropriate evidence, according to their country's specific situation.

- **country ownership of the assessment process:** a basic assumption is that the right people to assess a country's democracy are its own citizens, rather than outsiders sitting in judgement upon it; and that any assessment should facilitate wider public involvement and debate.
- **range of use:** old as well as new democracies can and should be subject to a similar framework and method of assessment.

These features merit further explanation, as they have determined the shape and content of the individual country reports.

Clarity of principles

Democracy is usually defined as a set of governmental institutions or processes, but people rarely stop to think what it is that makes these institutions *democratic*. Thus when these institutions are used, as they frequently are, for *undemocratic* purposes, the automatic association of them with democracy simply results in democracy itself being given a bad name. The assessment framework being used here starts from the proposition that democracy should be defined in the first instance by its basic principles or values. It is these that make particular institutional arrangements democratic, and they provide the litmus test of how democratic they are in practice.

What are these principles? They are twofold: *popular control* over public decision making and decision makers; and *equality between citizens* in the exercise of that control. Insofar as these principles are embodied in governing arrangements we can call them 'democratic'. These are the principles that democrats in all times and places have struggled for: to make popular control over public decisions both more effective and more inclusive; to remove an elite monopoly over decision making and its benefits; and to overcome obstacles such as those of gender, ethnicity, religion, language, class, wealth, etc., to the equal exercise of citizenship rights. Democracy is thus not an all-or-nothing affair, but a matter of degree - of the degree to which the

people can exercise a controlling influence over public policy and policy makers, enjoy equal treatment at their hands, and have their voices heard equally.

These principles are broad and strong ones, but they require to be specified more precisely in the context of a system of representative government, in which the people assign to others the right to decide public policy on their behalf. So we need to identify a set of mediating values, through which these two principles are realised in practice. These are the values of *participation*, *authorisation*, *representativeness*, *accountability*, *transparency*, *responsiveness* and *solidarity*. It is from these values that the familiar institutions of representative government derive their democratic character, and it is these values that can be used in turn to assess how democratically they actually work in practice. So, for example, it is through their *participation* in the electoral process that the people *authorise* politicians to act on their behalf, and that they choose a *representative* assembly which they can hold *accountable* through the sanction of future electoral dismissal. These values are what make elections democratic. Yet we also need to ask of any given electoral system or process: how much popular participation does it actually encourage? how directly and effectively does it authorise government? how representative an assembly of the citizen body does it produce and how equally are votes treated in practice? how credible is the accountability of an elected government to the people through the sanction of future dismissal?

It is this two-way relationship between values and institutions that gives the democracy assessment process its intellectual foundation and validity. The relationship is illustrated diagrammatically in the accompanying table. The first column of the table lists the main mediating values that derive from our two democratic principles. The second column sets out what is required for these values to be made effective. The third column lists the typical institutions through which these requirements can be met in a system of representative government. Together they build up the main features of what is to be assessed, and the criteria by which that assessment is to be made.

Democratic Principles and Mediating Values

Basic principles:

Mediating values	Requirements	Institutional means of realisation
Participation	<ul style="list-style-type: none"> rights to participate capacities/resources to participate agencies for participation participatory culture 	<ul style="list-style-type: none"> civil and political rights system economic and social rights elections, parties, NGOs education for citizenship
Authorisation	<ul style="list-style-type: none"> validation of constitution choice of office holders/programmes control of elected over non-elected executive personnel 	<ul style="list-style-type: none"> referenda free and fair elections systems of subordination to elected officials
Representation	<ul style="list-style-type: none"> legislature representative of main currents of popular opinion all public institutions representative of social composition of electorate 	<ul style="list-style-type: none"> electoral and party system anti-discrimination laws affirmative action policies
Accountability	<ul style="list-style-type: none"> clear lines of accountability, legal, financial, political, to ensure effective and honest performance civil service and judicial integrity 	<ul style="list-style-type: none"> rule of law, sep. of powers independent auditing process legally enforceable standards strong parl. scrutiny powers
Transparency	<ul style="list-style-type: none"> government open to legislative and public scrutiny 	<ul style="list-style-type: none"> freedom of info. legislation independent media
Responsiveness	<ul style="list-style-type: none"> accessibility of government to electors and different sections of public opinion in policy formation, implementation and service delivery 	<ul style="list-style-type: none"> systematic and open procedures of public consultation effective legal redress local govt. close to people
Solidarity	<ul style="list-style-type: none"> tolerance of diversity at home support for democratic govts. and popular democratic struggles abroad 	<ul style="list-style-type: none"> civic & human rights education international human rights law UN and other agencies international NGOs

The Assessment Framework: Overview

Comprehensiveness of the framework

The assessment framework employed in the individual country reports comprises fourteen sections covering every aspect of democracy. Following the logic of the value-based diagram, it begins with the citizen and his or her rights, moves on to the institutions of decision making, representation and accountability, examines the contribution of civil society to the realisation of democratic values, and concludes with the democratic profile of the country internationally. An overview of the framework with its fourteen sections and their leading questions is given in the accompanying table.

The different sections should be seen as inter-related, since democracy is a matter of relationships rather than isolated institutions. Thus governmental accountability depends on the independence of the courts, on the media, on popular participation, and so on, not just on the integrity of office-holders or the rules governing their performance in office. At the same time these different aspects of democratic life have to be treated separately for effective analysis and assessment, and that is what is done in each assessment report. There is another reason for treating them in this way, and that is that it allows for a differentiated judgement, since a country may perform better in some areas than others, or in some respects than others. Not all the democratic values or practices necessarily fit neatly together. An electoral system may produce a highly representative legislature, but one that is also less clearly accountable to its electorate. A legislature may have strong checking powers over the executive, but the executive may have difficulty in achieving the policy programme on which it was itself elected. Government may be highly responsive to the public, but some sections of the public may have disproportionate influence over it. And so on. The framework's structure allows these differentiated judgements to be made.

Much more could be said here about the content of the framework, but that is best left to a reading of the summary reports themselves. Two aspects of the framework, however, deserve comment, since

they are more contested than others. The first is the inclusion of a section on economic and social rights alongside the more usual civil and political ones. Many political scientists take the view that democracy is about the processes of public decision making rather than its outcomes; and that the delivery of economic and social rights is only one possible outcome of government, which is contested between different political parties in their policy programmes. Our view, in contrast, is that the inclusion of an economic and social rights audit is justifiable in terms of both process and outcome. As regards *process*, it is a necessary condition for the exercise of civil and political rights that people should be alive to exercise them, and should have the capacities and resources to do so effectively. As regards *outcome*, people rightly judge the quality of a democracy in terms of its ability to secure them the basic economic and social rights on which a minimally decent life depends. If democracy cannot deliver better outcomes in this respect than authoritarianism, why should they support it? Such considerations have been especially strongly urged by our partners in the South.

They have similarly argued for the inclusion of a further section, on the international dimensions of democracy. Its rationale is that countries do not form isolated units, but are mutually interdependent, especially in their degree of democratic progress. So it is entirely relevant to consider how far the external profile of a country's policy is supportive of democracy abroad. By the same token, the extent to which a country's internal policy is determined by unaccountable external powers is also highly pertinent to an assessment of its democratic condition, and its capacity to be truly self-governing.

Flexibility of the assessment

How, then, have the assessors in each country gone about their task of conducting an assessment of each of these fourteen areas of their country's democratic life? Each of the sections contains a number of assessment questions, which are designed to concentrate attention on the key democratic issues in the particular area. All the questions are phrased in the comparative mode - *how much? how far? to what extent?*etc. - to reflect the view that democracy is a matter of degree, not all or nothing. They are also all designed to point in the same direction, so that an answer which amounts to 'very much' will show

a clearly democratic situation. A final question in each section aims to assess the situation dynamically by identifying reform measures currently being implemented. The full list of assessment questions is printed at the end of this Introduction.

The framework also gives assessors some guidance on how an answer might be approached, and what sort of data would be relevant to answering each question. Typically we need to know, first, the legal position in a given area; then how effectively the law is implemented in practice; then any positive or negative indicators which are relevant to the question. So, for example, in answering a question about the freedom of assembly, we would need to know what rights are guaranteed in the country's laws and constitution, and any legal restrictions on their exercise. We would then need to know how effectively these rights are upheld in practice, and how any restrictions are interpreted, and at whose discretion. Finally we would need to examine data on meetings or assemblies refused permission, or disrupted officially or unofficially, on levels of violence, injuries or deaths incurred, etc., and assess their incidence and significance in relation to those allowed and held peacefully.

Within these parameters of the framework, the country assessors have had considerable discretion as to how they have constructed their answers, and what kinds of answer they have given. An assessment is essentially a matter of judgement. This is especially so in respect of deciding what counts as a *good* standard of achievement, and what are the appropriate comparators against which a country's performance should be assessed. Even when all the evidence is in, it is still a matter of judgement whether a country is doing well in any particular aspect of democracy. Should the standard of assessment be progress from a country's own past, or a comparison with the performance of its neighbours, or the expectations of its citizens, or some international norm of best practice? Most of our country assessors have wanted to refer to the past, both as a measure of progress, and because any assessment requires a historical context to make it intelligible. They have also wanted to employ a future-oriented standard as a target for improvement, though they have differed over what this standard should be, and over whether this should be simply left implicit in the assessment.

Such questions cannot be decided centrally, but must be a matter for each country's assessors. What they have all been asked to do, however, is to identify strengths as well as weaknesses, from a democratic point of view, since there is often a tendency simply to concentrate on bad news, as any reading of a typical human rights report exemplifies. They have all also been asked to write a brief summary of each section, which highlights the main points found in the more detailed question answers, so that a reader can quickly see what the main issues of a section are for the country concerned.

Country ownership of the assessment process

It should be evident from everything that has been said so far that this democracy assessment report of Bangladesh is the work of experts who are citizens of the country being assessed. Some assistance has been provided from International IDEA in the form of resources and additional expertise, as well as of course the framework and method itself. Any country assessment can benefit from the experience and perspective of sympathetic outsiders, as these have done. However, the painstaking work of data collection, selection and analysis, and writing a finished report, has been the work of resident assessors with a suitable range of expertise to cover the widely different elements of the country's democratic life. They know the country best. They have a close interest in its democratic development. And it is right that they should take responsibility for the finished assessment, and the judgements it makes.

Other people than the core assessment group have also contributed to the reports. One of the common features of the pilot studies has been the convening of a national workshop towards the end of the process of assessment, to discuss a draft report and its provisional findings. The purpose of the workshop has been to expose the analysis and the findings to the critical opinion of other experts, and to a wide range of different political perspectives. These workshops have typically included such figures as parliamentarians, lawyers, human rights workers, electoral commissioners and other officials, representatives of minority groups, journalists, and so on, as well as other academic experts. In some cases these workshops have aroused substantial media comment, and have already made a contribution to public

discussion and debate. In all countries the process of workshop dialogue and critique has contributed substantially to the rigour and independence of the finished reports.

Range of use

The International IDEA assessment framework and method can be used equally in old and new democracies, and both are represented in the pilot phase of the programme. The history of the framework's evolution helps explain its range of applicability. It was originally developed in a much shortened version for the Democratic Audit of the United Kingdom, a democracy assessment which was prompted by widespread concern at the country's democratic condition in the late 1980s and 1990s. This framework was then further developed and expanded to adapt it to the conditions of developing democracies, and was subjected to rigorous critique and revision at the hands of an international panel of experts convened by IDEA, drawn mainly from the South. The resulting framework thus incorporates the concerns and experience of democratic analysts and practitioners from all the world's regions.

It is not only the history of the framework's development, however, that justifies its general applicability. It is also based on a conviction that democracy is now a universal aspiration, and of universal relevance, even though countries are at very different stages in their political evolution. The experience of the last decades also demonstrates that all our democracies, at whatever stage of evolution, share similar problems, though these may be more acute in some countries than others. As the recent history of the established European democracies shows, problems of second class citizenships, 'money politics', corruption in party financing, lack of executive accountability and transparency, and many others, are not confined to developing or transitional democracies. And the US Presidential elections of 2000 served as an object lesson to the rest of the world in how not to run an election 'freely and fairly'. We all need, and can equally benefit from, an independent and systematic assessment of our democratic condition.

If many of our problems are similar, the solutions to them will not all be the same, but will depend upon local circumstances and traditions.

It is not the task of a democracy assessment to canvass particular solutions to the deficiencies it may have highlighted, but to contribute more generally to the process of reform through the systematic character of its analysis. Yet it may also be that it can throw up examples of good practice, or successful reform, that can prove useful to others, whether these come from the innovations of newly established democracies or the tested practices of the older ones.

Conclusion

It is now for the reader to judge whether this finished report justifies the claims we have made for its method of assessment. What is certain is that nothing as comprehensive or systematic has been written to date on the country's democratic condition, which alone should guarantee it a wide readership.

The International IDEA *State of Democracy* project, of which this country assessment is a product, has a number of other publications which readers of this work may also find of interest. These are:

- a companion volume on the results of the pilot phase as a whole, comprising summaries of all the eight country assessments, a series of comparative tables and some tentative conclusions about the condition of democracy worldwide;
- a *Handbook on Democracy Assessment*, a step-by-step guide to the assessment framework and method, for general use. The *State of Democracy* project will only become truly global through the initiative and participation of many others – the *Handbook* is designed to facilitate just this;
- full democracy assessments from the other countries, as they are published;
- an interactive democracy assessment questionnaire, published on the International IDEA website at www.idea.int, which has already stimulated contributions from every region of the world.

POLITICAL HISTORY

In 1947, the former India was divided politically in two and geographically in three, about 1500 km of India separating the two wings of Pakistan, west from east. This was a sectarian partition, 'Muslim majority' areas making up multilingual, multicultural Pakistan. For nearly a quarter century, East Pakistan faced discrimination on several fronts, creating the conditions in which the astute and charismatic Sheikh Mujibur Rahman scored his decisive electoral victory. The struggle for independence of Bangladesh thus began.

On March 26, 1971, the day after a brutal crackdown, Bangladesh declared itself independent, though this secession by the former East Pakistan only took effect at the end of the year. In the intervening months, an estimated 0.5 to 3 million Bangladeshis had been killed, met disproportionately by retaliatory murders resulting in the fleeing of 10 million refugees to India.

In 1975, President Mujib was assassinated in a symptom of political instability. In a complicated sequence of military coups and near-coups, General Ziaur Rahman took over in 1976. He was assassinated in an abortive coup in 1981 and General Ershad came of power in 1982. He was unseated by civilian discontent in 1990. Success at the parliamentary elections returned the Bangladesh Nationalist Party to the seat of power in 1991 and 2001 and did the same for the Awami League in 1996. Students, the bureaucracy, and the emerging bourgeoisie played an important part each time by organizing protest and political action to force the pace. These 'sectional' pressures now may be considered a moving force, leading political parties even as they are, at the same time, serving to provide parties with support at crucial times.

Bangladesh faces its fourth decade of democracy with achievement and promise, though troubled and in the midst of seeking 'consensus' as can be seen in the efforts to produce a workable arrangement between government and Opposition in place

of the customary unproductive antagonism. Civilian rule has been restored but each major party must be mindful of the armed forces. A high rate of fertility has produced a youthful population with high expectations. Within generally non-communal politics, there are periodic sectarian surges. These could force the secular mainstream to give in, making it increasingly difficult to address impartially, concerns couched in terms of religion. Trade and other negotiations with India belie their early promise, a minority question has come to vex this accommodating culture, and a disturbing institutional weakness remains. Natural disasters like cyclone are common in the country. Floods, famine and disease have long preceded the army's seizure of power as well as the murder of Sheikh Mujib and all but two of his family.

0.1 Preliminary Data (time-line): *historical summary of main staging posts and setbacks to democratisation, with dates of events*

- 1905 Partition of Bengal, east and west by Lord Curzon
- 1911 Annulment of Bengal Partition; reunification of Bengal, east and west
- 1947 Communally divided vote on second partition in Bengal Assembly (Hindu legislators opting for, Muslim against)
- 1947 August 14 Independence from Britain, partition on communal lines, Pakistan composed of 'Muslim majority' areas, India disavowing state religion
- 1952 February 21 Pakistani police opened fire on Bengali students demanding Bangla as one of the state languages; Language martyrs created.
- 1966 February 15 Declaration of Awami League's Six-Point programme
- 1968 Sheikh Mujibur Rahman charged with Agartala Conspiracy Case
- 1970 Sheikh Mujibur Rahman won a landslide victory in the general election

- 1971 March 25 Negotiations over convening of National Assembly and formation of government broke down; Pakistani Army crackdown on unarmed Bengalis; beginning of genocidal army operations that continued for 9 months
- 1971 March 26 Declaration of independence; Sheikh Mujibur Rahman arrested
- 1971 December 16 Pakistani occupation army surrendered. Day of victory for Bengalis
- 1972 January 10 Sheikh Mujib's return to Bangladesh
- 1972 January 12 Sheikh Mujib assumed Premiership
- 1972 November 4 Constitution adopted
- 1972 December 16 Constitution enforced
- 1973 March 7 First Parliamentary Elections
- 1975 January 25 Presidential form of government introduced
- 1975 August 15 Assassination of Sheikh Mujibur Rahman
- 1975 November 3 Coup by Brigd. Khaled Mosharraf
- 1975 November 3 Killing of 4 National Leaders in the Dhaka Central Jail
- 1975 November 7 Sepoy Mutiny and restoration of Major General Ziaur Rahman to power
- 1977 May 30 Referendum by Ziaur Rahman
- 1978 June 3 Presidential Election
- 1979 February 18 Second Parliamentary Elections
- 1981 May 30 Assassination of Ziaur Rahman
- 1981 November 15 Presidential Election and Justice Sattar elected
- 1982 March 24 Second Military Coup by Lt. Gen. H. M. Ershad
- 1985 March 21 Referendum by Lt. Gen. H. M. Ershad
- 1986 May 7 Third Parliamentary Elections
- 1986 October 15 Presidential Elections
- 1988 March 3 Fourth Parliamentary Elections

- 1990 December 6 Downfall of Lt. Gen. H. M. Ershad and appointment of Caretaker Government headed by Chief Justice Shahabuddin Ahmed
- 1991 February 27 Fifth Parliamentary Elections
- 1991 March 5 Civilian Government formed by Begum Khaleda Zia
- 1996 February 15 Sixth Parliamentary Elections (annulled; see text)
- 1996 March 30 Second Caretaker Government formed
- 1996 June 12 Seventh Parliamentary Elections
- 1996 June 23 Formation of Government by Sheikh Hasina
- 1997 December 2 Signing of Chittagong Hill Tracts (CHT) Peace Accord
- 2001 July 15 Third Caretaker Government formed
- 2001 October 1 Eighth Parliamentary Elections
- 2001 October 10 Formation of Government by Begum Khaleda Zia

0.2 Basic *political facts*, e.g. *population, ethnic/linguistic/religious composition and division, constitutional form, unitary or federal system, electoral system, number of parties, electoral cycle, current government, etc.*

HEAD OF STATE, President (titular)
Professor Iajuddin Ahmed

HEAD OF GOVERNMENT, Prime Minister Begum Khaleda Zia

CONSTITUTION: Unitary, revised repeatedly with change of regime. The 1972 parliamentary form of government, replaced by 1975 presidential form, reinstated in 1991. Three elections held since, with two changes of government (note: in 1996, two elections were held of which only the second can be termed 'successful').

LEGISLATURE: 300-seat Jatiya Sangsad, five-year term, unicameral, directly elected.

COMPOSITION OF THE EIGHT PARLIAMENT: (Ruling) Bangladesh Nationalist Party (BNP) 192; Awami League (AL) 62; Jamat e Islami (JI) 17; Jatiya Party (JP-E) 14; Jatiya Party (JP-N) 4; Islami Oikya Jote (IOJ) 2; Jatiya Party (JP-M) 1; Krishak Sramik Janata League (KSJL) 1; Independents 7.

POPULATION: The population is, culturally, largely homogeneous with some 98% speaking Bengali and 85% of the population Muslim. The country is a rainy, richly alluvial delta of little agrophysical diversity. With a nation named after the language, much is rightly made of Bengali heritage. Baul minstrels confidently share the artistic platform with the hallowed Nazrul. This cultural agreement is not inconsistent with lively difference, evidenced by an often-raucous political scene. 'Political problems' turning on categorical distinctiveness concern tribes/aboriginal people of the southeastern hills, 'Biharis' or non-Bengali migrants in 1947 from the Indian state of Bihar, and, occasionally, Hindus. The convenience of a majority language and culture does not imply an easy or unthinking nationalism: a distinct Bangladeshi, ie, East Bengali, political identity was fashioned at the turn of the century and most explicitly vocalized in the liberated Bangladesh by the late President Zia (ibid)

SOCIAL COMPOSITION/DIVISION: For a country of this size, perhaps fortunately, there is a striking absence of regionally based political dissidence. This report elsewhere does discuss regionally- or

Recent civilian multiparty elections in Bangladesh (from Khan, 1997, Tables 1 and 2)

	1991		1996		2001	
	% votes	polled Seats	% votes	polled Seats	% votes	polled Seats
Bangladesh Nationalist Party, BNP	30.8	140	33.6	116	.12	215*
Awami League, AL	30.1	88	37.4	146	40.02	62
Jatiya Party, JP	11.9	35	16.4	32	6.99	14
Jama'at-i-Islami Bangladesh, JI	12.1	18	8.61	03	4.62	17
B'desh Krishak Sramik AL, BKSAL	1.8	5	-	-	-	-
4.4 Bangladesh Communist Party, BCP	1.23	5	-1	-	-	-
Independents	4.4	3	1.06	1	2.25	6
Others (including alliances)	3.0	6	1.90	1	7.06	36
Total number of Seats	-	300	-	299	-	300

(note: 1) decimals rounded off

2) In 1996, the 'Others' victory of one seat allied itself with the AL, preventing "constitutional deadlock"; see Khan, (1997). The AL then formed a coalition with the JI, though the Prime Minister prefers to describe it as a multiparty consensus on the grounds she does command a majority.)

*The alliance of four parties (BNP, JI, JP (N) and IOJ) (See The Eighth Parliamentary Elections 2001, eds. P.Gain et al., 2002.)

ethnically-based disputes. But the Chittagong Hill Tracts (CHT) Peace Accord problem is very particular, and the competitive factions in the young industrial-trading bourgeoisie (see Kochanek, 1996) do not make for regionalism. In a young modern state, the bureaucracy plays a important role of social and national integration. Maniruzzaman (1982) observes that LDC politics harness "primordial sentiments", modern elite taking the lead, not orthodox spokesmen, co-existing with intra elite competition at the same time. Politics and competition in a modern state apparatus help "create new groups from above and establish new guidelines on how the existing groups should act". Political development is typically limited and "levels of consensus are low" even when awareness is high. This enables the control of the national direction by the elite. This schematic background to LDC politics explains why certain group interests get politically prioritized.

0.3 *Economy and people, summary of relevant socio-economic indicators*

Bangladesh, key socio-economic indicators

Population (August 2001)	129.2 million (Urban 24%)
Sex ratio (male: female)	50.94:49.06
Population growth rate (2001)	1.5 % (South Asia, 1.8; all LDC 1.7)
Labour force growth rate (2001)	2.9 % (South Asia, 2.3; all LDC, 1.9)
Mean lifespan	58.2 years
Maternal mortality rate	600 per 100,000 live births in 2002
Low birth weight babies	50%
Access to potable water	84 %
Literacy rate	65 % (female 25%)
GDP (US \$; 2000)	42.3 billion
Agriculture (% GDP; 2000)	25
Manufacture (% GDP; 1998)	18
GNP per capita (US \$, 2001)	376\$ (South Asia, 430; all LDC, 520)
GDP growth rate (2001-2002)	4.8 % (from 5.5 % in 1995-8 due to 1998 floods)
GDP growth per capita 1991-8	3.2 % (from 1.7 % in 1984-90)
Poverty rate in (2000-2001)	51 % (from 59 % in 1991-2)
Growth of exports in 1998-99	3 % (from 17% in 1993-8)
Foreign debt (US \$, 1998)	16.4 billion
Debt service (US \$, 1998)	0.69 billion
Debt service ratio (1998)	9.3 %
Defense expenditure	1.5 % of GDP in 1997 (1.7% in 1992)
Social sector expenditure (*)	0.85 % of GDP in 1992 (approx)
Inflation (% per annum CPI)	7.5 % (2.5 % 1997; 9 % 1995; 5% 1992)
Human Development Index	0.368 in 1997 (maximum 1.0)
HDI international rank	145 in July 2002 (144 th in the world in 1997)

Source: World Bank (1999) *Bangladesh Country Brief*, Washington, the World Bank and World Bank (1999) *Bangladesh at a glance*, Washington, the World Bank. Comparative and some health figures from Dreze and Sen (1995), Population Reference Bureau (PRB)- Measure Communication, News Bulletin- Dateline UN, defense spending from SIPRI, social spending (*) from UNDP 1997 estimate of 22% government consumption in the early '90s.

I. CITIZENSHIP, LAW AND RIGHTS

1.0 Nationhood and Citizenship

<p>Is there public agreement on a common citizenship without discrimination?</p>

Summary assessment

There is no international border dispute. However, insurgency has constantly chafed a sensitive border, this has been recently addressed, if imperfectly (see text). Citizenship and more narrowly, terms of minority existence, equally tax public nerves. A sense of nationhood is therefore yet to be uniformly established. The numerical necessity of alignments can impart an unwanted hue to a dominant party's colours, the socio-institutional effects not as easily undone as a mere coalition: witness the 1991 BNP-JI alliance, matched by the 1996 AL-JP one. Crucial to the resolution of these debilitating problems are the constitutional and political means adopted. Whether the genius of Bangladeshis will permit a speedy and satisfactory outcome is to be seen.

1.1 How inclusive is the political nation and state citizenship of all who live within the territory?

Article 6 of the Constitution deals with the issue of citizenship. It says that the citizenship of Bangladesh shall be determined and regulated by law [Article 6 (1)] and in pursuance of the Proclamation of independence of Bangladesh, the President was pleased to make the Bangladesh Citizenship (Temporary Provisions) Order, 1972 which has come into effect on the 26th day of March, 1971. This Order lays down that:

Notwithstanding anything contained in any other law, on the commencement of this Order, every person shall be deemed to be a citizen of Bangladesh;

- (i) who or whose father or grandfather was born in the territories now comprised in Bangladesh and who was a permanent resident of such territories on the 25th day of March, 1971, and continues to be so resident; or

- (ii) who was a permanent resident of the territories now comprised in Bangladesh on the 25th day of March, 1971, and continues to be by or under any law for the time being in force:

Provided that if any person is a permanent resident of the territories now comprised in Bangladesh or his dependent is, in the course of his employment or for the pursuit of his studies, residing in a country which was at war with, or engaged in military operations against Bangladesh and, is being prevented from returning to Bangladesh, such person, or his dependents, shall be deemed to continue to be resident in Bangladesh.

In case of doubt as to whether a person is qualified to be deemed to be a citizen of Bangladesh under Article 2 of this Order, the question shall be decided by the Government, which decision shall be final.

The constitutional stand thus keeps options for the government to decide on anybody's claims of citizenship. The formal citizenship or the more meaningful right of residence had come under threat for two groups of people (see MRGI, 1992).

- (a) A quarter million *Bihari* have been living in Bangladesh since its inception. These people describe themselves as stranded Pakistanis. (see Contextual ties, Section ii) Successive governments have urged Pakistan to "repatriate" these people of *Bihari* origin. Pakistan did indeed take nearly 200,000 till the 1980s, but further acceptance seems unlikely. Their citizenship formally continues but is periodically called into question. Ironically, some returned to India, while some who managed to get to Pakistan were deported. A number have assimilated into wider society, but the majority live in squalid camps.
- (b) The survivors and descendants of about 40,000 environmental refugees who in the 1960s crossed the border into India upon inundation of their homes by the Kaptai dam, are denied citizenship by India, they are in effect stateless. This latter group does not 'live within the territory' of Bangladesh but could, especially in view of the recent historic accord between their brethren and the government.

1.2 *How far are cultural differences acknowledged, and how well are Minorities protected?*

As mentioned earlier, 'tribal' groups (aborigines) sharing a common descent with Indian hill populations on the southeastern border 'Bihari' in Dhaka and scattered Bengali Hindus make up the three discernible minorities. There is only one non-Bengali in every 50 Bangladeshis and three in every 20 non-Muslims, creating conditions for cultural harmony. Yet, there remains a minority problem, which can assume significance at certain times. For example, after the 2001 October election, the country faced a very uneasy situation due to the oppression perpetrated on the people and properties of the minority communities. Non-Hindu minorities are also treated as suspect. While they suffer no overt physical attack, their 'cultural difference' often inspires not respect but suspicion. Their position is mixed up with the conventional parameters of state such as territory and population, and has duly become a national political issue. (See Section 1.1(a) above for the Bihari question, and Sections 1.4 and 3.3 for the Chittogong Hill Tracts Accord). Customary land use is the mainstay of hill tribal culture, and business settlers from the plains have strained any traditional coexistence with their irrevocable demographic reordering.

The plight of encamped *Biharis* is a sorry one: some have assimilated into wider society. The camps are atrocious, and the majority perception of misplaced *Bihari* loyalty worsens the minority predicament. Pending some political settlement they will continue to pose a social problem, and face poor status and poor prospects for advancement.

Most Hindus are Bengali and do not stand out as a minority with a political edge. However, at critical times their position is weak, eg, when relations with India are strained or indeed at liberation (it has been suggested that disproportionate numbers of refugees in 1971 were Hindu). Sub-continental Partition-Independence in 1947 casts a perpetual shadow, and minority rumblings on either side of the border could reverberate domestically. The partition was mainly on the religious ground and Pakistan was supposedly created to home the Muslims. Thus 1947 generated an outflow of Hindus to India, which continued up to 1971 almost unabatedly. The independence of Bangladesh in 1971 has changed the scenario but the Hindu

migration to India has continued, though at a lower rate. Hence, the Bangladeshi Hindu has come to occupy a position rendered periodically insecure.

1.3 How much consensus is there on state boundaries and constitutional arrangements?

General agreement on state boundaries is getting increasingly sensitive. There is greater consensus over the content of the Constitution than over its interpretation. However, the rushing through of important bills in the absence of the Opposition means that the oft-invoked 'consensus' is unlikely to form. (eg, the latest attempt to institute special courts to try terrorism and other offences; the reservation of 30 seats for women in the Parliament). The public, press and Opposition cite the Constitution in disapproval of the government; unpopular measures are seen as deviating from the Constitution. However this is a heavily reworked Constitution and the implications for state and society are left undebated in the short-term determination of the ruling party to keep power.

1.4 How far do constitutional and political arrangements enable major societal divisions to be moderated or reconciled?

Arrangements have been suggested and, in some cases, effected for female reservations to local government seats, though no arrangements have been suggested for peasants and workers (See Shehabuddin, 1999). Far from reconciling societal divisions, such deliberate depoliticization can only force them into short-lived party political alliances. The original mention of peasants and workers may have been no more than a statement of intent to redistribute. There was much early nationalization but less redistribution. The peasant dominance of rural society implies a resolution of land and livelihood questions (see Boyce, 1987) if a major 'societal division' is not to become entrenched. Public policy has sought econometric solutions; the most populist measure has been Grameen Bank, now incontrovertible with worldwide adoption.

A truly intractable problem has concerned non-Bengalis, tribes of three border districts in the South-east, a group accounting for less than one per cent of the population. Their harassment by each government since 1973 has made them a national problem and electoral issue. Recently a Peace Accord has been signed between

the Government of Bangladesh and the Parbattya Chattagram Janasanghati Samiti bringing an end to an “era of bitter conflicts between brothers, cruel exploitation over oppressed class, brutal killings in the name of political cause and ethnic cleansing...” (Sheikh Hasina, 1999). This Accord has been concluded within the framework of the Constitution reposing full and firm allegiance in the sovereignty of the state and territorial integrity of the country. Rashiduzzaman (1998), of course, considers it as a *fait accompli*: a pact calling off the (counter) insurgency after a year of secret negotiations. Public and Opposition criticisms have since centered on dilution of the constitution and state power, though the design and strategic implications are equally serious. The success of the barter is contingent on cooperation among the tribes and their continued dialogue with the government, neither of which is guaranteed. This institutional uncertainty means that a reversal could be serious. The matter involves an international border and could compromise the security and strategic options of the state. This is an example of a political arrangement, which could effect reconciliation, but because it did not take other interests into consideration, could easily fail.

1.5 How impartial and inclusive are the procedures for amending the constitution?

Article 142 of the Constitution spells out the procedure of amending the Constitution. According to the Article any provision of the Constitution may be amended by addition, alteration, substitution or repeal by the Act of Parliament. All Bills for amending the Constitution shall have to be passed by votes of not less than two-thirds of the total members of Parliament. After so passed, all Bills shall be presented to the President of the Republic for his assent who in case of amending the Preamble or any provisions of Articles 8, 48, 56 or 142, within the period of seven days after the Bills are presented to him, shall cause to be referred to a referendum the question whether the Bills should or should not be assented to. If the majority of the voters taking part in the referendum pass the Bill, the President will assent the Bill within seven days of its presentation to him and if he fails to do so within seven days he shall be deemed to have assented to the Bill on the expiration of the seven-day period.

Thus Constitutional amendments depend on parliamentary majority, and have been debased to resemble normal legislation. Procedurally,

an amendment seems to require little more than a bill. The latest, 13th constitutional amendment was hurried through a month-old parliament to enable the new Prime Minister's resignation. It permitted the formation of an interim Caretaker government to preside over a fresh election superseding the one just held. Though this move did produce a more hopeful result (the June 1996 election had a 74% turnout to the February turnout of 16%), it had been contingent on parliamentary numbers. Widespread unrest had prompted the actual measure, which was nonetheless achieved by party decision. Previous amendments have made little reference to public opinion and simply taken advantage of incumbent strength. The more significant amendments to the Constitution since its adoption in 1972 have redefined the basis to government (from Indian parliamentary to French presidential and back), socioeconomic framework of the state (from 'socialist' to encouraging the private sector), and sectarian adherence of the state (from secular to Islamic by the fifth and eighth constitutional amendments). With disturbing ease, 'provisions' or frank amendments have abridged both political rights as well as the state's obligation to account for its actions: e.g., members who vote against their own party are required to resign, and suspects may be arrested without a warrant and held for six months without charge. Khan (op cit) sadly notes that these provisions have "... survived seven parliaments..."

1.6 What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?

Despite the former Prime Minister Sheikh Hasina's avowal of 'consensus' in politics or at least in government and the present Prime Minister Khaleda Zia's desire to work together, there is much simmering disagreement on the matters such as the Chittagong Hill Tracts (CHT) and the Constitution. The political priority for either major party is to retain power, and this drive could threaten fragile civilian rule. Public support has habitually emanated from the street but continued resort to it by disgruntled politicians could jeopardize multiparty politics. As yet, there has been little attempt to marry public support with serious institutional issues, and persistent disjuncture might yet expose the political body of the country

2.0 The Rule of Law

Are state and society consistently subject to the law?

Summary assessment

The 1972 Constitution of Bangladesh promulgates the supremacy of the 'Rule of Law'. However, too many restrictions and exceptions have rendered the fundamental rights hollow and eventually it is difficult to understand how much is left with the people by way of fundamental rights. The rulers are subject of laws, which means a government controlled by laws framed by people's representatives. The existence of Special Power Act 1974 (SPA), under which a person can be kept in detention for indefinite period is an indication of bad 'Rule of Law' situation in the country. The newly added Law for Speedy Trial, 2002 (Droota Bichar Ain 2002) has created the process of implementation and investigation. The court system is beset with the overwhelming backlog of cases and this situational factored along with corruption encountered in the judicial process in the lower level ultimately prevent many people from obtaining a fair trial. The Law Commission is identifying the reasons for delays in judiciary.

2.1 How far is the rule of law operative throughout the territory?

The Rule of Law as understood today in its broadest connotation means a government of laws and not of men. It means that the exercise of power of government shall be conditioned by law and that the citizens shall not be exposed to the arbitrary will of the ruler. That means, the rulers are subject to laws, which means a government controlled by laws framed by people's representatives which uniformly bind the citizens and the government as equal before the law. It means that the separated state powers are co-ordinated into the executive, legislative and judiciary with emphasis on individual right to life, liberty, property and lastly of political participation, and where an independent judiciary has the right of judicial control over executive acts.

In Bangladesh with its written constitution having entrenched Bill of Rights, the judiciary is also clothed with the power of judicial review of legislative enactment.

Article 27 of Part III of the Constitution of Bangladesh says - “All citizens are equal before law and are entitled to equal protection of law”.

Article 31 provides - “To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with the law, is the inalienable right of every citizen, wherever, he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law”.

Article 32 of the Constitution, on protection to life and personal liberty, says - “No person shall be deprived of life or personal liberty save in accordance with the law”.

Article 33 (1) in the context of safeguards as to arrest and detention’ says - “No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult and be defended by a legal practitioner of his choice”.

Again Article 33 (2) says - “Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest, excluding the time necessary for the journey from the place of arrest to the court of the magistrate, and no such person shall be detained in custody beyond the said period without the authority of a magistrate”.

But these rights of clauses 1 and 2 have been limited by clauses 3, 4, 5 and 6 of the said Article, which are related to preventive detention. Article 35 constitutes the right to ‘protection in respect of trial and punishment’. These rights guaranteed by Part III of the Constitution of Bangladesh are not absolute, and many limitations have been placed on their enjoyment, like in other countries, where fundamental rights exist and there is no guarantee against arbitrary legislation against fundamental rights. The 1972 Constitution did not provide for emergency powers.

On the 22nd September 1973, the Constitution (Second Amendment) Bill was passed to amend Article 33 and to add a new Part IX A containing provisions for emergency and suspension of fundamental rights. After the second amendment of the Constitution Article 33 authorises the legislature to make law for preventive detention for reasons connected with the security of state and the maintenance of public order. Therefore, the Legislature is competent to enact that a person should be detained or imprisoned without trial for internal danger or external aggression or war, and against such law, the individual shall have no right of personal liberty.

Critics pointed out that the Constitution has played a trick with citizens, as what it gives with one hand, it takes away with the other. Too many restrictions and exceptions have rendered the fundamental rights hollow and it is difficult to determine how much of fundamental rights are still protected.

It is of course serious to think of rule of law for the protection of human rights when those in power remain above the law and the government power can be abused with impunity. The last decade witnessed dangerous trend in the country. The orders for detention are being issued in respect of pending cases by the administration and individuals cannot be enlarged on bail by courts. This is still in practice in spite of judgements of the highest court that such orders were not sustainable under law as they were mala fide. There are many instances when one detention order was followed by another because the other one had been found illegal by the court.

The existence of Special Power Act 1974 (SPA), under which a person can be kept in detention for indefinite period is an indication of the bad 'Rule of Law' situation in the country. Some 7,618 persons were kept in detention during the first three years of the 1996 government of Awami League under the Special Power Act (SPA) and the number of detainees during the five year of Bangladesh Nationalist Party (BNP) rule was about 18,000 persons. About 27,000 people were in detention under SPA during the 1981-90, nine-year rule of Jatiya Party of H.M. Ershad. Since the implementation of SPA on 9th February 1974 some 906 people had been under that law but only 219 persons were in detention till the last day of the year 1974. (*Daily Jugantar*, May 30, 2000).

The Public Safety Act 2000 (PSA), has been widely criticised in the country. The press and the opposition political parties voiced for immediate repeal of PSA because cases have been framed against the opposition leaders and activists under that oppressive law. Newspapers have consistently voiced the demand for scrapping the PSA based on a sharp reminder of specific cases where it was grossly misapplied as an instrument of political vendetta. The Act has now been scrapped.

Political instability, absence of democratic norms and values, economic chaos, social insecurity, socio-political atmosphere of indecision, mutual distrust, abuse of powers, government's failure to maintain law and order are common features of life in Bangladesh. The Judiciary, with its hands tied, is unable to function independently because of deplorable 'Rule of Law' situation inherited from one ruling party to another.

2.2 To what extent are all public officials subject to the rule of law and to transparent rules in the performance of their functions?

The President has constitutional immunity from criminal and civil proceedings during his time in office. The members of Parliament shall not in the exercise of their powers relating to regulation of procedure, conduct of the business or the maintenance of order in Parliament be subject to the jurisdiction of any court (Ibid.: 347).

In the 1990's "... by taking advantage of a weak, ineffective and corrupt government, members of the bureaucracy devised rules and procedures which facilitated corruption. The usual *modus operandi* of bureaucratic corruption is bending or twisting of rules; but in some cases the nature of the rules are such that one can easily take advantage of the built-in loopholes". (Report of the Task Forces 1996 : 394). Public officials are, in the same manner, doing their activities because they are not accountable to anybody except disciplinary action adopted by its office internally. Only in visible cases of indiscipline or corruption do public officials face charges by the court.

2.3 How independent are the courts and judiciary from the executive, and how free are they from all kinds of interference?

The Constitution provides for an independent judiciary. The higher levels of judiciary display a significant degree of independence and often rule against the Government in criminal, civil, and even politically controversial cases.

It is true that the creation and use of unorthodox agencies, even if only in an advisory capacity, in effect bypass and weaken conventional checks and balances. However, the prioritizing of some tasks such as prosecuting the 1975 assassins by a regular court is in no way a misuse of state privilege. Rather, it reveals strong restoration of the spirit of independence of Judiciary. Piloting the bill, the State Minister for Law and Justice, Abdul Matin Khasru said, the Treasury Bench had not moved the bill to avenge, but for the sake the maintenance of rule of the law. The Jatiya Sangsad on 12 November 1996, unanimously passed the Indemnity Ordinance (Repeal) Bill, making way for holding trial of the killers of Bangladesh's first President Sheikh Mujibur Rahman, his massacred family and other close relatives. The law to indemnity trial of the August '75 military coup de'tat was enacted by Khondker Mushtaq Ahmed in the form of a Presidential Ordinance in 1975.

The Constitution provides for three organs of government, the executive, the legislature and the judiciary. The executive is responsible to parliament and remains as it enjoys the confidence of the majority in the Parliament. It exercises some legislative power and performs certain adjudicative functions. This is composed of the President, the Prime Minister and a Council of Ministers. The executive determines the policies of the government and supervises the execution of the policies and the enforcement of the laws. The members of the services of the Republic do the actual work of execution of the policies and enforcement of the laws. The Constitution vests the executive power of the Republic in the Prime Minister and the legislative power of the Republic in Parliament.

Part VI of the Constitution deals with judiciary. The Constitution of Bangladesh has set up at the apex of judiciary the Supreme Court of Bangladesh comprising the Appellate Division and the High Court Division.

Appointment of Judges, qualifications, and tenure: The Chief Justice and other Judges of the Supreme Court of both divisions are appointed by the President. In the matter of appointment of the Chief Justice the President is not required to act on the advice of the Prime Minister or the Cabinet, but the President is to act on the advice of the Prime Minister in the matter of appointment of puisant Judges. A person shall not be qualified to be appointed as a Judge of the Supreme Court unless he is a citizen of Bangladesh, and he (a) has been an advocate of the Supreme Court for at least ten years, or (b) has held judicial office in the territory of Bangladesh for at least ten years or (c) has such other qualifications as may be prescribed by law for appointment as a Judge as per Article 95 (2).

The Judges of the Supreme Court other than the additional Judges shall hold office until they attain the age of sixty five years and shall not be removable except upon a report of the Supreme Judicial Council as per Article 96 (2). The Supreme Judicial Council shall consist of the Chief Justice and two next senior Judges. The Council shall prescribe a Code of Conduct to be observed by the Judges, and shall inquire into the capacity or conduct of the Judges. If upon information received from the Council or from any other source, the President has reason to apprehend that a Judge is incapable of performing his functions because of physical or mental incapacity or has been guilty of gross misconduct, the President may direct the Council to inquire into the apprehended incapacity or misconduct. If the Council upon inquiry makes a report that in its opinion the Judge is so incapacitated or has been guilty of gross misconduct, the President shall remove the Judge from office.

Regarding appointments of persons to subordinate courts, Article 115 of the Constitution of Bangladesh says - "Appointment of persons to offices in the judicial service or as magistrates exercising judicial functions shall be made by the President in accordance with rules made by him in that behalf". By Fourth Amendment Act, the authorities of the Supreme Court in relation to appointments of persons to subordinate courts have been taken away clearly concentrating the same to the President himself.

Article 22 of the Constitution of Bangladesh emphasises the independence of the Judiciary by way of separating the same from the executive organ of the state. But not much progress has been

achieved in this respect. For example, the Deputy Commissioner who is the Chief Executive in the district can arrest and prosecute a person. He also acts as a judge and tries criminal cases. It is therefore, generally contended that such a practice is not in accordance with the independence of the Judiciary (Talukder,1993: 145).

In nutshell, the judiciary displays a high degree of independence at appellate levels; however, lower judicial officers fall under the executive, and are often reluctant to challenge government decisions.

2.4 How equal and secure is the access of citizens to justice, to due process and to redress in the event of maladministration

A major problem of the court system is the overwhelming backlog of cases. This factor along with corruption encountered in the judicial process in the lower level ultimately prevent many people from obtaining a fair trial.

Trials in the country are public. The law provides the accused with the right to be represented by counsel, to review accusatory material, to call witness, and to appeal verdicts. State-funded defense attorneys are rarely provided, and there are few legal aid programmes that give financial assistance. In rural areas, individuals often do not get legal representation but in urban areas, legal counsel is generally available if individuals can afford the expense. Sometimes detainees and suspects on police remand are denied access to legal counsel.

Besides the statutory provisions, poor people have another scope of having legal aid which is offered by some nongovernmental organisations (NGOs). But considering the percentage of poor people in the country, the activities of these NGOs are very limited. In response to a variety of conflicts, legal disputes and human rights violations, some NGOs have undertaken programmes based on legal literacy training. In general, there are NGOs that provide legal aid but are considered of a low quality.

According to one independent sample survey conducted by Transparency International, more than half of persons involved in court cases paid bribes to court officials. Because of the difficulty accessing the courts and because litigation is time consuming, alternative dispute resolution by traditional village leaders is popular

in rural communities (1999 and 1998 Human Rights Report of the U.S.).

There is tension between the executive and the judiciary. The government repeatedly charged that the High Court indiscriminately granted bail to criminals, crippling efforts to combat crime. In March, 1999 the Supreme Court dismissed a contempt of court petition brought by the President of the Supreme Court Bar Association against Prime Minister for remarks she made at a January Press Conference. Similar remarks have been raised on an interview with BBC by the Prime Minister Sheikh Hasina during her tenure.

There is a gap between the ideals and the actuals in respect of trial and treatment of prisoners. The judicial interpretation of laws and the principles enunciated in the Constitution to actuality are not the same. Under Article 35 of the Bill of Rights every person accused of a criminal offence shall have the right to speedy trial and none shall be subjected to cruel, inhuman and degraded treatment. But accommodating 20 thousand under-trial prisoners in place of only 17 thousand registered accommodations, excluding convicted prisoners and political detainees, as found in 1979-80, shows a very dismal picture about the condition of under trial prisoners of criminal cases. Besides, the prison custody goes up to four/five years, even for petty crimes, where the custodial sentence would not exceed more than three months (Talukder, 1994). These are cases of denial of human rights. In some cases, appeals by the convicted prisoners for acquittal only reach the superior courts several years after the expiry of the sentence as passed by the court below (Also discussed in 2.3).

2.5 How far do the criminal justice and penal systems observe due rules of impartial and equitable treatment in their operations?

Judiciary in the country is caught in a 'vicious circle of delays and backlogs' said a member of Law Commission. Delay in the judiciary has reached a point where it has become a factor of injustice and violator of human rights. Praying for justice, the parties become part of a long, protracted and torturing process not knowing when it will end. Where a civil suite should take one to two years for the disposal but it continues for 10 to 15 years, some times more than that. It is

often seen that by the time judgment is pronounced the need for the judgment in certain cases is no longer needed.

A statement in 2000 by the Chief Justice is relevant in this context. He said that above nine lacs of cases are pending in different courts in the country and among them more than one lac cases are pending in High Court and more than four thousand cases are waiting for judgment in the Appellate Division (*The Daily Star*, 20 May 2000 and *Daily Jugantor* 20 May 2000).

A member of the Law Commission identified the reasons for delays in judiciary such as: - Slow process of service of the summons which can be further slowed down by the intentions of the parties concerned, indicating a poor state of court administration. - Frequent adjournments of the trial caused by the insistence of the lawyers, and reluctance of the judges to limit these adjournments, such reluctance being explained partly by heavy case-load and partly by their unpreparedness to continue and complete the process. - Vested interest of the lawyers for lingering and delaying the process, for they are often paid by their appearances in the court. - Absence of lawyer-client accountability giving the lawyer monopoly to conduct the case the way he considers best suited to his own interest. - Failure of the parties to present the witness-sometimes genuine, sometime deliberate. - Rotation and transfer of judges, often meaning that the same judge who heard testimony may not decide the dispute, taking away thereby much of his incentive to push forward the proceedings to judgment and seriously impeding the process of continuous trail; the new judge may have to repeat some of the procedural requirements already fulfilled. - Inadequate administrative and logistic support system, enormous workload of the judges, poor salaries and poor working conditions, all having negative impact on the initiative and efficiency of the judge. (*The Daily Star*, April 16, 2000).

In question of criminal justice and penal systems on how far do they observe due rules of impartial and equitable treatment in their operations, the prevailing situation of women, children and minorities come side by side. There are Acts and institutional promises regarding equal opportunities for women. The Government is also committed to the international Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

However, the negative practices of power by the people, organizations or even by the laws of the land entrusted with the responsibility of providing public safety, limit the opportunities for women in education, empowerment and integration into the mainstream of national development. The following special laws have been enacted to fight the atrocities meted against women and children:

Women and Child Repression (Special Provision) Act, 1995 (repealed)

Women and Child Repression (Special Provision) Act, 2000

Dowry Prohibition Act, 1980 amended in 1986

The Family Court Ordinance, 1985

The Muslim Marriage and Divorce Registration Act of 1974

Muslim Family Law Ordinance of 1961

Penal Code, 1860

Suppression of Immoral Trafficking Act, 1993

Suppression of Violence Against Women and Children Act, 2000.

In the context of minorities the situation is more obscure and precarious. Women are most vulnerable and marginalised section of the society. Minority women are doubly marginalised and vulnerable, first as minorities and second in their position as women. In most cases human rights violations against women are not reported due to taboos. Minority women have been marginalised and violated as individual women members of the society and also due to lack of adequate protection by state institutions. For instance, Hindu women remain marginalised and vulnerable due to discriminatory laws regarding inheritance. Since 1956 no amendments have been made to Hindu laws. The Hindu women are deprived of inheritance of their parental property hence the strong institution of dowry among them.

“The 1991 census estimated that the Hindu population had declined by 0.3 per cent since 1974. Fear of loss of property, under the Vested Property Act, 1974, or fear of communal violence has induced the migration of Hindus from the country” (Human Rights in Bangladesh

1998: Report, Ain O Shalish Kendra, 1999 :192). The continued existence of the Vested Property Act is the major source of insecurity and human rights violations of the Hindu Community.

It is estimated that the *Adivashis* (aboriginals) have lost about 80 per cent of their land. (Bhoumic and Dhar, 1999). Ignorance about their rights, poverty, development notions of the state and forceful occupation of their land by the local goons aided by strong political forces are major factors behind their loss of land. There are other minorities who have accepted similar fate. Major ethnic communities like *Chakma, Murma, Garo, Santal, Hajong, Tipra, Khasi, Murang, Shendhu, Panko, Rakhaines*, etc. have also been the victims of illegal land encroachment or other similar problems. They have hardly any knowledge about the legal provisions and documents relating to land property, therefore, they easily fall prey to opportunists.

2.6 *How much confidence do people have in the legal system to deliver fair and effective justice?*

Public distrust of governmental machinery comes from a colonial experience. The ‘colonial’ government used to keep busy by policing the public while the ‘colonized’ public kept defending itself from the unlawful power of the government. Even after independence, the changes that took place in this area are not much more significant because of the continuation of the colonial legacy. The judicial and legal systems have a rich tradition of common law culture and good delivery of justice. In the recent decades certain objective and subjective factors have led the judiciary to manifest in crippling backlogs and delays.

A daily newspaper in 1989 came out with a lot of apprehension on the court process concerning bail and other practices. As regards criminal cases in Bangladesh, it is in practice observed that “there is extensive corruption and abuse of court process concerning bail. Such practices, contrary to judicial independence, are vitiating the atmosphere in the judiciary and undermining public confidence in the administration of justice” (*The New Nation*, 31 March 1989). The people in and around courts are known for making harassment and money minting affairs. Now days, dishonesty of the clerks, peons, *peshkars* and *sherestadars* (clerical workers) is a major problem. They often show no seriousness about their work and demand tips

and bribes. It is alleged that by taking illegal gratification, they misplace records, remove documents and sometime even destroy the records (Ahmed,1993: 87). “There is a widespread belief that judges in our country receive bribes, we have no data or statistics which can prove this allegation. As to the Supreme Court Judges, this claim is not a fair statement of the situation. But it is not impossible that some judges of lower courts receive money or other advantages” (Talukder, 1994:101, quoted from Ahmed, 1993: 87).

2.7 What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?

Human rights bodies and relevant NGOs are taking part in identifying the issues, monitoring the abuses and also sensitizing the people about these abuses. Under the broad category of the rule of law, the legal system and the enforcing agencies, people’s reach to judicial system are recognised by the government. The press has been highlighting all abuses and actions for and against.

The ‘code of conduct’ for the Justice of High Court first constituted in 1972, has now been amended by a three-member Supreme Judicial Council. Under this amendment any Justice of the Supreme Court should clarify the reasons if he feels embarrassment while hearing a case. Bangladesh Law Commission after revision submitted its report on Ombudsman Act 1980 to the government proposing amendments to it. An Ombudsman is yet to be appointed.

3.0 Civil and Political Rights

Are civil and political rights equally guaranteed for all?

Summary assessment

Constitutional amendments have deprived detainees and some foreigners of the right to be heard or represented. Police powers of surveillance and interrogation dilute abstract constitutional guarantees. Political scores are settled by paid hoodlums, student factions and criminal gangs, adding to the climate of fear on the streets. Women are at real risk, "unnatural deaths" often preceded by rape, and stray cases of religious incitement. Rights of movement, expression, association, and assembly are affected by "state or non-state actors" on the ground. The press has come under restrictive laws. However, since 1991 it has been able to defy government control. Electronic media have less leeway. Opposition rallies are often suppressed by the police, hence the exercise of freedom of assembly poses risks. Associations and unions are often partisan. The multi-religious character of society was initially captured in state policy, but recent 'Islamization' has served to disadvantage minorities. Rights campaigners are tolerated, but could be harassed along with journalists reporting on cases. Solutions are sought in policy such as the repeal of draconian laws, but public support for this is unclear.

3.1 How free are all people from physical violation of their person and from fear of it?

The Constitution of Bangladesh provides adequate safeguards from physical violation of an individual and freedom from fear. It provides safeguards as to arrest and detention (Art. 33) guarantees prohibition of forced labour (Art. 34) and protection in respect of trial and punishment (Art. 35). Art. 44 unequivocally guarantees the enforcement of fundamental rights. The Constitution therefore allowed no scope for derogation from the fundamental rights (Khan and Mahmood, 1997: 16).

Over the last three decades amendments to the Constitution, framing of a number of national security laws and administrative practices have undermined the protection provided by the Constitution. Within a couple of years of the enactment of the Constitution that ensured a democratic society with full respect for fundamental rights, the instrument was amended and vested power in the President to proclaim a State of Emergency and curtail certain fundamental rights namely the right to freedom of movement, freedom of assembly, freedom of association, freedom of speech and expression, freedom of thought and conscience, the right to own property, and the right to a profession or trade. Under Art. 141C the President was further empowered to suspend the right to move the courts for the enforcement of any of the fundamental rights guaranteed in the Constitution.

Amendment to Article 33 of the Constitution restricted the safeguards to those under detention and denied enemy aliens and those in preventive detention to be informed of the grounds of arrest, to consult and be defended by a lawyer of one's choice and to be presented before magistrate within 24 hours of arrest.

Some of the legal instruments that restricted fundamental rights are the Special Powers Act (1974), the *Jatiya Rakkhi Bahini* Act (1974), Special Security Forces Ordinance (1986), The Suppression of Terrorist Act (1992) and The Public Safety Act (2000). The broad sweep of prejudicial acts under the Special Powers Act has contributed to its abuse by the authorities (Khan and Mahmood, *op. cit.*).

The Act became a handy tool in dealing with the political opposition by successive regimes and was disproportionately deployed in the country's troubled Chittagong Hill Tracts region. Amnesty International reports that during the first Awami League government (1974-75) 35,000 people were arrested, under Gen. Zia's rule (1975-81) 100,000 were arrested under the government of Gen. Ershad (1981-90) and detained 150,000 people under this Act. It has been observed that all the ruling parties used this Act to oppress their political opponents and the general public who has engaged in democratic movements during different political regimes (Robinson, 1997: 47). It is worth noting that following the filing of writs of *habeas corpus* the High Court released more than 95% of the

detainees on grounds that reasons for detention were vague, indefinite or lacking in material particulars. In many instances those released under court order are re-arrested and detained under a fresh order. Although detention orders can be challenged before the High Court Division, it is a costly process and poor detainees cannot afford it.

The Presidential Security Force Ordinance established a Security Force to “provide physical security” both to the President and to the VIPs (including any head of the state or government or any person declared to be a VIP by the government). Following the restoration of the parliamentary system, it was renamed the Special Security Force (SSF) and its work included “collecting and communicating intelligence affecting the physical security of the President, the Prime Minister or a VIP”. In performing its role the SSF is given powers to arrest without warrant any person, or if necessary, to shoot at a person. Section 11 of the Ordinance provides immunity to the members of the Force from prosecution without government’s sanction. The Public Security Act is the latest legal instrument that poses a threat to individual freedom.

A number of intelligence services operate. These include, the National Security Intelligence (NSI), Directorate General of Field Intelligence (DGFI), Special Branch (SB). The SB is a part of the police and reports to the Home Ministry. The DGFI and NSI are accountable to the Prime Minister. Human rights violations and other excesses committed by these agencies have been a cause of major concern.

Over the years, incidence of violence perpetrated by law enforcement agencies has increased. Sometimes such violence is meted out by disproportionate use of force in dealing with street protests of the political opposition, other times this is done when an accused or a group of accused is brought into custody. In 1998 alone, 73 persons were killed when police fired on demonstrators during strikes, 59 persons died in jail and 13 others died in police custody (ASK, 1999:52).

It is not only the state institutions that pose threat to right to life of citizens of Bangladesh. Non-state actors are increasingly becoming

another important source of such threat. Political violence, student violence, rivalry between different *mastaan* groups (criminal gangs) also pose a growing threat. In 1998, 101 persons were killed in violence between political rivals whereas another 21 students were killed in campus violence (Ain O Salish Kendra or ASK, 1999:52). In 2000, some students were reported to have been injured and 25 killed in 178 incidents in different educational institutions around the country (ASK, 1998:34). Violence against women has also been on the rise. In 1998, 973 women were reported to have died unnatural deaths (ASK, 1999:52). Of these, 596 cases were of murder. This figure has increased by 29% over the previous year's figure of 423. Some 62% of the murders (1998) were committed by husbands and/or in-laws in domestic and dowry disputes. Some 105 of 596 women were murdered following rape or attempted rape, and 5 died as a result of violence incited by *fatwas* issued by religious leaders at village *shalish* (mediation councils).

In spite of the presence of different restrictive laws and fear of street gangs, life in general remains normal in the country. It may be mentioned here that the restrictive laws such as PSA and SPA also act as the deterrent to the activities of the street gangs or other organized groups of miscreants.

3.2 How effective and equal is the protection of the freedom of movement, expression, association and assembly?

The freedom of movement is guaranteed in Article 36 of the Constitution of Bangladesh. It states that ... every citizen shall have the right to move freely throughout Bangladesh, to reside and settle in any place therein and to leave and re-enter Bangladesh.

Article 28(B) of the Constitution of Bangladesh states that “No citizen shall, on grounds only of religion, race, caste, sex or place of birth be subjected to any disability, restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution.”

Despite such constitutional guarantees, freedom of movement of individuals is periodically restricted either by the state or by non-state actors. During the period of armed insurgency and counter-insurgency operations in the Chittagong Hill Tracts, freedom of movement was severely restricted. Both law enforcing agencies and

militants opposing them constituted sources of threat to freedom of movement. However, the peace accord in 1997 has provided scope for improvement in this respect.

Hindrances to free movements in towns and cities are periodically caused by holding of rallies by different political parties. On occasions, in highways free movements are restricted by extortionist gangs engaged in unauthorized toll collection. Often these gangs have contacts with political elite or locally influential persons, and thus they enjoy certain degree of impunity. Despite penal provisions very seldom these offenders are prosecuted for violating freedom of movement.

Freedom of movement may also be restricted by the authorities under Section 144 of the Penal Code. Under this Section, police are empowered to restrict freedom of movement to “maintain public order”.

Despite such guarantees of freedoms of expression and press, over the years, the press has been subjected to many restrictions. The Printing Press and Publications Ordinance is one of the most important legislation that has specific clauses that affect press freedom. Under the Ordinance within the first couple of years of independence several newspapers were proscribed, including *Huq Katha*, *Mukhopatro*, *Ganashakti*, *Spokesman* and *Lal Pataka*. The organ of the dissident group of the ruling party *Ganakantha* was subjected to periodic raids of law enforcement agencies and arrest of its Editor and the Executive Editor. The Special Powers Act had provisions affecting press freedom, but those provisions were subsequently dropped. In the initial years following independence, a number of newspapers and the country's only wire service were under government control. These newspapers continued to remain under effective government control even though their management was transferred to trusts. Successive government used these newspapers and the wire agency as their own party organ. It was only in the late 1990s that the trust newspapers were disbanded, but the wire agency continued to remain under the government's control. While remaining in government control, the journalists working in these newspapers were periodically subjected to harassment and intimidation if they did not follow the official lines, some lost their jobs. For example, veteran journalists Hasan Hafizur Rahaman and

Toab Khan lost their jobs from a Bengali Daily named Dainik Bangla for publishing a special edition of the newspaper on January 2, 1973 following the death of two persons and injury of several others due to police firing on the civilians protesting against the accelerated US bombing in Vietnam.

In the first decade of independence in the absence of a strong private sector the newspapers were dependent on the state sector for advertisement. Empirical studies suggest that with very little circulation, government leaning newspapers received disproportionate share of advertisements, while newspapers with relatively large circulation were starved of advertisements. The Government also exerted pressure on newspapers through its allocation of quotas for newsprint produced by the state owned paper mills. However, over time with the ascendancy of the private sector and liberalisation of the trade regime, the government's ability to exercise these forms of control waned. When single party rule was established in 1975 all newspapers except four were banned.

Following the 5th Amendment to the Constitution on 6 April 1979 formal freedom of press was restored and new newspapers were allowed to publish. However, with the entrenchment of army rule, press advice became a handy tool of press control. Through the institution of the Press Information Bureau the newspapers were given instructions to print news in accordance with the desire of the executive. Usually advice came over telephone from the PIB or from the President, CMLA or the Prime Minister's Secretariat. Newspapers not heeding such advice risked various forms of harassment and intimidation. During the rule of Gen. Ershad press censorship reached new heights and several newspapers were banned. The journalists and newspaper workers began an indefinite work stoppage protesting curtailment of press freedom and interference of the executive and it was only after the fall of the Ershad government following a mass movement in 1990 that newspapers resumed publication. With the election of a civilian government in 1991 the executive control over the print media became more relaxed. The print media continues to be generally free from direct government intervention.

Until now the government control of the electronic media has been absolute. Bangladesh Betar (Radio) and Bangladesh Television are

state enterprises run by government appointed management. These agencies are under the authority of the Ministry of Information and Broadcasting. Despite demands from the public to make these institutions free from government control and commitments of successive governments to accord autonomy to these institutions, they continue to remain under strict control of the government. The previous government made a similar pledge in its 1996 election manifesto and set up an independent commission in 1997 to recommend measures for autonomy of the electronic media.. Although the Commission completed its task and handed over the report, the government is yet to act on its recommendation and has neither published the report nor placed it before the parliament. The government, however, issued license to a private television company which begun operation in June 2000.

Contrary to Article 37 of the Constitution which guarantees freedom of assembly, political parties are required to seek permission from Magistrates to hold public meetings and to use public address systems. Generally the permission is granted, but on occasions, such permission is denied if the authorities feel that the meeting might pose a threat to public order. In July 1997, the Mayor of Dhaka City banned street meetings and designated seven specific locations for public meetings. The opposition parties rejected the decision of the mayor and claimed that the mayor had unilaterally selected the meeting sites and limiting the meetings to specific locations would infringe their rights to political assembly.

Occasionally opposition political rallies and other forms of protest are suppressed by law enforcing agencies through baton-charge, use of toxic tear gas shells and rubber bullets. ASK report cites three such cases between September and December, 1997 in which police resorted to baton-charge, tear gas and water cannon to quell meetings, including one at Jahangirnagar University in which 200 teachers and students were injured due to indiscriminate police baton charge.

Bangladesh is also a party to ILO Convention 87 on the Freedom of Association and Protection of the Right to organise. Until 1995, there were 4,605 unions with a membership 715,377 in the country. These unions were affiliated with 23 national federations. The trade union movement in the country is to a great extent linked with mainstream

political movement. The federations work as labour fronts of major political parties. Of late, there have been attempts by some trade unions, such as the Bangladesh Independent Garments Union Federation to organise unions independent of political affiliation. The government, however, did not allow trade unions to operate in the 'export processing zones' (EPZ) for a long time in order to encourage foreign investment in the country and only recently trade unions have been given permission to operate there.

3.3 How secure is the freedom for all to practice their own religion, language or culture?

Art. 41 guarantees freedom of religion in Bangladesh. The Constitution of 1972 enunciated secularism as a fundamental principle of state policy. This was in response to the experiences during the Pakistani era when religion was abused by the leadership for their political gains. Article 12 of the 1972 Constitution has provided an interpretation of the principle of secularism that made Bangladesh a multi-religious society and maintained separation between state and religion. This Article was discarded in 1977 and subsequent constitutional changes under military rulers compromised the principle of secularism and gave rise to religion based politics. Under Gen. Ziaur Rahman, the 5th amendment to the Constitution was effected. Under the Amendment, principle of "secularism" was replaced with "faith in Almighty Allah" [Article 8(1)], and amended Article 8(1)(a) states "absolute trust and faith in the Almighty Allah shall be the basis of all actions". Gen. H M Ershad, through the 8th Amendment of the Constitution declared Islam as the state religion, but the new Article 2(a), acknowledges that "other religions may be practiced in peace and harmony in the Republic". ASK report observes

The constitutional amendments have introduced an overt bias towards Muslims in public policy and practice and encouraged discrimination against other religious communities. ... With the increasing politicization of Islam by the state and political organizations, religious minorities fear that an escalation of religious discrimination may stigmatise them as second class citizens and lead to religious intolerance (1999:192).

The 1990 Census reported that Muslims constitute 88.3% of the total population, Hindus 10.5%, Buddhists 0.59, Christians 0.32% and others 0.26%. The census data revealed that there has been a decline in the Hindu population by 0.3% since 1974. This negative trend in Hindu population has been attributed to fear of loss of property and general insecurity. A study by Barkat and Zaman has indicated that the Vested Property Act has been a major instrument in dispossessing the Hindu community. It has been estimated that about 2m acres of land have been taken over from Hindu landowners under the VPA (Barkat, A and S Zaman, 1999) and the principal beneficiaries are persons belonging to major political parties, the Muslim League (during Pakistan period, when the Enemy Property Act was first enacted), Awami League and BNP, irrespective of their political position and constitutional commitment to principles of non-discrimination and land rights. The Hindu, Buddhist and Christian Unity Council has been at the forefront in demanding repeal of the Act. Their demand has been supported by different human rights and civil society organisations. The matter of repeal of the Act was taken up by the Parliamentary Standing Committee on Land which recommended its repeal.

In 1997, 41 incidents of violence against religious and ethnic minorities were reported. Of this number, 18 incidents related to grabbing, appropriating or occupying land belonging to individuals and temples, 12 incidents to desecration of temples or theft of idols and 11 incidents of other kinds (ASK, 1998:117). In 1998 39 incidents of violence against religious minorities were reported, 14 were related to appropriation of personal or religious property and 21 to violence against women. The Christian community, particularly churches and church related NGOs, have often been attacked for the involvement in religious conversion.

Adivashis or tribal communities inhabit different regions of Bangladesh. The *adivashi* communities such as those living in northern Bangladesh, the *Marmis* of Pabna, the *Manipuris* of Sylhet and the *Rakhaines* of southern Bangladesh have experienced many kinds of harassment including land grabbing. The *Garos* of Mymensingh suffer particularly from loss of natural forest to rubber plantation that threatens their survival (See also section 1.2).

3.4 How free from harassment and intimidation are individuals and groups working to improve human rights?

Over the years human rights and non-governmental organisations have been particularly active in espousing human rights issues. They attempt to draw attention to incidents of violation of human rights through public demonstrations, press statements, press conferences, newspaper write ups, investigative reporting and conducting research. A case in point is the recently held mammoth citizens' rally in the city of Dhaka organized by a civil society organization named Oikyabaddha Nagarik Andolon in collaboration with ADAB, which has been discussed in section 12.3. Sometimes consultations and dialogues are organised as a part of consciousness raising. There is a general tolerance of such criticism by the government, but occasionally the reporting organisations come under surveillance or visits by members of law enforcement or intelligence agencies. The additional source of harassment for the NGOs receiving foreign funds is withholding of clearance by the NGO Affairs Bureau. Journalists reporting violation of rights, particularly, excesses committed by the law enforcement agencies are also subjected to harassment and intimidation and prosecution under stiff penal provisions. However Committee to protect Journalists (CPJ), Bangladesh Federal Union of Journalists (BFUJ), Dhaka Reporters Unity (DRU) and others do undertake various activities protesting government interventions on their professional duties.

3.5 What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?

A long-standing demand of the political opposition has been annulment of the Special Powers Act. The successive governments made handy use of this law in dealing with the political opposition. The current government, as part of its election pledge, promised to repeal the Act but subsequently reneged on its commitment on assuming power. The rights of the citizens were further threatened by the draconian Public Safety Act legislation. Likewise, repeal of the Vested Property Act and according to the autonomy of the electronic media are the other two important publicly identified measures that

need to be executed to ensure exercise of right to property by the minority communities and establishing democratic control over the media. On 8th January 2001, the seventh parliament approved the draft of the Vested Property Return Bill as recommended and amended by the Cabinet Committee. Under the bill enlisted plots or buildings that are now under the possession of the government will be returned to original owners or their heirs or beneficiaries provided they are permanent citizens of Bangladesh (*Independent* 9 January 2001). The Bill was passed on 8 April 2001. The then government also took a few affirmative actions in appointing individuals belonging to the minority community to ambassadorship, secretaries of ministries and judges of the highest court. Immediately after the elections of 2001 the Hindu community faced reprisals for their alleged support to the Awami League. The Caretaker Government had limited success in containing violence that was meted out against the members of the community in some parts of the country. The newly elected government also took time in bringing the situation under control.

4.0 Economic and Social Rights

Are economic and social rights equally guaranteed for all?

Summary assessment

Social and economic rights for the majority revolve around land, employment, and public programmes for health, education, food and shelter. It is a duty of the state to ensure economic growth with improved material well being. Since mid 1980s, developments in exports have improved the lives of some people, but brought new problems such as farm salination and local tension. The vast reserves of overseas workers contribute heavily to national prosperity, but they are uncertain and threatened by a variety of legal systems. Children live in pernicious conditions, and nearly three in five children have never been to school. Food supply in precarious times is a national priority. In a tragic irony, 60% of the population faces arsenic poisoning from boreholes sunk for potable water. Shortage of land for cultivation is a burning issue in the countryside, as is shortage of land for habitation in urban areas. Less than half the population has access to health services. Unionization is undergoing changes, with relaxation in some sectors. Corporate accountability is less evident.

4.1 *How far access to work or social security available to all, without discrimination?*

Article 15 (b) and (d) of the constitution stated that,

It shall be a fundamental responsibility of the State to attain, through planned economic growth, a constant increase of productive forces and a steady improvement in the material and cultural standard of living of the people, with a view to securing to its citizens the right to work, that is the right to guaranteed employment at a reasonable wage having regard to the quantity and quality of work; the right to social security, that is to say to public assistance in cases of undeserved want arising from unemployment, illness or disablement, or suffered by widows or orphans or in old age, or in other such cases.

There is constitutional obligation for equality of opportunity in public employment also. Article 29 (2) contains,

No citizen shall, on grounds only of religion, race, caste, sex or place of birth, be ineligible for, or discriminated against in respect of, any employment or office in the service of the Republic.

As signatory to the UN Convention on the Elimination of All Forms of Racial Discrimination (Article 5), CEDAW (Article 1) and CRC (Article 24,27,28,30 etc.), Bangladesh is committed to protect, promote and respect social security of its citizens.

It is estimated that the total labour force of Bangladesh in 1997 was 63 million consisting of 37 million men and 26 million women (UNDP, 2000). In 1998, there were approximately 2,850 garment factories in Bangladesh that employed almost 1.5 million women (Ain-O-Salish Kendra, 1999). However, it brings a little improvement in the condition of work, interest of the productive workforce and equality of life in policies. From 1980 to 1992 real earning per employee decreased at a rate of 0.7% (Human Development in South Asia, 1999). Export of frozen fish is a profitable trade and since 1980s the Government encouraged private entrepreneurs to invest in this particular sector. In the absence of any definite policy, a rule for lease of land issued by the Ministry of Land specifying that consent of the owners of 85% of land is necessary before it can be leased for shrimp farming. As a result, local cultivators have had to face the after effect of salinity and their resistance to giving their land for shrimp cultivation has led to violence. The big landowners engaged in shrimp cultivation also maintain armed people to help them get the consent of the unwilling people to lease their land for shrimp cultivation. In case of denial a poor person may face dire consequences including the loss of his/her life or that of a family member. Again, leasing of land does not give any guarantee for due return or compensation from the leaseholders. There is also no arrangement of social security and pensions. Thus the case where the provision of equal opportunity to choose work for cultivators was grossly violated.

In this connection it is pertinent to mention the condition of the migrant workers of Bangladesh. Although they are a major source of foreign exchange, no policy has been devised so far for their

protection overseas. Each year a huge number of undocumented Bangladeshi workers are detained or deported or threatened to be deported. In June 2000 the Malaysian Government threatened to deport 1400 Bangladeshi migrant workers and the Government of Bangladesh is yet to take any steps to address the problem. It has also been reported that even the documented workers are not always fairly treated by their employers.

The condition of returnee migrant workers is also vulnerable. It was for the first time in July 2000 that the government initiated a lending policy for them through registration.

The *Ain-O-Shalish Kendra* (ASK) study on 38,215 children revealed that child labour is prevalent in Bangladesh. Over 300 economic activities in rural and urban areas employ child labour. Some 65% of the working children spend 9-14 hours a day in a job which allow them little opportunity for their studies. Some 58% of working children never studied because of poverty and only 27% completed Class V (*Ain-O-Shalish Kendra*, BLAST, MLAA and Odhikar, 1998).

4.2 How effectively are the basic necessities of life guaranteed, including adequate food, shelter and clean water?

As a democratic state Bangladesh is obliged to provide its citizens with the basic necessities of life among which food and shelter are fundamental rights of people. Article 15(a) of the Constitution guarantees to its citizens the provisions of the basic necessities of life including food, clothing, shelter, education and medical care. There are international instruments such as international commitments to the right to habitation and housing as expressed in Article 25 (1) of the Universal Declaration of Human Rights and Article 11 of the Covenant on Social, Economic and Cultural Rights, to which Bangladesh is a party. It is also a signatory to the Istanbul Declaration on Human Settlements, 1996.

Bangladesh is now a food surplus country and it has a food policy with an elaborate food management system. One of the characteristics of the food management system of Bangladesh is that it is basically structured for the management of supply and all the activities of the Food Planning and Monitoring Unit are geared to the production, import, domestic procurement and distribution through

the various channels of Public Food Distribution System without focusing much on the demand (Ghafur, 1990). However, due to the lack of purchasing power a large section of the society does not get enough food to eat resulting in inadequate calorie intake.

According to a 1998 survey (Ain-O-Salish Kendra, 1999), 300,000 acres out of 980,000 acres of public *khas* (government) land in Bangladesh has been allocated by various governments since independence. The remaining land is under illegal occupancy. Again according to an estimation of 1998 10% of Dhaka's population live in the city's 3000 slums and they are usually subject to extortion, intimidation, violence and eviction. The National Housing Policy adopted in 1993 provides measures to prevent forcible relocation or displacement of slum dwellers and seeks to encourage renovation of slums, expand water supply and sanitation provisions.

The latest survey of 1995 showed that population without any access to safe water and sanitation was 21% and 65% accordingly. Malnourished children under 5 years of age were recorded in 1996 at 8 million or some 56% of the total age population. The under 5 mortality rate was counted in 1997 at 109 per thousand live births (Human Development in South Asia, 1999). The data uphold a profile of human deprivation in the country. Another serious problem the country faces is Arsenic problem in underground water as over 85 million people are potential victims. Thousands have already reached the point of no return. However, the Bangladesh Government has set up a specialized unit called Bangladesh Arsenic Mitigation and Water Sanitation Project at a cost of US\$ 50 million under the LGRD Ministry (*The Daily Independent*, 31 May, 2000). This is thus a tragic misfire of a good intention to supply pure drinking water to the citizens. The gravity of the situation may be realized from the following observation.

Bangladesh, one of the poorest and most densely populated countries of the world, is beset by flood, tidal storm, famine and disease and now is confronting with the accidental poisoning of as many as 85 million of its 125 million people with arsenic contaminated drinking water (*The Independent*, UK, October 11, 2000). The scale of disaster in Bangladesh is beyond the accident of Bhopal and Chernobyl (WHO, 2000). The epidemic of arsenic related cancer has just begun (*The Daily Star*, January 8, 2001).

Negative indicators in case of housing rights implementation is also found in the incidents of land grabbing, appropriation or acquisition through access to political influence of which poor farmers, share croppers and slum dwellers become common victims. In 1999 Government took a policy of slum eviction from Dhaka city and accordingly several slums were demolished. The incident created a reaction in the civil society and the government was obliged to postpone the operation followed by a court order. This incident suggests that fundamental rights in a country like Bangladesh cannot be guaranteed by the constitutional obligation alone.

4.3 To what extent is the health of the population protection, in all spheres and stages of life?

Generally public health care services are free to the citizens of the country. Almost every year, Government announces the national health policy. In 1997 Fifth Health and Population Programme to be implemented in the years 1998-2003 was adopted which allocated 65.8 billion Taka for health and family welfare delivery system (Ain-O-Shalish Kendra, BLAST, MLAA and Odhikar, 1998). It also took a reform package called "Health and Population Sector Strategy" that focused on child health, maternal health, control of communicable diseases, services for curative care and overall improvement in the management of hospitals in rural and urban areas. Apart from the government of Bangladesh's efforts, over 200 NGOs have been operating in both urban and rural areas with health, nutrition and family planning programmes.

Despite such efforts, the general situation of public health and Medicare is frustrating. The general poverty and ignorance of the people expose them to various diseases and health hazards such as malnutrition, anemia, malaria, typhoid, jaundice, tuberculosis, leprosy etc. Recently arsenic contaminated water has become a very serious problem in Bangladesh, particularly in the rural areas (See section 4.2). The health profile of Bangladesh suggests that in 1995 only 45% of the total population had access to health services (Human Development in South Asia, 1999). Life expectancy at birth between 1995 and 2000 is 58.1 years. Some 37.9% are not expected to survive to age 60 (ibid). Infant mortality rate in Bangladesh declined from 148 in 1970 to 79 in 1998. (ibid) Despite such positive indicators, standards of medical care are often very low due to a

shortage of doctors (1: 4915), nurses (1:8879), medical staff and hospital beds (1:3450) (Ain-O-Salish Kendra, 1999). There are also reports of mismanagement of hospital equipment and facilities, and malpractice by doctors. A few cases of HIV/AIDS patients have so far been reported in the country. But the government is yet to take adequate mechanism to prevent and take care of it.

4.4 How extensive and inclusive is the right to education, including education in the rights and responsibilities of citizenship?

The right to education is a constitutional obligation of Bangladesh as is stated in the Constitution in its Article 17(a), (b) and (c).

It was further committed at the 1984 UN Conference on Primary Education at Jomtien. Article 28 of CRC also contains the right of the child to education “on the basis of equal opportunity.” Bangladesh enacted a law for compulsory primary education in 1990 and which is implemented through incentives such as distribution of wheat, free books to the students and scholarship scheme to the girl students. It resulted in considerable increase in the completion of primary education from 40% in 1991 to 62% in 1995 (UNICEF, 1997). The rate of adult literacy in Bangladesh was 40.1% and youth literacy was 49.6% in 1998. In 1998, the female literacy rate in rural areas had risen to 30% but it was lower compare to the male literacy rate of 46% (UNDP, 2000).

Although the Constitution holds up the issue of non-discrimination in educational rights, the growth of expensive and elitist private institutions brings considerable variation in standard of education. The situation is further aggravated by the crisis of teachers and poor quality of teaching in the government schools. Moreover, the inclusion of *Madrassa and Maktabs* in the compulsory primary school schemes without any supervisory body perpetuates the fall in standard. A downward trend in higher education is also noticed following the government’s reduced budget allocation in this sector.

In order to maintain education as right to citizenship, the Government of Bangladesh has taken some initiatives such as Education for all by 2005 and introduced non-formal education programmes, etc. Under the latter project, during 1998 the NGOs ran 2610 education centres in Dhaka City alone (Ain-O-Salish Kendra,

BLAST, MLLAA and Odhikar, 1998). However, the prevalence of child labour deters some boys and girls from going to schools and compels some to leave the schools before the completion of their education. The BNP government has taken policy decision that made girls' education free up to higher secondary level. To promote girls' education the Government has developed scholarship programmes.

4.5 How free are trade unions and other work-related association to organise and represent their members' interests?

In assessing the process of democratization within the country it is important to know the level of freedom of labour association and trade unions. Ready made garments and shrimp exporter industries of Bangladesh have a huge skilled, semiskilled and non-skilled manpower and they are subject to protection by the government.

In 1995, there were 4605 unions with a membership of 715,377 members in the country. They were affiliated with 23 national federations some which are Jatiya Sramik League, Bangladesh Jatiyatabadi Sramik Dal, Jatiya Sramik Federation, Bangladesh Free Trade Union Congress, Bangladesh Sramik Kallyan Federation, Bangladesh Independent Garment's Union Federation etc.

Trade Unions are allowed in industries producing materials for local consumption. Forming trade unions had long been prohibited in the export processing zones of the country in order to attract foreign investment.

There are also some migrant workers associations such as Welfare Association of Repatriated Bangladeshi Employees, Iraq-Kuwait repatriated Bangladeshi Association, Bangladesh Migrant Center etc. to promote the interests of migrant workers and returnees. These organisations are now demanding representation in the governmental committee, which takes decision on wage earners' welfare issues.

4.6 How rigorous and transparent are the rule of corporate governance, and how effectively are corporations regulated in the public interest?

Bangladesh opted for market oriented economy but remained oblivious of the fact that market demands new institutions and the re-organisation of the old ones. Major areas in the corporate regulation

such as the legal framework, oversight institutions; dispute settlement mechanisms are yet to be developed. For example, for the energy sector rules and regulations have become necessary for dealing with foreign investment and restrictive business practices. No effective mechanism has been framed. Not to mention, the rules and regulations that corporations have to abide by in their own countries are not enforceable in Bangladesh. The refusal of the Occidental Oil Company to pay compensation in the Magurcherra Oil Field explosion is a case in point.

Another example is the privatisation of the telecom sector. BTTB is both an operator as well the regulatory body. The separation of roles has not taken place. No independent body has been set up to look after the interest of the consumers. Likewise, legislation and institutions are lacking in dealing with private power providers, privatised mills and the banking sector. Therefore, a strong case exists for corporate governance for post-privatisation state owned enterprises as well as new entrants such as foreign investors.

4.7 What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and what degree of public support do they have?

As a developing country Bangladesh has a number of economic and social problems. The popular belief that overall economic uplifting and growth will automatically reduce poverty and bring prosperity and stability for the people from all walks of life has become a widely accepted fact. But the existing causal relationships between uneven development and social problems have never been studied or discussed thoroughly in the political circles and at the policy-making levels. This resulted in the undermining of the efforts to achieve a democratic and liberal economic environment. The government, however, on paper agrees to the fact that social problems are no less important than the economic ones.

Firstly, economic and / or fiscal management in Bangladesh is often prompted by political considerations instead of economic prudence. In fact, since independence, there have been successive shifts in economic policy regime leading to varying and often contrasting trends in economic performance. And specifically, budget allocations of the election years are more likely to be influenced by political

motives. If one adds the factor of the so-called vote-maximizing political behaviour it can be said that all through the tenure of a government there is a system loss. However, the government has made the highest allocation so far in the education sector in 2002. However, health is still far down the list following defense and other sectors. With this a serious problem can be added, which is lack of transparency and accountability of government functionaries.

Secondly, on the one hand government has taken steps like enacting new laws, Public Safety Act (PSA) to protect people and their dignity but has often been criticized in failing to implement or of misusing those. On the other hand, contrary to popular expectations, economic problems have not constituted the most salient issues in the country's political debate. No doubt it is a limitation for the democratic system to be conducive to good economic management. Issues like economic cooperation with India or of reforming the state enterprises are often misleadingly presented in terms of extreme alternatives leading to divisive politics. These and other issues linked to unemployment, present a horrifying picture.

II. REPRESENTATIVE AND ACCOUNTABLE GOVERNMENT

5.0 Free and Fair elections

<p>Do elections give the people control over governments and their policies?</p>

Summary assessment

Long overdue elections were welcomed by the population and twice in a decade changed governments. The June 1996 election was generally regarded as the cleanest and most trouble free in the country's recent political history. The Commonwealth Observer Group did however note strong-arm tactics and intimidation including harassment of women and minority communities, in isolated rural communities. Under a caretaker government, the Election Commission changed election procedures. Defective voter registration in 1991 was rectified in 1995 and there's on-going improvement of the process. The commission takes its job very seriously in the face of social conditions such as displacement through natural disasters, and in order to ensure compliance with a strict electoral code of conduct. Fifty-two political parties contested in the 2001 election where the total number of contesting candidates was 1935 and 37 female candidates contested from 47 constituencies. The Chief Election Commissioner (CEC) expressed his deep satisfaction over the conduct of the eighth parliamentary election and said, "The election was free, fair and impartial and even fairer than those of 1991 and 1996." The election process is being improved: people's actual control thereby of government is a more complex matter.

5.1 How far is appointment to governmental and legislative office determined by popular competitive election, and how frequently do elections lead to change in the governing parties or personnel?

As per Article 65 (1) of the Constitution the legislative power of the Republic is vested in a Parliament or the House of the nation. Parliament consists of 300 popularly elected members from single member territorial constituencies and 30 women members from the

reserved seats elected by the members aforesaid. Its term is five years from the date of its first seating, if it is not otherwise dissolved earlier.

The provisions of the Bangladesh Constitution, Representation of the People Order, 1972 (Presidential Order (“P.O” 155 of 72) Representation of the People (Seats for Women) Order, 1973 (P.O. 17 of 73), Electoral Rolls Order, 1972 (P.O. 104 of 72), Election Commission Order, 1972 (P.O. 25 of 72), Election Officer (Special Law) Act, 1991 and their subsequent amendments made at different times are relevant in the election process.

The Constitution of Bangladesh established the Republic a democracy, declaring the same as one of the fundamental principles of state policy. The basis of governance through representatives of local government is an important process prescribed for the country. It guarantees the right of the people to elect their representatives who take charge of the statecraft in running and deciding the affairs. This important right of the people is ensured by the two main branches of the government, namely, the executive and the legislature. The whole legislative power of the Republic is vested in the Parliament consisting of the members elected through direct voting. At the local governance level, the right of voting has been recognized in Part IV (Chapter III) of Article 59 which states: “Local government in every administrative unit of the Republic shall be entrusted to bodies, whether national or local, shall be held on the basis of adult franchise”.

The voting age is 18, citizens of over 25 years, male or female, may be candidates unless otherwise disqualified and may stand for election in up to five constituencies, but may represent only one if they win more. By-elections must be held for seats vacated in these circumstances.

The Constitution was amended in March 1996 by the (Thirteenth Amendment) Act, which was the sole legislation of the Sixth Parliament elected in February 1996. This made provision for a non-party Caretaker Government with a limited life and limited functions. It would govern the country in the period after dissolution of each Parliament and before the formation of the new government following the general election. The Constitution states that a general

election “shall be held within ninety days after Parliament is dissolved”. Caretaker Government concept developed out of mismanagement and rigging of votes by political parties, especially the party in power.

As per the Constitution (Thirteenth Amendment) Act, 1996, the executive power is exercised by the Prime Minister (PM) in a system where the cabinet is responsible to Parliament. The Prime Minister must resign if he/she loses the support of the majority of the Members of Parliament (MPs). In such situation the President shall dissolve Parliament, unless he/she is satisfied that another Member of Parliament commands the support of the majority of the members.

The MPs elect the President by voting to their respective party nominees.

5.2 How inclusive and accessible for all citizens are the registration and voting procedures, how independent are they of government and party control, and how free from intimidation and abuse?

Detailed procedures regarding electoral roll was first laid down in the Bangladesh Electoral Rolls Order, 1972 (P.O. No. 104 of 1972). The Order has undergone several amendments, made in 1982 [Electoral Rolls Ordinance, 1982] has, in fact, substituted the 1972 order to: “provide for the preparation of electoral rolls for the purpose of election to different elective bodies and offices”. The amendment in 1994 has affected many of the provisions of the 1982 ordinance. Thus section 5 of the Electoral Rolls (Amendment) Act, 1994 states that for the election to elected bodies (local body or the Parliament), electoral rolls shall be prepared for each electoral area or constituency, as the case may be, upon registration of voters. The preparation of such rolls shall vest with the registration officer to be appointed by the Election Commission (EC). The electoral rolls for each electoral area shall include the name of every person who is a citizen of Bangladesh, is or is deemed to be a resident in that area, is not less than eighteen years of age and does not stand by a competent court to be of unsound mind. Section 15 of the Electoral Rolls (Amend) Act, 1994 also empowers the Election Commission to include or delete any name in the electoral roll and to correct it at any time.

In 1991 election, it was found that the greatest flaw was the defective voters list. All political parties accepted that the existing voters' lists and their defects caused have appealed to all candidates equally and impartially. (Parliamentary Election '96 Observation Report). The situation changed in mid-1995 when the Parliament passed an amendment to the Peoples Representation Order and Voter Enrolment Act giving more power to the EC, and making the presentation of Voter's Identity Card (VIC) by voters during any poll mandatory. The EC under the leadership of the new chief Election Commissioner prepared itself for voters' registration and issuance of VICs. The Report of the Commonwealth Observer Group (COG) stated that registration was carried out in May and June 1995. In contrast to the registration of voters by heads of household, the law now required voters to present themselves for registration. Some 4,06,760 enumerators were engaged to complete the giant task prior to the 1996 election.

Total Voters:

1983	1991	1995	1996	1998	2000
4,730,000	62,289,506	56,419,122	56,788,966	59,902,250	74,675,749

On the eve of the June 12, 1996 election the EC undertook the work of updating the voters list by fresh voluntary enlistment of voters of those not listed earlier. The latest voters' list published by the Election Commission contains some information sufficient to raise questions about its accuracy. In 1998 the update of voters list resulted in an increase of 14,773,499. "The increase does not commensurate with the annual growth rate of population and previous voters' lists". (Dhaka Courier, 4 August 2000). The total number of voters in October 1, 2001 election was 75,000,656 (male 3,868,4972 and female 3,631,5684).

FEMA stated that in 1998 the EC made a fresh voter list introducing individual registration system discarding the old family leased registration system. A complicated registration was used asking information not necessary for registration as a voter. The column II of the form was misleading as there is no scope for a person enrolled as a voter in the electoral roll of a City Corporation to cast his/her vote in the election of an Union Parishad even if he has a house there.

Although the criteria for qualification as a voter may sound reasonable and look innocent, it is beset with certain critical problems. The floating people and those living abroad are not formally included in the voters' list. An increasing number of Bangladeshis are going abroad and settling there. More and more people becoming victims of natural disasters and economically backward and rootless people every year are joining the ranks of floating population as internal or environmental refugees. The Election Commission was requested to provide votes for citizens living overseas, who had not this right before. Many of the expatriates Bangladeshis are also registered in the current voters' list but the facility of postal ballot is not extended to them, which has deprived many of them the right to vote. Moreover, a lot of people living in different Bangladesh enclaves inside the Indian Territory are sometimes deprived of their rights to register as voters. As for example, in the recently conducted population census people in 49 out of 51 such enclaves could not be covered, as the registration officials did not get entrance to those enclaves. Relevant laws and other arrangements are yet to be devised to meet the needs of these population groups.

An amendment to the Representation of the People Order, made in 1996 prior to the February 1996 election [section 12 (1) (b) extended to national elections the rule, previously applicable only in local government election, that bank loan defaulters would be disqualified as candidates. This provision was applied during the nomination stage and was raised in litigation before the poll.

The October 2001 parliamentary election like June 1996 election experienced unprecedented turnout of enthusiastic voters all over the country. In 1991 election the voter turnout was 55.35 percent where as in 1996, the percentage was 74.96 and in 2001 the percentage was 74.5. There was also an especially high turnout of women voters. The Commonwealth Observer Group recorded their impression that the majority of voters felt free, and under no pressure from intimidation. They reported that with few - although very conspicuous - exceptions, voters were orderly and patient, even when they had queued in the heat of the sun for long periods. Most voters

appeared to understand the voting process very well, a fact to which the low level of spoiled ballots attested. The international election observer groups, notably the European Union Election Observation Mission in Bangladesh (EU EOMB), expressed their satisfaction about the way the polls took place and reported, “We strongly hope that all the political parties will respect the people’s choice as reflected in the results announced (The Eighth Parliamentary Elections 2001, March 2002, p.2).

In some voting centres there were unsatisfactory arrangements for the conduct of the election, leading to disorder and disruptions. Crowded polling centres either because there were many voters or because voting compounds were too small were also the reasons for disorder and disruptions. In the initial reports all the local election observer groups, including the Coordinating Council for Human Rights in Bangladesh (CCHRB) said that the elections were free, fair and acceptable. However, all these groups recorded minor irregularities and violence, including flaws in the voters’ list and intimidation of the religious and ethnic minorities. Compared to the violence and tension before election, the law and order situation on the Election Day was good and well under the control of the security personnel. There was deployment of security personnel of nearly 500,000 police on the election day of 1st October, 2001.

Pre-polling surveys also indicated the increase of casting of female voters. However, there is no official record of actual votes cast by gender. Women’s demographic position is almost 50%. There was a considerable increase in the women’s participation in elections. There is also a demand to increase women’s representation in the parliament. Fair Election Monitoring Alliance (FFMA), a local election-monitoring group, has suggested that the number of reserved seats for women should be increased from 30 to 64: that is one seat for every district to be elected through direct vote by all voters. FEMA also recommended that political parties should have 25% of their candidates as women. This was not accepted by all parties. For instance the two main political parties have still not changed the party regulations to increase reserved seats from 30 to 64.

The eighth parliamentary elections, the most recent, held on 1st of October, 2001 was declared a national holiday like the previous election on 12 June 1996. The eighth parliamentary elections were unique in the electoral history of Bangladesh. The elections were held after the completion of a full five-year term of the government of the Bangladesh Awami League (AL).

“Till 1991 no general elections in Bangladesh has been universally considered or acclaimed to be free and fair. All the general elections held between 1973 and 1988 had been more or less characterized with large-scale manipulation, rigging, massive exercise of coercion and muscle power, bribery, expenditure of unusually high amount of money-both by the governments, political parties, groups and individuals”.

The strict enforcement of Election Code of Conduct encouraged the voters and candidates to participate in the election. There was restriction of motorized vehicles during the period of election; terrorism of all forms could be forestalled. Cellular telephone networks were kept suspended for service. It is also in common belief from the previous elections that the party in power alone does not do rigging.

In only a few cases, there were complaints by Presiding Officers and party agents regarding the voting process in the 1996 elections. Some voters brought to attention the alleged intimidation of and threats to minorities, charges of impersonating and multiple voting, suggestions that particular polls had been rigged and that some women had been deterred from voting. Specific cases were advanced in only a few places. Re-polling was directed to 27 constituencies of which 16 were in Chittagong Division. It is reported that there were anxiety and apprehension of minority voters that they would be in danger if they came out to cast their votes. In some places those who did vote were harassed by rival political activists and were told that they were not on the list and sent away. But these sorts of difficulties in the voting process were not of a level of significance that would call the integrity and credibility of the 1996 election process into question. They had been brought to the attention of the EC for future improvement.

Violence, intimidation and humiliation of the minorities and major losing party activists in particular marked the many days after the eighth parliamentary elections. It is understood that the politicians do their business as usual 'killing, strikes, repression of the minorities, taking revenge, abuse of each other, etc' and get away with their bloody business. "The elections merely become a stamp to legitimize what they do." It is perhaps time to raise questions about the election observers who a day after the elections (even on the election day) say that the elections have been 'free and fair' (Gain, et al., ed. 2002: 163).

5.3 How fair are the procedures for the registration of candidates and parties, and how fair is there fair access for them to the media and other means of communication with the voters?

The country has had eight parliamentary elections to date. The eight elections were held in 1973 (7th March), 1979 (18th February), 1986 (7th May), 1988 (3rd March), 1991 (27th February), 1996 (15th February), 1996 (12th June), and 2001 (1st October).

The election schedules are announced by the Election Commission (EC) and political parties are invited to field their candidates. Following the announcement different political parties start the election process and invite applications from the intending party members. In 1973 elections 14 political parties took part whereas in the elections of 1979 29 political parties, in 1986 28 parties, in 1988 only 8 political parties and in 1996 43 political parties participated. The number of political parties participating in the October 2001 elections was 52. There were also some independent candidates in all elections. In the centrally organized party system, nomination of the candidates for election is mostly given by the party chief or party central high command. In June 1996 elections three main political parties, Awami League (AL) Bangladesh Nationalist Party (BNP) and Jatiya Party (JP) distributed application forms from their respective party offices. From each candidate JP charged a donation of Tk. 3,000. Other parties also levied similar charges.

Table 1: A Profile of First Four and Eighth Parliamentary Elections

	First Parliamentary Election	Second Parliamentary Election	Third Parliamentary Election	Fourth Parliamentary Election	Eighth Parliamentary Election
Date of Election	March 7, 1973	February 18, 1979	May 7, 1986	March 3, 1988	October 1, 2001
No. of Parties	14	29	28	8	52
Total No. of Candidates	1091	2125	1527	977	1,935
No. of Independent Candidates	120	422	453	214	484
No. of Voters	3,83,63,858	4,78,76,979	4,98,63,829	4,98,63,829	75,000656
No. of Votes Cast	1,93,29,683	1,96,76,128	2,88,73,540	2,61,69,071	
% of Votes Cast	55.61	50.24	60.31	54.93	74.50
Party in Power	AL	BNP	JP	JP	AL
Party Winning	AL	BNP	JP	JP	BNP leading alliance
No. of Seats Won	293	207	153	251	215
No. of Votes Received	1,37,93,717	79,34,236	1,20,79,259	1,76,80,133	26074690
% of Votes Received	73.16	41.17	42.34	68.44	46.52
2 nd Largest Party	Independents	AL	AL	COP	AL
No. of Seats Won	5	39	76	19	62
No. of Votes Received	9,89,884	47,34,277	74,62,157	32,63,340	22201944
% of Votes Receive	5.26	24.56	26.16	12.63	40.02
No. of Parties Winning at Least One Seat	3	11	11	4	5
% of Parties that failed to Win Any Seat	78.57	62.67	60.71	50.00	
Independent Candidates	5	16	32	25	7
No. of Votes Received by Independent Candidates	9.89.884	19,63,345	46,19,025	34,87,457	
% of Votes Received by Independents Candidates	5.25	10.19	16.19	13.50	

Source: Government of the People's Republic of Bangladesh, Press Information Department, A Background Paper on Bangladesh Fifth Parliament (Jatiya Sangsad) Election, Handout No. 429, February 20, 1991; and Government of the People's Republic of Bangladesh, Election Commission, Report: Jatiya Sangsad Election, 1986 (Dhaka: 1988); all data on third parliamentary elections are

During the seventh parliamentary elections AL distributed 2,738 application forms and 1,485 candidates submitted their applications; BNP distributed 1,700 forms of whom 1,000 were submitted back; and JP distributed forms to 2,300 candidates of whom 2,100 submitted. Jamat-I-Islam did not distribute any application forms for party nomination but selected their candidates on the recommendation of the local party units. Contributions from intending candidates to the party fund were sizeable as would appear from the number of application forms submitted. The AL accumulated about Tk. 8.79 million, BNP Tk. 6.85 million and JP Tk. 6.25 million. Altogether 3093 candidates from 81 political parties and independent candidates filed nomination papers. On scrutiny, 113 nominations were rejected of which 36 for defaulting on repayment of Bank loans. Some 408 candidates withdrew from the elections in 1996.

Under the Caretaker Government the election process has been changed by the Election Commission from the previous ones. Among other things the Election Code of Conduct was set by which each political party started campaign from similar footing. One noticeable change from past elections was the absence of big colourful cinema-style hoarding of portraits of candidates, decorated arches, but it had been reported that multi-colour vast banners on party symbols were fixed and rival party leaflets and derogatory printed materials were distributed.

All political parties were given direct access to radio and television (both government owned and controlled) to project their party platform/ manifesto through direct broadcast to the people. However, the ruling party candidates had an obvious advantage of regular coverage as government. It was reported that for the first time, the state-owned electronic media was objective and played an important role in voters' awareness and information dissemination. In the 1996 elections, access to both radio and television for Jatiya Party and its Chief, fallen dictator H. M. Ershad was refused, otherwise there was no visible direct or indirect government censorship or interventions on the media during the election period.

The Election Commission produced different types of posters, leaflets, stickers, short films, and audiocassettes to raise awareness among the voters about their rights to vote, voting procedure, rules, regulations and ethics. Radio and television spots and musical programmes had been produced by the EC and some NGOs during 2001 elections.

5.4 *How effective a range of choice does the electoral and party system allow the voters, how equally do their voters count, and how closely does the composition of legislature and the selection of the executive reflect the choices they make?*

In a multi-party political scenario of the country 81 and 52 political parties took part in the 1996 and 2001 elections respectively for 300 constituencies. Table 2 shows some key information that reflects the party system from which voters chose representatives.

Components	1996	2001
Total number of candidates	2,574	1,935
Total number of parties	81	52
Number of parties with >or = 30 candidates	12	11
Number of parties with > or = 50 candidates	9	7
Number of parties with >or =100 candidates	7	4
All 300 constituencies contested by	3 parties (AL, BNP, Jamaat)	AL, and BNP alliances (JI, JP, IOK)
Number of Independent Candidates	281	484
Number of Female Candidates	47	37

The distribution of total votes polled among the political parties is, in both elections, highly skewed: two political parties had more than 60 per cent of votes.

Election Performances of Major Four Political Parties (1973-1996)

Party	No. of Votes	First Parliament	Second Parliament	Third Parliament	Fourth Parliament	Fifth Parliament	Sixth Parliament	Seven Parliament	Eighth Parliament
	Seats	1973	1979	1986	1988	1991	1996	1996	2001
AL	Vote Received	13793917	4734277	7462157	-	11484107	-	15882790	22201944
	%	73.20%	24.55%	26.16%	-	33.67%	-	37.44%	38.49
BNP	Seats Won	293 (300)	39 (295)	76 (256)	-	100 (300)	-	146 (300)	62
	Votes Received	-	7934236	-	-	10507705	-	14255982	22821236
	%	-	41.16%	-	-	30.81%	-	33.61%	39.56
JP	Seats Won	-	207 (298)	-	-	140 (300)	278 (300)	116 (300)	191
	Votes Received	-	-	12079259	17680133	4063537	-	6955163	4414460
	%	-	-	42.34%	68.44%	11.92%	-	16.40%	7.65
Jamaat	Seats Won	-	-	153 (300)	251 (300)	35 (272)	-	32 (300)	18
	Votes Received	-	-	1314057	-	4136661	-	3653013	2662919
	%	-	-	4.61%	-	12.13%	-	8.61%	4.62
	Seats Won	-	-	10 (70)	-	18 (222)	-	03 (300)	17

Source : Pramanya Sangshad (Bengali), Aminur Rashid (ed) Dhaka, Tathysheba, 1997, p. 19.

5.5 How far does the legislature reflect the social composition of the electorate?

In October 2001 elections it has been observed that the interesting feature of the candidates was their professions. According to a scrutiny by Prof. M. M. Akash, businessmen ranked the highest in getting party nomination with 136 candidates or 47.55% in the Awami League (AL), 140 candidates or 59.01% in the BNP, and 121 candidates or 45.83% in JP (Ershad). Retired bureaucrats (army and civil) were 9.44% in AL, 7.78% in the BNP, and 2.27% in the JP. Lawyers were 4.19% in the AL, 6.55% in the BNP, and 9.84% in the JP. Only the AL had 2.7% of its candidates from teaching and 2.79% from medical professions. Candidates of other professions constituted 33.94% in the AL, 26.66% in the BNP and 42.06% in the JP. (Gain, et al. ed. 2002). Only five persons from among the religious and ethnic minorities got elected to the parliament. This could be described as under-representation of the minorities who account for some 12% of the country's population.

In 1996 elections a total of 56,716,935 voters cast their votes, of which 28,759,994 were male and 27,956,941 were female. Participation in the election from the point of view of candidature of women was small. AL nominated four female candidates, BNP 3, and Jatiya Party 3. The smaller parties to their credit nominated more women, with left Democratic Front 4, Gono Forum 7 including independent candidates with a total of 47 women candidates. Only five women have been elected in the general elections and it is reported that none of them has campaigned actively for women's cause.

In the local body election (Union Parishad) in 1997, new system was hailed as a big step forward in ensuring the empowerment of grassroots women. According to the Election Commission some 46,000 women were among the total candidates who contested the Union Parishad (U.P.) elections held in December 1998 and January 1999. Many of them contested for the seats reserved for them. There are now nearly 13,000 women U.P. members across the country.

5.6 *What proportion of the electorate votes, and how far are the election results accepted by all political forces in the country and outsides?*

The 12 June 1996 parliamentary election experienced an unprecedented turnout of enthusiastic voters all over the country. The SAARC-NGO Observer Group also marked with similar observations (Jeevan Thiagarajah, pp. 122-23). The turnout of voters was similar in the October 2001 elections of the valid votes cast. Many analysts called the election result is “an arithmetic riddle” as the losing AL, which secured 40.02% of the valid votes cast, received only 20.66% of the seats in the parliament. Comparing the results of 1996, AL secured 48.66% seats by obtaining 37.44% of the valid votes cast. The Four-party Alliance led by BNP had a massive victory with two-thirds majority. AL alleged that there had been “blunt” rigging in the polls. However, AL MPs took their oaths on 24 October 2001.

Comparative figures of voter turnout

1973	-	55.61%
1979	-	50.24%
1986	-	60.28%
1988	-	54.93%
1991	-	55.35%
1996(February)	-	N.A.*
1996 (June)	-	74.96%
2001	-	74.5%

The opposition walked out, then abstained from attending the parliament and finally resigned their seats over an election in which the then government resorted to a massive poll rigging. Begum Zia's government completed its constitutional term of office of 5 years without the opposition members in the parliament for nearly three years. She held an election in February 1996. The opposition parties boycotted the election. It was reported that the turn out was poor, less than 5%. However, the parliament before its dissolution passed the thirteenth amendment providing for elections under a caretaker government, a demand that was consistently made by the opposition particularly after the by-election at Magura.

In many voting stations the security arrangements were inadequate. In general the security arrangements of a polling station involved one armed police, one platoon commander and an assistant platoon commander of Ansar (para militia) from the polling stations, the members of the armed forces were at call. Security personnel including Bangladesh Rifles (border security force) and members of regular army numbering more than 375,000 were involved in providing security to the polling stations. But there was still disruption of polling in over 200 stations.

The counting of votes (ballot papers) was done by the polling officials in the election centres in the presence of the party agents soon after the closure of the voting polls. The count was generally orderly in 1996 election, but there were a few noticeable disruptions. The Commonwealth Observer Group reported that they are impressed with all aspects of the count, including the professionalism of the whole process.

The Caretaker Government had the responsibility of conducting a fair election through the Election Commission. The strict enforcement of Election Code of Conduct encouraged the voters and candidates to participate in the election. The major political parties, though they expressed their satisfaction over the election process, also expressed reservations. The leaders of several political parties and candidates chose to air their election-related grievances in the press. Some of the 'unsuccessful candidates' expressed some dissatisfaction. Elections of such magnitude, with so many candidates, often have some election petitions such as in the election of 1996 (June).

Election observation was an issue during the elections. Election monitoring did not have a legal status before the eighth parliamentary elections. On August 8, 2001 the "Representation of the People (Amendment) Ordinance, 2001" was promulgated which gave legal status to the election observers. The foreign election monitoring groups fielded about 200 foreign observers who were very quick to say that the elections had been free and fair. Local groups, about 30 with their 250,000 observers fielded the election observation mostly on an Election Day during the October 2001

elections. The role of foreign observation in the Bangladeshi elections was clear enough. Warm welcome gesture by the main political party chiefs to foreign observers and visit of high dignitaries like former US President Jimmy Carter indicates the role of foreign powers in Bangladeshi politics.

5.7 What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?

The draft voters' lists are being taken for examination by the EC to make it consistent with the previous voters' lists. But it is apprehended that the increase might have occurred at the field level due to manipulation by some political elements.

The job of the caretaker government, a unique institution in the situation of Bangladesh politics, was highly challenging than before. Some of its activities were severely criticized. The caretaker government, pursuing its actions as soon as it stepped into power transferred around 1200 top government officials at different levels. Officials included were 28 secretaries, 19 additional secretaries, 45 joint secretaries, 77 deputy secretaries, 56 assistant secretaries, six divisional commissioners, 43 deputy commissioners (district administrative heads), 43 additional commissioners, 160 UNOs, four DIGs, 48 Superintendents of Police (SPs), and all of 464 OCs. The caretaker government defended its actions saying that AL government had carried out unusual changes in the last few months of its rule. The AL government had changed 40 DCs from April to June 2000 and in May-June it changed some 170 UNOs, 150 ADCs, 52 SPs, and 200 OCs and 12 DIGs were transferred. (Gain, et al., ed., 2002 : 150).

Women's participation in the legislative process with 30 reserved seats is also contrary to democratic practice and provides undue advantage to the majority party. Increasing the number of reserved seats for women in the Parliament from 30 to 64 representing 64 districts of the country and holding direct elections for them may bring a qualitative change for women to effectively participate in the law making process. Unfortunately, the seventh parliament could not

make progress of the issue because the two main political parties, AL and BNP did not agree.

In order to earn the people's confidence in the political system, the election system needs to be overhauled. Many suggestions have been put forward to clean the election process and to make it transparent. Increasing the current ceiling of Tk. 300,000 for election expense and disclosing the sources of campaign finance by candidates have been two such measures. Making the EC free from executive influence, strengthening the capacity of this office and vigorous voter education campaign are few other measures that can be taken up. A positive measure has been devised to check false voting. Every voter will be provided with an identity card to carry during the time of casting votes. It is a costly and undoubtedly a time consuming task but is expected to yield good results once materialized

6.0 Democratic role of political parties

Does the party system assist the working of democracy?

Summary assessment

Bangladesh under Constitutional amendments enacted in 1991 changed from presidential system to a parliamentary system. A Member of Parliament who resigns from his party or votes against it in Parliament automatically loses his/her seat. The present system solidifies the control of parliament by the government and the Prime Minister. Opposition activities are mostly extra-legislative in nature. More than 11 months' absence (7-7-1999 to 20-6-2000) from Parliament alleging 'lack of congenial atmosphere' raised questions on the role of opposition in the House. The eighth parliament faces a similar situation because of walkouts and boycott by the opposition and also the absence of ruling party MPs caused some quorum problems. Political parties in the country do not have any obligation to show their accounts or balance sheets to the public. Political party funds are a mystery to the public, especially their sources. Candidates from business and industry are on the rise in the major political parties. Practice of democracy by leaders within a party is not encouraging for workers of that party.

6.1 How freely are parties able to form, recruit members and campaign for office?

Party suppression has been the least of politicians' problems. Parties have seemed to form with ease, though their fortunes have of course been uneven. The party system has even accorded legitimacy to non-elected leaders, such as Generals Zia and Ershad, each calling a referendum on his takeover before going to the country as a party candidate. The Awami League's government was a constant thorn in the flesh of prior governments. The need may be more one of party maturation and discipline. Recruitment similarly does not seem to have posed a problem, and may need safeguards against abuse. Party elite habitually campaign for office.

However, that party political activity is vigorous does not mean it is free from threat. Sections 3.1 and 8.4 of the present report note that the first legally constituted government of Bangladesh was allegedly harassing and intimidating members of the Opposition party by means of abduction and murder.

The Constitution of Bangladesh permits 'freedom of association' to every citizen as well as 'freedom of assembly' which provides with the right to assemble and to participate in public meeting and processions. The Election Commission in the Parliamentary Election in June 1996 allotted election symbols to 119 political parties and alliances compared to 75 parties and alliances participating in the 1991 election. These instances show the political participation in election on the one hand and the mushroom growth of political parties on the other.

This development has taken place within a span of 30 years of existence of Bangladesh as an independent country. In these 30 years, Bangladesh has managed to cultivate political regimes of varied types from democratic to military, to ones that embraced a bizarre combination of the two.

The main political parties maintain party office in headquarters and also in districts.

6.2 How effective is the party system in forming and sustaining governments in office?

The political record of Bangladesh since 1971 was one of instability, but President Ershad's surrender to a civilian government was a remarkable event.

In the fourth Parliament (1988) *Jatiya Samajtantrick Dal* (JSD,Rob) became a supporting opposition. In the Seventh Parliament (June 1996), a faction of Jatiya Party (JP) supported Awami League (AL), a majority seats winning party, to form the cabinet and it was given a ministerial position in return.

The political system is facing a serious crisis of consensus building in the country. On the verge of three decades of independence, there is no consensus regarding the identity of the people of this country. Awami League (AL) calls it 'Bengali', while Bangladesh Nationalist Party (BNP) calls it 'Bangladeshi'. There is no consensus on the

issues like the nature of local government, economic policy of the state, separation of judiciary from executive, foreign policy issues, conflict resolution in Chittagong Hill Tracts, etc. These problems of building a national consensus create divisions within the nation and are weakening the democratic process.

For the first time in the political history of Bangladesh, the October 2001 Elections resulted in an alliance of political parties with an overwhelmingly successful two-thirds majority. This enabled the fundamentalist Islamic party Jamat-e-Islami in particular to have cabinet positions as an active alliance of BNP with 17 seats in Parliament.

6.3 How free are opposition or non-governing parties to organise within the legislature, and how effectively do they contribute to government accountability?

Opposition and non-governing parties are ostensibly free to organize within the legislature, but there are signs of autocratic suppression. The Opposition's duty of challenging the government in the House to provide evidence of policy success is not performed effectively.

The opposition activities are mostly non-legislature in nature. Absence at the Parliament alleging 'lack of congenial atmosphere' by the opposition made many to believe and question the role of the opposition in the House. According to a source from the parliamentary secretariat, of 382 working days in the seventh parliament, BNP attended 215 days. It walked out of the parliament 79 times. The Awami League, when in opposition in the fifth parliament walked out and boycotted in the same manner. It attended 282 working days out of 400 and walked out 70 times. Awami League also abstained from the 1st and 2nd sessions of the eighth parliament.

The opposition parties entered the House on June 20, 2000 after they had staged a walkout on July 7, 1999. On the eve of this comeback in the House one of the leading English dailies editorial commentary emphasised that the opposition should rejoin the parliament, not just to save its seats but also to reclaim its role as the largest opposition party ever in the parliamentary history and also to represent the 34 per cent voters who elected them in the hope that this part will represent them unconditionally and uninterruptedly. The key

question that voters and others constantly ask themselves is what positive contribution has opposition made in Parliament?

Given the present law and order situation, the wide spread corruption, the partisanship in a very limited sphere of administration, the failure to move the economy significantly forward, the persistent violence in educational institutions, the veiled and not so veiled attack on the higher judiciary, etc the opposition had more issues than it needed to create a public opinion in its favour (*The Daily Star*, June 18, 2000).

Good debates on the issues as well as the parliamentary standing committees on government ministries formed in 1998 were headed by M.Ps rather than the ministers concerned. This increased the committees' effectiveness in overseeing government activities. After the eighth parliamentary elections, several sessions of the parliament took place but the committees have not constituted and the demands from the opposition for their proportionate representation in the committees were not met.

6.4 How fair and effective are the rules governing party discipline in the legislature, and to what extent is 'floor crossing' discouraged?

Under constitutional amendments enacted in 1991, Bangladesh changed from a presidential system to a parliamentary system. The changes stipulated that a Member of Parliament who resigns from his/her party or votes against it in Parliament automatically loses his seat. The explanation inserted therein provides that even abstaining from voting and absenting from sitting of Parliament ignoring the direction of the party shall be deemed to be voting against the party. The past experience of parliamentary system in India and Pakistan showed that once elected the members tended to cross-floor, rendering the parliamentary system unworkable. In practice, the present provision solidifies the control of parliament by the government and the Prime Minister. The lack of democracy within the political parties that have formed governments has resulted in a concentration of political power in the office of the Prime Minister. In practice the Prime Minister usually decides on major governmental policies with little or no involvement by Parliament. The Parliament's effectiveness as a deliberative body is undermined to a great extent by narrow partisan politics.

It has been observed that, in general, democratic institutions have not been encouraged to develop and democracy is not practised in the family, where relationships are more or less feudal. Political parties themselves are not democratic internally. Leaders are not elected by the members, instead they are nominated by the leadership of the political parties. The top is heavier than the bottom, which forbids democratic practice to grow in a positive direction. The ruling party is no exception in this and the lack of democracy in parties leads to the lack of parliamentary democracy in the country.

6.5 How far are parties effective membership organisations, and how far are members able to influence party policy and candidate selection?

Over a hundred political parties, by name, exist in Bangladesh at present. During the June 1996 election, the Election Commission allotted 119 different election symbols to 119 political parties and alliances. In the 1991 election, 75 parties and alliances were provided with election symbols. Of the four major parties, the Awami League (AL) existed prior to the birth of the country (see 5.4). The AL spearheaded the struggle for liberation. The Bangladesh Nationalist Party (BNP) and Jatiya Party (JP), on the other hand, were later creations by the military regimes as 'part of the process of civilianisation' and emerged as major political forces in the country. AL's composition was entirely civilian. Jamaat-i-Islami, civilian in origin, branded as 'fundamentalist' with Pakistan occupation army during the war of liberation in 1971. Despite the initial differences in the origins, the main political parties like AL, BNP, and JP show increasing similarity in terms of class base and ideology. All of these parties have an internal organizational structure that is hardly democratic and the party activities such as policymaking, decision-making, and committee structuring are centred around the cult of the leader. The formation of the central committees of these political parties once made runs for good unless an internal feud erupts. The annual and bi-annual councils of the parties hardly take place and when they do, is a mere formality. The AL has however, extended the tenure of its central body for two years in June 2000 to avoid intra-party conflict. Most of the main political parties have local offices but intra-factions in many places polarised the party followers in crisis to oblige party decision. Many

a time the election nominations are given only to those who maintain the line leadership with the Forum. Membership figures for each political party is not available.

"The people's worries are compounded by the fact that despite a change of government in 1996 through an election under yet another caretaker government, the expectations from a democratic system continue to remain unfulfilled." (Hossain, 1997). A democratic political culture which would promote tolerance, openness, and respect of each other's right and for the rule of law is absent. The present politics is confrontational, and encouraging the rise of tribalism rather than of civic consciousness or an environment conducive to the growth of democracy. Prof. Rehman Sobhan (cited by Hassan, Feroz M, *Daily Star*, March 23,2000) wrote that each party questions the legitimacy of its rival up to a point where it behaves as if it would like to drive out its rival from the political arena. He mentioned that the confrontational approach to politics in Bangladesh is now a decade old and the very issues, which now put the BNP opposition on the street, also kept the Awami League on the streets during BNP's term of office. However, the source of the problems lies in the culture of intolerance, dissention and confrontation among the main political forces.

6.6 How far does the system of party financing prevent the subordination of parties to special interests?

Political parties in the country do not have a tradition of showing the accounts or balance sheet to the public inspite of public calls for all parties to be accountable for their funds and resources.

The main political parties' nominations in the national election indicate that many new comers in the party politics but with rich financial background could obtain party nomination. In 1991 election, the share of candidates with business and industry as the main occupation has increased over 50 per cent in all three parties. Both AL and BNP attracted a number of big business groups who opted for a direct participation in politics rather than being restricted to the role of just shadow financiers of party candidates (Sen, 1997: 165-177). Many leading businessmen, industrialists and directors of several banks contested elections from both AL and BNP in 1991

and 1996. Almost all banking and insurance groups have at least one candidate who got nomination from AL and / or BNP.

Ten owners or owners-editors of national dailies contested the parliamentary elections of June 12, 1996, as candidates of different political parties. The owners of the newspapers enjoy the power of the press for being the controlling authority of their newspapers and the papers reflect coverage dominating politics and violence.

The recent influx of former civil and military bureaucrats into AL, which was never historically the situation, is now comparable with both BNP and JP.

6.7 To what extent do parties cross ethnic, religious and linguistic divisions?

The population, being 98 percent Bengali-speaking and 88 percent Muslim, the major political parties are leaning towards democracy and religion. The four major religions in the country are Islam, Hinduism, Buddhism and Christianity. There are 27 ethnic communities in Bangladesh, who constitute 1,205,978 and 1.13 percent of the country's total population as per 1991 population census (Gain, July 2000:1, 5). The Constitution guarantees religious and cultural freedom to all citizens of Bangladesh. Around 80 percent of the people live in rural areas that primarily depend on agriculture for their livelihood. AL has transformed from its 1972 position of secularism and the change was eminent in the election of 1991 where secularism was reflected as 'non-communalism'. Recently the use of Islamic symbols and idioms has become regular aspects of AL statements, public speeches and documents. This shift is seen as a conscious effort to make AL acceptable to a wider choice and that may ensure success in election. "BNP and JP have no new points to score in this regard: the former presided over the change in the fundamental principles enshrined in the 1972 constitution abolishing secularism in 1976, while the latter introduced Islam as a state religion in 1988" (Sen, 1997: 175-6).

Bangladesh has undergone a major shift in its economic management philosophy in recent years. At its birth, it embraced socialism as the economic ideology with dominant role for the public sector. Nevertheless, since the mid-seventies, the country undertook a major restructuring towards establishing a market economy with emphasis

on private sector-led economic growth. Some political parties tuned themselves to the change.

The ethnic communities of Bangladesh identify themselves in different terms such as Adivasis, tribals, indigenous people, and ethnic communities. They are living mostly in the borders of Bangladesh and with numerically larger Bangali population. The ethnic communities belong to diverse cultures with different languages and identities. It is evident that distinctly different from the overwhelming majority of the country the ethnic communities are sometimes forced into conditions that generate tension and conflict at the cultural, psychological and economic levels. Big sections of the ethnic communities live in the Chittagong Hill Tracts (CHT) region. Decades-old tribal unrest in CHT was resolved with the signing of a peace treaty. The signing of the treaty was a landmark in the political history of Bangladesh. After years of negotiations the efforts were finally crowned with success during the early part of the Awami League rule.

Social life in the country is marked by conservative tradition and communal harmony. With regard to socio-economic issues, nationalism, religion and culture, the differences of positions are evident from the manifestoes and programmes of different major parties. On cultural issues AL and Jamaat stand on opposite directions and BNP follows a somewhat middle course.

6.8 What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?

There are weaknesses in the current operations of the Parliament, structurally, the Rules of Procedure are designed for a Parliament under a Presidential System of government rather than under the current system. But the reforms took place in constituting parliamentary committees.

Members of Parliament, especially those elected for the first time, should be accorded better and more thorough orientation about the Rules of Procedure as well as their purposes. The effort to institutionalise parliamentary democracy is expected to gather momentum with the commissioning of the Institute of Parliamentary

Studies (IPS). Being established under the UNDP funded project, "Strengthening Parliamentary Democracy", IPS is designed to bring qualitative changes in the functioning of parliament. Prime Minister Sheikh Hasina formally inaugurated the launching ceremony of the IPS in September 1998. The then leader of Opposition in Parliament, Begum Khaleda Zia did not attend the function but sent a message saying the IPS was a "milestone in the country's parliamentary democracy".

The Asian Parliamentarians' Conference for Peace and Co-operation held on 1-4 September 1999 in Dhaka where Parliamentarians and Civil Society Representatives from 31 countries assembled stated:

"Why do Parliaments and civil society leaders have a responsibility to share in regard to peace? We are, in our different ways, the representatives of the people. Parliamentarians are the formal, legal and institutional representatives of the people, and the sovereignty of our nations is vested in the institution that we represent. Civil Society is represented through its organisations in an informal, rich and plural range of options that also incorporate the basic concept of democracy. We all have the capacity and the duty of voicing the opinions of the peoples we represent: peoples who demand justice and freedom".

-Humayun Rasheed Chaoudhury, Speaker of Jatiya Sangsad, and Chair of the Session, Inaugural Address, Asian Parliamentarians' Conference for Peace and Co-operation, 1-4 September, 1999, Dhaka, Bangladesh).

7.0 Government effectiveness and accountability

<p>Is government accountable to the people and their representatives?</p>
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Summary assessment

General poverty makes the country dependent on foreign aid, and government capacity to provide is conditioned by this resource rigidity. The confidence of the people in a democratically elected government is clear, but the government must succeed on a number of fronts to maintain this. While the civil service is recruited to serve the state, the country's sweeping political currents have affected the bureaucracy as well. Nationally, civil servants show loyalty to their ministers and locally, to MPs and locally elected leaders. The legislature has ample power to introduce and amend legislation. However, legislators do not work adequately on legislation, preferring to corner government disbursements for their constituencies. The legislature is also empowered to oversee the executive, but the house often let slip this possibility; committees are more promising. Fiscal control too is strict in principle, but the boycotting of parliament by the Opposition has adversely affected this. The two main parties have promised free flow of government information, and this may be legislated.

7.1 How far is the elected government able to influence or control those matters that are important to the lives of its people, and how well is it informed, organized and resourced to do so?

A resource poor country like Bangladesh is severely limited in its capacity to provide basic needs to its people. The Constitution of the country has made it a fundamental responsibility of the state to attain a steady improvement in the material and cultural standard of living of the people.

Foreign aid has been a major resource for underwriting the development budget. The country's failure to build available public or private sector remains closely linked to the pervasive dependence

on external sources. This external dependence of the country originated in the 1960s when it was East Pakistan, a former wing of Pakistan. After the creation of Bangladesh, the extent of external dependence has risen gradually though recent trends show some decline. Debapriya Bhattacharya in his 'Bangladesh Economy in FY 2000: Macroeconomic Outlook' has stated that the share of domestic contribution in ADP financing rose with some fluctuations, from about 20% in FY 92 to 41.5% in FY 99 which was projected to rise further to 49.8% and sustain at that level in FY in 2000 and 2001 (See p. 11).

The government, however, has been trying to take care of the vital matters that affect the lives of its people. For example, the government of Sheikh Hasina has given particular importance to human development with special attention to health care, family planning, nutrition, women's rights and survival and development of children. In her budget speech in the parliament, she claimed that her government was 'people friendly' and said that her government had fulfilled most of her election pledges made through a 21-point election manifesto announced before the 1996 general election. The present government under Khaleda Zia has taken a few bold decisions such as banning the production and use of polythene.

There are some indications that government policies and programmes have started yielding fruits. The preliminary evaluation of the Fifth Five Year Plan reveals that in spite of various limitations the country has achieved remarkable success in the field of socio-economic development. The rate of economic growth for the first three years of the Plan was 5.85%, the percentage of people living below the poverty line has gone down from 47% to 44%, the literacy rate has increased from 47% to 64%, while the rate of infant mortality has fallen from 72% to 57% during the last four years. The average life expectancy is 60.8 years in 2001 (or is it 58.1 years as stated previously). Various programmes have been introduced to improve the conditions of the disadvantaged groups such as the poor, orphans, destitute mothers, widows and deserted women. The present government has started a new programme named 'the goat rearing project' to reduce the poverty in the country.

7.2 *How much public confidence is there in the effectiveness of government and its political leadership?*

The present government does not have any problem getting through with its programmes as it commands two-thirds majority in the parliament. The popular base of the government is also wider as it is a government of four party alliances. The government has already taken a few bold steps e.g., the ban of production and use of polythene, the ban on running two stroke engine run motor vehicles in the Dhaka city, poverty alleviation through goat rearing project and free education for girls up to the higher secondary level. While they were in the opposition, they used to criticize two actions of the previous government of Sheikh Hasina – solution of the Ganges water sharing with India through a 30-year Agreement and the signing of the Chittagong Hill Tracts Peace Accord but they have not yet taken any action against these two issues. The minority people became upset with the government as they were turned into targets of attacks after 2001 elections. The previous government of Sheikh Hasina could effectively handle some important events of national and international concerns. The solution of long standing Ganges Water sharing dispute with India through a 30 year treaty, the signing of the Peace Accord on Chittagong Hill Tracts problem bringing an end to the 25 year old insurgency in the Hill districts were effective. The then Prime Minister also visited both India and Pakistan after the incidents of test explosions of nuclear bombs by both countries in 1998. Her mission was to apprise the concerned people of the risk of nuclear competition in the sub-continent. Also the handling of devastating flood in the country in 1998 brought popular confidence in favour of the government and its political leaders. It was the first instance where Bangladesh faced such a situation without any foreign assistance. The US President Bill Clinton during his visit also lauded the Bangladesh's efforts to carry forward democratic process and development. While addressing the session of World Leaders Forum at an international conference of National Democratic Institute for International Affairs (NDI), the President observed that Bangladesh was moving towards the goal of establishing itself as a developed and resourceful country. He further mentioned that the government under the leadership of Prime Minister Sheikh Hasina, demonstrated apparent commitment to socio-economic development of the people through the alleviation of

poverty and strengthening of democratic institutions. His attention was also drawn to the initiatives of Prime Minister Sheikh Hasina to establish peace, democracy, rule of law and protection of human rights, and introducing welfare programmes (*The Daily Star*, August 18, 2000).

Of course, there is also criticism against the two major steps of the government i.e., the Ganges Water sharing and the Chittagong Hill Tracts Accord. It is said that the vital issues like the 30-year treaty of water sharing with India and signing of Chittagong Hill Tracts Accord should have been discussed in Parliament. Moreover, the government has not been able to improve the law and order situation in the country. As mentioned in section 4.7, the government has promised and /or proposed remedies for the publicly identified problems but so far it has failed to bring any solution to most. In the field of the autonomy of electronic media too the government has failed to come up with any law to give autonomy to the electronic media (See also section 3.2).

7.3 How effective and open to scrutiny is the control exercised by elected leaders and their ministers over their administrative staff and other executive agencies?

The civil service needs to be free from political control. It is very difficult for a political Government to implement its policies, however beneficial to the people, if the civil service remains completely immune from any sort of political attachment. Moreover, a politically uncontrolled civil service can be a threat to democracy. Thus balance between the two is really crucial. In Bangladesh, we have the taste of a politically insensitive (a British legacy), highly politicized (as a partner of military rulers both during Pakistan and Bangladesh times) and politically conscious civil service (Bangladesh period). The fixed tenure of the civil service particularly under the Pakistani rule proved so dysfunctional that after the emergence of Bangladesh as an independent state, its Government came out with a very stringent order named President's Order, 9 (1972). This order abolished the tenurial protection extended to the bureaucrats by the Constitution.

According to the rules, the civil servants are appointed by the President of the Republic and according to Article 134 of the

Constitution ‘every person in the service of the Republic shall hold office during the pleasure of the President.’ This seems to air a sense that the civil servants are free from parliamentary control. However, the situation is not so under the present system of governance as Article 48 (3) of the Constitution says, ‘In the exercise of all his functions, save only that of appointing the Prime Minister pursuant to clause (3) of article 56 and Chief Justice pursuant clause (1) of article 95, the President shall act in accordance with the advice of the Prime Minister.’ Another expression is noticeable on the part of the civil servants these days who desire to consider themselves as the servants of the Republic and not of the Government, in order to communicate the message to all concerned that they are independent of political control. The particular element was profusely used during the anti-Khaleda Zia movement in 1995-96. The civil servants who favoured this, took a stand against the then Government of Prime Minister Khaleda Zia and sided with the then opposition movement under the leadership of Prime Minister Sheikh Hasina. The present situation is clearly depicted by Professor Rehman Sobhan in his ‘The State of Governance in Bangladesh, 2000’ where he observed that the bureaucracy is politicized not in the sense that the bureaucrats are employed to serve a particular party ideology but more to promote the private agenda of the politicians. Thus bureaucrats are found to be compatible to the Ministers and at the local level they are compatible with Members of Parliament and other local political leaders. Of course, the nature of minister-bureaucrat relationship is greatly dependent on their personalities resulting from their age and experiences. In most cases, the disinterested or impartial bureaucrats take unusually long time to implement the decisions of their elected masters.

7.4 How extensive and effective are the powers of the legislature to initiate, scrutinize and amend legislation?

The Constitution of the country, in its Article 65, clearly says that there shall be a Parliament for Bangladesh (to be known as the House of the Nation) in which subject to the provisions of this Constitution, shall be vested the legislative powers of the Republic. Thus the Parliament is the only body that can initiate legislation and amend it. Of course, Parliament, owing to its supreme nature, can delegate to any person or authority, by dint of its Acts, power to

make orders, rules, regulations, bye-laws or other instruments having legislative effect. However, the power of Parliament is slightly limited in the case of initiating Money Bill or any Bill affecting government finance where it has to take prior authorization of the President of the Republic, through the concerned Minister. Article 82 of the Constitution clearly lays down that, “No Money Bill, or any Bill which involves expenditure from public moneys, shall be introduced into Parliament except on the recommendation of the President”. When a Money Bill is presented to the President for his assent, after the Bill is passed by the Parliament, it needs a certificate under the hand of the Speaker stating that it is a Money Bill. The procedure is that every proposal in Parliament for making a law shall be made in the form of a Bill and when it is passed by Parliament it shall be presented to the President for his assent. When a Bill is presented to the President, within 15 days he has to assent to the Bill or he will return the Bill, if the Bill is not a Money Bill, to Parliament with a message requesting that the Bill or any particular portion thereof be reconsidered and that any amendments specified by him be considered and if he fails to do so he shall be deemed to have assented to the Bill at the expiration of that period. In such case of return of a Bill to Parliament, Parliament shall consider the Bill with the President’s message, and if the Bill is again passed by Parliament, with or without amendments by the votes of a majority of the total members of Parliament, it shall be presented to the President for his assent. The President shall get seven days to assent to the Bill, and after the laps of the seven- day period the Bill will be deemed to have been assented by the President.

Bills may be initiated both by government (ministers) and private members (non-ministers). However, the number of the bills initiated by non-ministers or private members is very few and the chances for these bills to get through are also very slim. Some important bills proposed by private members could of course be enacted. As for example, a bill entitled “Preservation and Exhibition of the Portrait of Father of the Nation Bill-2001” was unanimously passed by the Parliament on 18.01.2001 (See *The Daily Star*, January 19, 2001).

The law making procedure provides ample scope for scrutiny and to bring amendments. A Bill has to pass through five stages including the introduction of the Bill and assenting to the Bill. The

Constitution has thus provided the Parliament with very extensive scope to initiate, scrutinise and amend the legislation. However, the experience show that ‘few members of the Parliament feel strongly inclined to push any clearly articulated agenda during their tenures in Parliament. Their principle concern is to use their political presence in particular to persuade the GOB (Government of Bangladesh) to channel some government projects into their constituencies’ (See Rehman Sobhan, *ibid*). The effectiveness of the Parliament is also limited by the following factors:

- One party/group dominance in Parliaments especially in the fifth and seventh parliaments;
- Confrontational politics of ruling party and the main opposition party in the Parliament resulting in the minimum debate on major national issues such as the Ganges Water Treaty and Chittagong Hill Tracts Accord;
- Continuous absence of the opposition members in Parliament in the fifth, seventh and eighth Parliament;
- Reluctance on the part of the general members to participate in the parliamentary debates and discussions.
- Extremely partisan and sectional nature of parliamentary parties; and
- Lack of internal party democracy; and
- Constitutional limitations on the MPs to stand against the party position.

7.5 How extensive and effective are the powers of the legislature to scrutinize the executive and hold it to account?

The present system of government in Bangladesh is modelled after the British parliamentary system where parliament has ample control over the executive. In fact, the executive is the creation of the parliament and the members of the executive branch of Government i.e., the ministers are both collectively and individually responsible to the Parliament. Through the ‘vote of no confidence’ motion the Parliament can oust the Government. However, the reverse is also true. The executive can get the Parliament dissolved by the President. Neither has taken place in the country’s life of nearly 30

years. It is further noted that in Bangladesh the ruling party had always been dominant in the legislature which allowed the Government to work without scrutiny and in 5th, 7th and 8th Parliaments, the Government faced and faces less criticism and scrutiny due to the continuous avoidance of Parliament sessions by the opposition members. AL boycotted the proceedings of the 5th Parliament and BNP the 7th and now AL has been boycotting the 8th Parliament. However, the parliamentary committees properly functioned where the opposition members also played their roles effectively. These committees, along with other activities can examine the Government activities and demand explanation and information from the Government about various activities. For example, the Parliamentary Standing Committee on the Ministry of Defence in its meeting held on 7th January, 2001 discussed the Tk.3273.42million?? core country's defence budget for the fiscal year 1999-2000 and asked the government to submit reports on the following four areas identified by the Committee: the salaries of the armed forces personnel, development of the armed forces, administration and training (See The Daily Star, January 8, 2001). In fact, the committees are effective arms of the legislature to scrutinize the executive and hold it accountable. Under the previous Government of Sheikh Hasina a very distinctive, qualitative change was brought in the committee system with a rule that no minister could be chairman of any committee. However, the committee's decisions and recommendations are not mandatory for the government to implement, which may make committee exercises sometimes less effective. No committee has been formed under the present government even though they have been in power for more than a near now.

7.6 How rigorous are the procedures for approval and supervision of taxation and public expenditure?

The procedures for approval and supervision of taxation and public expenditure are no doubt very rigorous. The Constitutional provision is that there shall be no public taxation and expenditure without the approval of the Parliament. Articles 81-92 of the Constitution deal with the financial procedures. Article 83 clearly lays down that 'no tax shall be levied or collected except by or under the authority of an Act of Parliament'. The budget, which is constitutionally referred to

as the 'Annual Financial Statement', defined as 'the statement of the estimated receipts and expenditure of the Government for a particular year' (Patwari, 1983:30) shall be laid before the Parliament for its approval (Article 87 of the Constitution of the People's Republic of Bangladesh). The 'Statement' as a Bill is thoroughly discussed, examined and then passed or accepted by the Parliament. The Parliament discusses the budget in three phases: (a) general discussion on the budget as a whole, (b) discussion on charged expenditure, and (c) voting on demands for grants relating to other expenditures. However, the preparation of a budget is a very lengthy process involving almost a complete one year period from the printing of departmental estimates on 31st July and ending with the authentication of the Budget on 1st July the following year (See Budget Calendar attached). Moreover before the presentation in the Parliament, budget needs the approval of the Cabinet, Prime Minister and finally the President of the Republic. However, this rigorous procedure weakens because of the absence of opposition Members of Parliament. For the last 20 years serious discussions and debates on the budget have taken place only in the years of 1972-1974 and in 1979 and 1980. Budget discussions have been, in fact, sterile and lacking in substance. The latest Budget i.e., the Budget of the year 2002-2003 was also placed before the Parliament and passed by it in the absence of the opposition members. The opposition members attended some working sessions in the parliament and brought some amendment proposals, but the government made no consideration. The fact of tax evasion and its causes also slackens the rigorousness of the tax procedure. One study identified as many as ten causes for why people evade taxes. The causes are: the absence of proper punishment system, corruption in tax administration, inadequate zero-tax limit, high rates of tax, fear of harassment and victimization, rewarding tax evaders politically, socially and economically, absence of tax mentality and tax culture, lack of proper accountability and transparency, complex tax system and lack of effective motivation for taxpayers (Akkas and Maola, 1999: 97-124).

The public expenditure is also subject to rigorous supervision. The Constitution maintains that there shall be a Comptroller and Auditor-General referred to as the Auditor-General and that " The public accounts of the Republic and of all Courts of Law and all authorities and officers of the Government shall be audited and reported on by

the Auditor-General and for that purpose he or any person authorized by him in that behalf shall have access to all records, books, vouchers, documents, cases, stamps, securities, stores or other government property in the possession of any person in the service of the Republic” (Article 128 of the Constitution). The Auditor-General is appointed by the President and cannot “be removed from his office except in like manner and on similar grounds as a judge of Supreme Court” which indicates both that he can work independently and that the supervision is very rigorous. Moreover, there is the provision of the Public Accounts Committee (a standing Committee of Parliament) appointed by the Parliament in order to examine from year to year, the audited accounts of the public expenditure. The Committee consists of 15 members of Parliament of whom none can be a Minister. The Committee’s functions are laid down in Rule No.223 of the Rules of Procedure of Parliament, which are quite exhaustive. The Committee’s function is to examine the accounts showing the appropriation of sums granted by the House for the expenditure of the Government, the annual finance accounts of the Government and such other accounts laid before the House as the Committee may consider fit. However, the Committee is not an executive body and has no power to disallow any item or issue any order. It can only call attention to an irregularity or a failure and to deal with it adequately and express its opinion thereon and record its findings and recommendations.

7.7 How comprehensive and effective is legislation giving citizens the right of access to government information?

Free flow of information from any source and of any nature, is not only an attribute of a democratic government but also precondition for its successful operation. In Bangladesh, both the ruling BNP and the main opposition AL party pledged publicly to ensure free flow of information. While AL in its election manifesto in 2001 pledged to establish transparent and accountable government and to grant autonomy to radio, television and news media, BNP pledged for free flow of information. But the radio, television and news media are yet to be given some autonomy. The ex-Prime Minister, Sheikh Hasina once in her address to the special Council Session of the party on 23rd June (2000) categorically stated that they would grant autonomy to radio and television before the 8th Parliamentary election. There is, of course, an Official Secrets Act known as Official Secrets Act,

1923, which extends to the whole of Bangladesh and applies also to all citizens of Bangladesh and persons in the service of the Republic wherever they may be. This Act and the Special Powers' Act withhold information to citizens. Rule No. 28 of the Rules of Business, 1996 also protects government information. The importance of the free media, free flow of information has also been recognized by the Public Administration Reform Commission, which recommended in its report to the government for the enactment of the Freedom of Information Act. Some measures were introduced by the previous government of Sheikh Hasina created scopes for citizens to have access to the government information such as the introduction of the Prime Minister's query-time in the Parliament, the telecasting and Broadcasting of the proceedings of Parliament, etc. The present government has suspended these measures.

7.8 What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?

The Government is fully aware of the problems that exist in the field of important public rights and services. Due priorities are also being attached by the Government to create conditions for better exercise and enjoyment of basic rights and ensure the availability of various goods and services to the people. The Government has clearly stated that they will separate judiciary from the executive, give autonomy to radio and television, enact Freedom of Information Act and appoint the Ombudsman. Steps have already been taken by the government to meet popular necessities through the initiation of small credit distribution programme, Ashrayan project for rehabilitation and self employment and empowerment of women with the direct participation in elections at all tiers of local government. The government has learned to place utmost importance to these goals and popular support is also likely to come, as the programmes will ultimately benefit more people.

To facilitate women development and empowerment, the government has initiated scholarship for all female students reading in the primary, secondary and higher secondary level classes, which has increased the number of female students from 33% in 1993 to 48% in 2001. Under the Ashrayan project 25820 families have been rehabilitated and the government has pledged to give Tk.300 crores for this project. Under the 'Ideal Village' project too the government has rehabilitated 18,000 families in 300 villages during the past four

years. A TV channel was allowed to operate in the country under private ownership, which has now been suspended. And two more TV channels along with 12 radio channels were reported to have attained government permission to operate under private ownership (See *Sangbad*, January 26, 2001). But these are yet to materialize.

BUDGET CALENDAR

	Particulars	Last Date
1.	Printing of Departmental Estimates	31 st July
2.	Printing and Distribution of Budget (Estimating Officer's forms and Controlling Officers' forms)	31st Aug.
3.	Preparation, Printing and Supply of Budget form to the Accounts Officer concerned.	30 th Sept.
4.	Submission of estimates by the Estimating Officers.	10th Oct.
5.	Receipt of estimate in the Accounts Office and Ministry of Finance from the Controlling Officers with 3 months actuals.	31st Oct.
6.	Receipt of Consolidated Estimates in the Ministry of Finance with 3 month's actuals from the Accounts Officer.	25th Nov.
7.	Completion of examination of Budget estimate in the Ministry of Finance.	20th Jan.
8.	Receipt of Schedule of New Expenditure in the Ministry of Finance.	22nd Jan.
9.	Receipt of 6 months' actuals from the Accounts Officer.	15th Feb.
10.	Completion of review of the estimates of the basis of 6 months' actuals in the Ministry of Finance.	28th Feb.
11.	Preparation and dispatch of the 1st editions of the Budget and Schedule of New Expenditure	1st March
12.	Receipt back of the 1st edition of the Budget from Press and dispatch to Ministries/Divisions.	10 th Mar.
13.	Forecast of Foreign Assistance for Development Programme.	14th Mar.
14.	Completion of discussions of the Estimates with Administrative Ministries/Divisions.	28th Mar.
15.	Receipt of final Development Programme from Ministry of Planning.	28th Mar.
16.	Preparation and Printing of Budget Documents.	May

Source: *Secretariat Instructions*, 1976. Instruction 260 (a) Cabinet Secretariat, O & M Division.

Also see, Motahar Hussain, *The System of Government Budgeting in Bangladesh* (Revised Second Edition), Dhaka: Hasan Publishers, 1987, pp. 142-143.

8.0 Civilian Control of the Military and Police

Are the military and police forces under civilian control?

Summary assessment

For 15 years, the military permeated the public sector. Restoring civilian control is more than a matter of having an elected government. The Prime Minister's retention of the defense portfolio and close control of the defense establishment helps. A parliamentary subcommittee on defense purchases was given comprehensive records after court intervention. Police routinely quell street protests, hence their role is controversial. Some recruits are identified with a party. Police harshly and arbitrarily invoke various penal provisions. Following the 1971 War of liberation, there was a definite move to induct officers from the wider society, but an elitist and urban bias has returned. Troops are generally from rural backgrounds. Minorities and women are considered underrepresented. A politics-crime nexus has fostered the growth of gangs seeking protection money from all manners of business ventures. Solutions lie heavily with political parties, which have adopted a dysfunctional placatory attitude to security services as well as criminal gangs on which they rely.

8.1 *How effective is civilian control over the armed forces, and how free is political life from military involvement?*

During the long period of military rule serving and retired military personnel were appointed in high positions of administration. These included diplomatic posts, public enterprises, corporations; district police administration and the like. Those linked to the military power elite, including the retired officer corps, were awarded lucrative business contracts, and loans from nationalised commercial banks as part of patronage distribution.

In view of the past experiences certain institutional arrangements have been worked out for retaining control over the military. The defense portfolio has been kept by the Prime Minister. In addition, an Armed Forces Division has been created in the Prime Minister's Office (PMO) that is directly answerable to the Prime Minister. The

Principal Staff Officer, of the rank of Major General reports to the Prime Minister, not through the army chief. Observers believe this may not be an ideal arrangement, but the whole purpose of drawing up this arrangement was to establish checks and balances.

Following the establishment of civilian rule despite the setting up of institutional arrangement there is a tendency of the two major political parties to placate the military by increasing allocation of resources in annual budget, allowing purchase of equipment that are of questionable relevance and increasing the size of the services. There is also a tendency to recruit retired officers and give them important positions in the party hierarchy, sometimes at the cost of time tested party loyalists. These army officers are also favoured in giving nominations during national elections.

During the insurgency in the Chittagong Hill Tracts in the 1980s and 1990s, the entire region was under control of the military. The civilian administrative apparatus was made an adjunct of the military. Following the signing of the Peace Accord in December 1997, between the Government and the political wing of the militants the civilian control has been re-established.

The then opposition political parties viewed the appointment of Gen. Mustafizur Rahman as the Army Chief by the Awami League government as an exercise to establish party control over the military. Gen. Rahman was appointed to the position only a few days before his Leave Prior Retirement had ended. The opposition claimed that his family links with the Prime Minister had earned him the position. Although it is difficult to say to what extent people in uniform are actually involved in politics, it is fair to assume some key officers may be holding office as a part of political decision. However, after BNP came into power, it removed the incumbent army chief and appointed a person of its own choice.

Increase in civic awareness and concomitant assertion of the civil society with regard to allocation of resources to the defence sector, level of defence expenditure and rationale of purchase of planes and frigates have been accompanied by raising of such issues in the parliamentary standing committee of defence. It is interesting to note that despite the initial reluctance of the concerned authorities, the members of the defence sub-committee were provided with the

detailed documentation on the Mig purchase following court's intervention. Likewise, in July 2000, the Committee also secured authority to examine papers of Court Martial proceedings that led to execution of eleven officers for their alleged involvement in President Ziaur Rahman's assassination.

8.2 How publicly accountable are the police and security services for their activities?

Street agitation and violent protests are hallmarks of the Bangladeshi political process. Under these conditions there is a tendency of the ruling party to use the security services, including the police, for its partisan interests and in quelling opposition movements. This process has been further accentuated due to the long absence of democratic politics. Accusations have been off-leveled against successive governments for politicising the police force through improper recruitment that gave priorities to party loyalty rather than merit. Certain batches of recruits are known for their party affiliation and are often identified with their year of recruitment. Such party loyalty works against establishing accountability and erodes the effectiveness of the police force.

Certain laws and provisions of the penal code also work against establishing accountability of the police force. The Special Powers Act, Women and Child Repression Act and Section 54 of Bangladesh Penal Code accord unbridled powers even to the relatively lower level functionaries of the law enforcement agencies. These include, arrest without warrant, placing of the accused on remand for specific period and internment without bail.

8.3 How far does the composition of the army, police and security services reflect the social composition of society at large?

The composition of the Bangladesh military has not been systematically studied. Historically, the armed forces were constituted of officers from elite background. During Pakistani period persons of urban background and those from the cadet colleges formed the core of the recruits to Pakistani army. Following the war of liberation of 1971 the social composition of the officer corps of the armed forces underwent some changes as a section of freedom fighters from relatively modest social background were

inducted into the services. New recruits were drawn in from wider constituency and the social background of the officer corps became more diversified. However, over time, the urban bias returned. This might have direct relevance to the long period of military rule that Bangladesh experienced. Army rule brought about an increase in opportunities in the form of higher salary, better facilities and the concomitant rise in social status and access to political authority. All these attracted the urban candidates to military career. However, the bulk of the soldiers still come from rural backgrounds.

There is a widely held perception that representation of religious and ethnic minorities is relatively restricted, particularly in the officer cadre of the armed forces. The situation is relatively better in the police service. The previous government of Sheikh Hasina took some affirmative actions for increased representation of the minority groups in all services, including the armed forces. Under the regional autonomy plan for the three districts of the Chittagong Hill Tracts the police force will be drawn exclusively from among the local hill people.

Although women were inducted into the police force since the mid-1970s, there were restrictions on women taking up positions in armed services, other than the Medical Corps. In July 2000, the then government decided to induct women in active service and they are expected to hold command positions by 2002 (*The Daily Star*, July 8, 2000).

8.4 *How free is the country from the operation of paramilitary units, private armies, warlordism and criminal mafias?*

Soon after independence the country had experienced widespread deterioration of law and order. In the aftermath of the war, easy availability of arms contributed to a situation that was further compounded by widespread cleavages attributable to political loyalties and factionalism. Some districts in the northern and southern parts of Bangladesh began experiencing armed militancy of leftist political groups. These political groups were inspired by the *Naxalite* peasant movement, which developed in parts of India in the late 1960s. The government resorted to counter-violence through the *Jatiya Rakkhi Bahini* (JRB, the National Guards). This paramilitary agency was created essentially to combat, and if need be, liquidate,

the insurgents and political opposition. Excesses of the JRB invited widespread criticism from the civil society. In an important judgment in a case involving disappearance of a victim, the Highest Court of the country expressed concern about arbitrary exercise of power by the JRB. The overthrow of the Sheikh Mujib government through a military coup led to the dissolution of this paramilitary agency.

The three districts of the Chittagong Hill Tracts had experienced major operations of insurgency forces and Bangladesh military in the 1980s. *Shanti Bahini*, the armed wing of the hill activists, was engaged in a hit and run battle with the armed forces for more than a decade that cost hundreds of casualties on both sides. Major excesses were committed by the Bangladesh military in dealing with the hill insurgents, resulting in exodus of more than 50,000 hill people as refugees to the eastern Indian state of Tripura. In addition, tens of thousands were internally displaced, particularly in the Khagrachari district.

In recent years, the southwestern districts of Jessore and Kushtia have been experiencing increased activities of terrorist gangs. These gangs engage in looting and extortion. Media reports suggest that strength of these elements lies in their contacts with political forces that provide them with protection from prosecution. The recent case of Irshad Shikder, an accused of a series of murder cases in the district of Khulna, has established the close nexus that exist between political parties and perpetrators of violence. With the ever-increasing role of arms and muscle power in the political process, politicians and criminal elements find it mutually complementary in protecting and promoting each other.

Criminal syndicates have been operational in almost all sectors of the economy. In the absence of effective control mechanism by law enforcing agencies, these forces operate with near complete impunity. Almost all sectors of the economy and society are affected by the presence of rent seeking mafia groups. Any form of investment initiative, construction, transport, setting up of factories or business enterprises or simple development works are most likely to face demands by the mafia groups. Failure to meet such demands may prove to be extremely costly.

8.5 *What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?*

Although multi-party pluralist democracy is gaining roots in Bangladesh, the military continues to occupy a privileged position. The civilian elite of Bangladesh is yet to carve out its own role vis-à-vis the military elite. Major issues such as framing a defence policy for the country, size of the defence budget, rate of increase in the strength of the armed forces, policies pertaining to procurement of defence equipment are yet to be debated openly and freely. Although some initiatives have been undertaken, they are far from adequate. The placating approach of the main political parties to military leadership has been a major weakness establishing effective civilian control over the military.

Perhaps the most important measure that needs to be implemented is to break the nexus that exist between the political and criminal elements. All major political parties harbour elements that come handy during elections and creating what they perceive as a support base in a particular area. There is a general reluctance on the part of political parties to relinquish the support that they derive from these elements. Any meaningful governance reform agenda must address this complex problem.

9.0 Minimizing Corruption

Are public officials free from corruption?

Summary assessment

Privatization of public assets as well as the entrenchment of the junta provided the ground for corruption. One estimate places corruption losses at nearly three per cent of national income. The malaise affects every sector, productive and social. Bribery is a problem, but corrupt officers are rarely convicted. Parties rely on "business houses for funding, and 'their' student and labour fronts for muscle", and are expected to reward their supporters in time. Business pleads that it must bribe for routine approval. The result is low public confidence on institutions. Yet there is no recent legislation against corruption. Press interest is opening up an avenue for redress, as in the recent case of defence imports.

9.1 *How effective is separation of public office from the personal business and family interests of office holders?*

Corruption is the misuse of public office or wealth for personal ends. It is endemic in Bangladesh. International Country Risk Guide named Bangladesh as the world's sixth most corrupt nation in the 1990s while Transparency International placed Bangladesh at the fifth position. A recent World Bank report estimated that official misconduct accounted for a loss of between 2.1 and 2.9 percent of annual GDP growth. It further stated that such increase in GDP growth rate would have concomitant positive impact on per capita income under which poverty rate in Bangladesh could be lowered from the present 36 per cent to 11 per cent by the year 2020. In a corruption-free environment Bangladesh could have nearly doubled the per capita income to US\$700 instead of US\$350. Corruption has touched almost all sectors of the economy.

Transparency International, Bangladesh Chapter's household survey research shows that almost every sector, health, education, lower judiciary, police is affected by corruption. In other words, all the public service delivery systems are ridden with corruption, affecting

people from every group of income. But the poorest of the poor is the hardest hit group. They are hurt relatively more in relation to their income. Women and minority groups are also disproportionately affected. TIB research further shows that police were identified as the most corrupt category, followed by lower judiciary. Among the causes of corruption 'desire to get rich quick' had been the foremost motivating factor, followed by 'lack of accountability' and 'poor pay'. In essence this is petty corruption as small amounts are charged. But the overall volume is very high – a large amount of money is skimmed off in the process. Another aspect is the high level of tolerance by the public. People have come to accept rent seeking, without much of a questioning. It appears that the dividing line between what is regular and what is irregular has become blurred. Another important element is the lack of enforcement of law. There is hardly any case of people getting caught and punished. Normally one gets away indulging in corruption. There is a high level of impunity so that one does not worry about the consequences. The Transparency International (Berlin)'s Corruption Perception Index published in 2001 and 2002, each for the previous years, identified Bangladesh as the most corrupt country. The 2001 report was based on assessment of 91 countries, while the one on 2002, was on 102 countries (Corruption Perception Index, June 2001 and Corruption Perception Index, September 2002).

There are Codes of Conduct from the British period, the Civil Service Manual. Under the manual, civil servants are required to fill in certain forms every year to declare the wealth they acquired. But in effect very few meet this requirement. It is not given any importance and as such has become a forgotten aspect of civil service practice.

9.2 How effective are the arrangements for protecting office holder and the public from involvement in bribery?

There is the Anti-Corruption Act of 1957 and rules developed under that Act. The Bureau of Anti-Corruption (BAC) along with its regional offices has been established to enforce the Act. One of the principal functions of BAC is to see if public officials misuse their power, investigate and prosecute them, if necessary. But the rate of conviction is very low, less than 5%. In that case also, only the petty

offenders are targeted and not the big ones. There are laws and institutional mechanisms to protect public interests, but more so there is a pervasive feeling of impunity. Even when the offender is prosecuted, the legal process takes 8-10 years for the case to be settled, sometime witnesses pass away, evidence destroyed and the case for prosecution gets weakened. Under such conditions, the interests of public remain unprotected.

The problem is further compounded due to weak capacity of the BAC. They lack resources, technical capacity and trained manpower. Sophisticated technical knowledge is required in order to combat white-collar crimes. There is no specialised institution in this regard. Another major weakness of the BAC is that it is a part of the civil service. Like any other branch of the civil service, its officers and other staff serve the institution on short-term assignments. There is no sense of ownership. It should be noted that the BAC does not enjoy any autonomy. The relative autonomy that it enjoyed earlier was eliminated when under the military government of Gen. H. M. Ershad, the institution was made an integral part of the President's Secretariat. In other words, the agency was brought under direct command of the executive wing of the state. In spite of restoration of civilian rule the Bureau continued to remain under the Prime Minister's Secretariat. The obvious result is the dependency on the executive.

9.3 How far do the rules and procedures for financing election, candidates and elected representatives prevent their subordination to sectional interests?

Soon after independence Bangladesh adopted parliamentary form of government. However, within four years this was supplanted first by single party rule and later by presidential form of government. It was only in the early 1990s that parliamentary system of government was re-introduced. Although political parties in the region predate the partition of India in 1947, they are yet to function democratically and be led by democratically elected leadership. The absence of democracy both in the polity and within political parties has made the parties dependent on individuals or families. The problem is further compounded by conditions in which money and muscle power are increasingly becoming important elements in directing the agenda of political parties. The major political parties have become

dependent on the business houses for funding, and “their” student and labour fronts for muscle power. In return, for extending their support to the political parties the business houses expect favourable treatment in securing contracts. The labour and student fronts, in their turn, enjoy certain degree of immunity for their engagement in toll collection from transport sector or from business houses, retail shops and public work activities.

In spite of clearly laid out rules of elections that include maximum limit permissible for expenditure, candidates and political parties flagrantly violate these rules. Often development initiatives are undertaken in constituencies clearly keeping elections in view and at other times votes are procured by purchasing middlemen. The World Bank Report states that such ‘invisible’ payments appear to absorb 60-70 percent of election expenses.

9.4 How far is the influence of powerful corporations and business interests over public policy kept in check and how free are they from involvement in corruption including overseas?

Private business has been particularly successful in establishing effective control over the banking sector. Along with rampant insider lending, the pervasive attitude in the banking sector is that borrowers are under no obligation to repay loans. This has led to major increase in the share of non-performing loans contributing to increase in the costs of funds for honest borrowers. Often, considerations other than merit and efficiency lead the government to appoint people in the boards of nationalised commercial banks. This, along with the absence of autonomy of the central bank- the Bangladesh Bank, contribute further to embellishment of inefficiency and default culture.

The collusion of interest between public functionaries and big business undermines the public sector. Fifty percent of the loans are classified, which means these loans are outstanding and unrecoverable. The rate of default is very high. Small borrowers are the hardest hit because most of the money is taken by large borrowers. The business sector however claims that they are placed in a situation where they do not have any option, but to give in to

rent seeking. Foreign investors complain that they have to wait for weeks for a decision on a small matter and lose out money in the process. Paying bribe under such conditions becomes a commercial decision, based on cost benefit analysis. In that sense, one may say that the bureaucracy creates conditions for speed money, bribe or transaction costs. Some claim that if corruption was under control, interest rate would have been 2-3% lower than it is now. That would mean more investment, more economic growth and concomitant higher per capita income and overall strengthening of the economy.

9.5 How much confidence do people have that public officials and public services are free from corruption?

Public officials are these days ‘a necessary evil’. Nobody can avoid them. With the decentralisation of administration public officials came down to the village levels and with them the practices of bribery. For example, each Union Parishad (UP) has one secretary to look after the day to day activities of the Parishad. Any inhabitant of a particular UP has to come to the secretary if he/she wants a national certificate, birth/ death certificate, character certificate, or a certificate to take any loan from any bank or organization. In most cases, the secretary does not work without any bribe (gift or cash money).

There is an all-pervasive perception that people engaged in public service sectors are involved in appropriating money from the clients as bribe. It has become a common belief that no file moves from one official to another if adequate ‘fuel’, a name given to bribe, is not supplied. This is a common experience. Everybody is ready to give bribe in order to get his/her works done. The officials also involve in misappropriating the public money, the examples of which are many. A staff correspondent of The Daily Star on February 5, 2001 has reported that three Power Development Board (PDB) officials have been sued by Anti Corruption Bureau for embezzlement of money amounting Tk.10.5 Lac of PDB during September to December 1999.

Given the general inefficiency of the public officials, high or low and the extent of their involvement in corruption the public has very little confidence in them.

9.6 *What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?*

In order to curb corruption the World Bank recommended a variety of measures:

- Bringing about a change in the incentives that foster corruption
- Substituting transparency and accountability for secrecy that shrouds too many official transactions
- Establishing independent oversight institutions and operations crucial to rebuilding trust in the integrity of offices and office holders.

The World Bank further recommended reduction in the size of the government and transferring various utility services to the private sector, simplifying various regulatory functions of the state, confronting corruption boldly by the political leadership, enlisting the support of the non-governmental organisations and the media and conducting a national debate in identifying the most damaging forms of corruption and emulating experiences of other countries.

Although uprooting and eradicating corruption is high on the agenda of the political and state leadership, very little is being done on the ground in this regard. The bill aiming at Public Administration Reform has tried to address some of the problems, but that was not substantive and far-reaching enough. Even that has not been implemented. Likewise, very little progress has been made with regard to setting up of the office of the Ombudsman, National Human Rights Commission and Independent Commission on Corruption. The government is yet to give effect to its election pledges on separation of judiciary from the executive. Therefore, actions on many fronts need to be taken to push for anti-corruption policies. But not much of a progress has been made.

It is only with regard to the custom sector, that pre-shipment inspection (PSI) system has been introduced. This has brought about some qualitative improvement, reduced scope for corruption and brought about more transparency in this sector. Otherwise, generally the situation has remained unchanged. As oversight bodies of

different ministries the Parliamentary Standing Committees have been set up and are functioning. But that has given rise to another set of problems, as some members of the Committee “use the committee for partisan as well as their private material interests” (Sobhan, June, 2000). There have been instances in which the committees were used to elicit information for purposes of private benefit. In 1998, the Parliamentary Committee on Banking Sector issued a directive to the Ministry of Finance for rescheduling of loans of defaulting business house. This has been a clear case where the concerned Parliamentary Committee had overstepped its own authority.

Generally defense purchases have so far been impervious to any public scrutiny. They were kept under cover of national security. Of late conditions have begun to change as media and civil society interest in major defense purchase develops. During the last AL regime procurement of a squadron of Mig 29 and a frigate has come under discussion in the public fora. This is expected to be a fresh beginning of a method for public scrutiny and informed debate on matters of national importance.

10.0 The Media and Open Government

Do the media operate in a way that sustains democratic values?

Summary assessment

The press in general is in the private sector and radio and television under government control. Recently a private radio station and private television channel were introduced. Since the 1996 election, parliamentary proceedings have been broadcast freely though their telecast has been stopped following Opposition objections to the seeming monopoly of TV news and views by ruling political elite. Ownership of newspapers and contents of any publication are not subject to direct government restriction. The allocation of local newsprint to the newspapers is no longer an instrument used to control newspapers but government advertisements may be. The press is free but governed indirectly by restrictive laws that restrain freedom of expression. International organisations have documented journalists being harassed, jailed, and killed. In 1999, at least 40 journalists and photographers were assaulted by police while being attacked by political activists or religious fanatics. After the eighth parliamentary elections there were more reports of violence and harassment even death threats faced by the journalists in the country. The government and political parties have taken no steps to stop the violence. The government does not limit citizens' access to the Internet. Personal computers are taxed nominally.

10.1 How independent are the media from government, how pluralistic is their ownership, and how free are they from subordination to foreign governments or multinationals?

The Constitution provides for freedom of speech, expression, and the press, subject to "any reasonable restriction imposed by law" in respect of national security friendly relations with foreign states, public order, decency and morality, or to prohibit defamation or incitement to an offence. The government generally respects these rights. Although the printed press enjoys a degree of freedom, radio and television are closely monitored by the government.

Since October 2001, the Bangladesh Nationalist Party took power, RSF and the BCDJC have recorded 145 cases of journalists who have been attacked or have received death threats. The new regime's supporters have committed more than half of these crimes—103 cases. Moreover in the last eight months, at least 16 press clubs or newsrooms have been brutally attacked. In the countryside, journalists and their families, in particular, live in constant fear of reprisals. Political militants, mafia groups and armed gangs do not hesitate to kill or harass those whom they consider their adversaries (RSF NETWORK Mission Report, June 2002).

Press:

As declared by the State Minister of Information in Parliament, there are 1,526 newspapers and periodicals in the country at present. Among those 346 dailies, 651 weeklies, 171 fortnightlies, 316 monthlies and 42 quarterly journals are circulated throughout the country (*Niriksha*, July-August, 1999: 41). Most of the publications are brought out under private ownership. Owners are also editors in many cases. In some cases, newspapers are launched and the owners appoint themselves, their wives or near relatives as editors or place them in some high management positions. Policies of those newspapers are tuned to either political loyalties or business interests of the owners themselves. In the June 12, 1996 Parliamentary Elections, ten owners or owners-editors of national dailies (like The Ittefaq, The Sangbad, Daily Banglar Bani, The Independent, The Al-Amin, The Inqilab, Daily Sakaler Khabar, Daily Desh Janata , and Daily Janata) took part as candidates.

The print media has been undergoing rapid modernization with the support of computers and advanced technology. Some of the major newspapers have gained industrial strength and are printed simultaneously from several regional towns.

In line with the privatization policy, the government has closed down two state-owned newspapers, popularly known as 'Trust Paper', in 1997. Big business houses own daily newspapers like The Daily Janakantha, The Independent, The Daily Banglabazar Patrika, The Daily Star, The Prothom Alo, The Financial Express, and The Daily

Jugantor. With the shift to a market economy, private enterprises are venturing with new products and services and provide advertisements to the newspapers.

The newspapers now-a-days use imported newsprint along with local newsprint produced from only one mill. The allocation of local newsprint to the newspapers is no more an instrument to keep control over them but the government advertisements are distributed with some considerations outlined by the Ministry of Information. Circulation of the paper, wage board implementation, objectivity in reporting, coverage of development activities, and reflection of the spirit of liberation war in a newspaper are the basic criteria set for government advertisement distribution. Again, the circulation monitored by Audit Bureau of Circulation (ABC) is questioned by the professionals. Although the government sector generates the major portion of the total national advertisements, the growing private sector industries and commercial enterprises are also generating a sizable amount of the advertisement revenue.

Electronic Media: Radio and Television

Bangladesh Betar (Radio) and Bangladesh Television (BTV) are owned by the government. Ekushey Television (ETV) and Radio Metro are approved private broadcasting stations for television and radio respectively. The first private TV Channel launched with the backing of the BBC in the middle of 2000 has made a new aspiration among its viewers. The print and electronic media—especially television—have actually been enjoying very rapid growth over the last five years but recently the television license of ETV has been cancelled by a verdict of the Supreme Court.

Radio:

Bangladesh Betar has in all 11 radio stations. Including the national broadcasting centre in Dhaka (three channels-A, B, and C), the other stations are located at Chittagong, Rajshahi, Khulna, Rangpur, Sylhet, Thakurgaon, Barisal, Rangamati, Cox's Bazar, and Bandarban.

Bangladesh Betar runs external service beamed in seven languages. The total transmission period per day is around 170 hours. Forty-four

news bulletins with national, local including nine in external services go on the air from the radio everyday. The percentage of spoken words broadcast is 55 and the musical programme is 45 (Rahman, M.G., 1999).

The potentials of radio in a country like Bangladesh are yet to be fully documented. For various reasons like rural setup, low income of population, high accessibility, moderate affordability and less costly radio receiving sets, high penetrating capability makes the radio unique for persuasive message dissemination. The radio has a variety of programmes with its divergent formats like talk, song, drama, spots, magazine, news, interview, etc. The regional stations have a set of special programmes and the Transcription Service has its own studio, equipment and library to preserve the traditional and folk items of national and regional importance.

Television:

Bangladesh Television (BTV) has undergone a rapid expansion since its inception in 1964. It has two stations at Dhaka and Chittagong and 11 relay stations throughout the country. It telecasts about 66 hours programme every week of which about 25-30 per cent is of foreign origin. Among the colourful palette of programmes of BTV Bengali movies, package drama, weekly drama, quiz, debate and magazine programmes are popular ones. TV has penetrated deep into the countryside wherever electricity is available though the TV programmes are heavily urban oriented. News broadcasted by BTV is government monitored and the TV authority overlooks the news value of the transmitted news bulletin (Rahman, M.G.1999 b).

Satellite television is available and generally free to beam programmes.

10.2 How representative are the media of different opinions and how accessible are they to different sections of society?

Ownership of newspapers and contents of any publication are not subject to direct government restriction. Anybody can start a paper getting the declaration from a District Commissioner under the 'Press and Publication Ordinance, 1974' and the district authority has the power to cancel the declaration with or without sufficient reasons.

Most papers support the overall policies of the government but publish critical reports on government policies and activities, including those of the Prime Minister.

Some newspapers are published by big business houses and therefore follow some sort of independent line but their freedom is heavily restricted due to their financial dependence on government advertisements.

Among the three news agencies - Bangladesh Sangbad Sanstha (BSS) is owned by the Government and covers only government news. The other two news agencies, United News of Bangladesh (UNB) and the Associated Press of Bangladesh (APB) are technically independent, privately owned and affiliated with major international companies. APB has ceased its service for financial reasons.

Freedom of information is a powerful force for change in a society whether it is the news of political and social activities or of entertainment and cultural values. It can influence the process of evolutionary changes. But the political parties have limitations in the respect of a free press. Political parties always assess the freedom of the press on the basis of how much support or sympathy it gives them. An editor of a leading daily writes, "The moment the press writes against them, immediately it is either in the pocket of the Government or is supposed to be paranoid against it, depending on which side of power one is in. The press cannot be free and independent 'if it is against us' is the general attitude of all our political parties" (Anam, 1997). This tendency caused political activists to deliberately stop press people covering hartals (general strikes) from both sides, parties in power as well as in opposition. Attacks on journalists and newspapers are increasing whereby police excesses are also noticeable. The demonstration of anger and vengeance results from political intolerance and absence of democratic culture practised by mainstream political parties.

The government does not limit citizens' access to the Internet. Personal computers were waived from taxes until 2001 and later the application of nominal tax was imposed.

Film Censor Board constituted by the government reviews local and foreign films, and may censor or ban them on the grounds of state security, law and order, religious sentiment, obscenity, foreign relations, defamation and plagiarism. No films have been banned but some had to follow little alterations and cuts in contents.

10.3 How effective are the media and other independent bodies in investigating government and powerful corporations?

Although the press has expanded tremendously, the professionalism is still wanting. Due to some freedom of press, the explorations of information by journalists have become easier. Journalists have access to most information sources but the Office Secrets Act, 1923, which puts restrictions on official materials. The Administration is one of the vital news generating sources. A free flow of information from Administration can help national leaders to take quick steps and on exposing various loopholes in the system.

It is said that since the restoration of democracy in 1991, ministers, politicians, experts, businessmen and bureaucrats themselves have started saying that the Administration should be transparent. In this context, how do bureaucrats look at the free press. The sixth anniversary issue of the *Daily Star* (1997) says that they find very little difference between the concept of free press and that of yellow journalism. There is another group of bureaucrats who feel that free flow of information is desirable for the sake of democracy, transparency and it can even help bureaucracy to work efficiently.

Broadcasting parliamentary proceedings freely through the channel of radio, introduced after 1996 election, is appreciated by many people. Selective broadcast of parliamentary discussions through television had been introduced but on the criticism of the opposition it was stopped. Telecasting of parliament round-ups is still a long way to go in the face of accusation of monopoly of TV news and views by ruling political elite. The main opposition party does not allow BTV camera in its political activities on protest of the 'one sided version' of the Government. Ruling party activities as well as that of the government occupy the major time of news broadcast by both radio and Bangladesh Television. During the sessions of eighth parliament, private TV channels like Channel-I, ATN Bangla, and ETV were initially permitted to cover the proceedings but they were not allowed inside the parliament after a few sessions. Broadcast media's autonomy as promised by AL before election did not materialize.

10.4 How free are journalists from restrictive laws, harassment and intimidation?

Bangladesh press is free but governed indirectly by a couple of restrictive laws that in a way restrain freedom of expression. The restrictive laws date from 1923 to 1991. Though some of the laws relating to media are not enforced, those laws remain undeterred. Criminal Penal Code 500 and 501 are being used to arrest reporters, publishers and editors of the newspapers on charges of defamation. Despite electoral promises and declaration jointly signed in 1991 by mainstream political parties AL, BNP and Left Democratic Front (LDF) to scrap restrictive laws related to freedom of press, these restrictions remain intact.

Acting President Justice Shahabuddin Ahmed as the head of the interim government at the fag end of his tenure amended a number of laws including the Special Powers Act, 1974. Special Power Act was frequently used in the past to ban newspapers and to detain journalists.

Reporters Without Borders Report 2000, a Paris based organisation and Committee to Protect Journalists (CPJ), a New York based organisation, have documented the series of events on journalists killed, jailed, arrested, attacked, threatened including pressure and obstruction on journalists. As mentioned earlier, in 1999, police assaulted at least 40 journalists and photographers while political activists or religious fanatics attacked them. A worldwide survey by the Committee to Protect Journalists (CPJ) wrote that facing routine threats, harassment, and other attacks, Bangladeshi journalists continued to work at great risk as political and criminal violence went unchecked. Two journalists were assassinated: Mr. Illias Hossain, editor of the newspaper Dainik Bir Darpan, and Shamsur Rahman, a senior correspondent for the national daily Janakantha and frequent contributor to the BBC's Bengali language service (*Attacks on the Press in 2000*, New York, CPJ, 2001, p. 174.). A Reporters without Borders' (Reporters sans frontières- RSF) fact-finding team stayed in Bangladesh from 3 to 10 March 2002, where representatives had the opportunity to meet with journalists, managing editors, human rights activists, lawyers, the Minister of Law, Justice, and Parliamentary Affairs, the Principal Information Officer for the Government of Bangladesh, and families of murdered journalists. RSF reported, "Bangladesh—with 145 journalists

assaulted or targeted with death threats, one reporter murdered, 16 news rooms or press clubs brutally attacked and four journalists detained by the authorities in scarcely over eight months—is by far the country with the highest incidents of violence against members of the press” (RSF Network Mission Report, June 2002, Inquiry: Vincent Brossel).

The government and political parties have taken no steps to stop the violence. Professional bodies are now polarised into the line of two different mainstream political parties. There are several professional organisations like Bangladesh Federal Union of Journalists (BFUJ), Dhaka Reporters' Unity (DRU), Bangladesh Sangbadik Samity (BSS), Bangladesh Songbad Patra Parishad (BSP), etc, which are active in pursuing professional rights and privileges. On many occasions, these associations organised demonstrations and protests to oppose harassment and intimidation of journalists in the country.

In the absence of absolute standards it is considered desirable that the responsibility of the freedom of the press and the right of the citizen to privacy may continue to rest with the judiciary.

The editor of the *Daily Runner*, Shaiful Alam Mukul was killed on August 8, 1998 in Jessore. Another journalist of *Daily Janakantha*, Shamsur Rahman was killed in Jessore on July 16, 2000. Both were known for their critical writing. On April 1, 1999 police thwarted a plot to kill the *Dainik Janakantha* correspondent in Jessore. Professional killers, apparently hired by the gangs that control drug and arms trafficking in the region, had been planning to murder Shamsur Rahman in his office, appeared in an annual report of the Reporters Without Borders (*Report 2000*: 2000:167).

Taslima Nasrin, a journalist as well as novelist was the victim of a campaign of harassment by fundamentalist Muslim groups. She returned to Bangladesh in September 1998 after four years in exile, left again in January 1999 because she felt threatened. Her books, “Lajja” and “Utal Hawa” are banned.

10.5 How free are private citizens from intrusion and harassment by the media?

There are allegations that some individuals like businessmen and high officials are being blackmailed by so called 'journalists' and 'local correspondents' in different parts of the country. On many occasions media disturbs an individual's personal life.

Some newspapers have occasionally been careless and published names and addresses of rape victims. Many newspapers do not publish such names. Publication of gruesome pictures of violence and accidents in print media generally upset readers and is regarded as 'unethical'.

10.6 What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?

The demand for the autonomy of the electronic media, Radio and Television that was initiated by AL party during its tenure was instrumental. After AL came to power in 1996 a commission was constituted to examine the situation and to provide autonomy to electronic media. The commission report was submitted to the government but steps towards the goals are yet to be taken.

Civil society movements of recent days and professional obligations could make the newspapers more responsible on some points. The name of the rape victims are not being mentioned in newspapers but the names of males who are responsible for the act are published instead. Newspapers are organising debate on public issues and organising funds for acid-burnt victims, kidney patients, polio patients, etc.

As RSF's correspondent Saleem Samad pointed out, "Journalists are better trained and braver now. When they investigate transparency of civil and military bureaucracy, and democratic accountability of elected representatives, their investigative efforts make the bureaucrats more vulnerable. The political class - especially the local one - are unable to accept these positive changes."

There is also a demand from the media professionals to enact a law on the right to information. The Press Council is established to preserve the freedom of the press and to maintain and improve the standard of newspapers and news agencies in the country. The Press Institute of Bangladesh (PIB), National Institute of Mass Communication (NIMC), Film Development Corporation (FDC), and Film Archive are engaged in pursuing activities toward the development of a concerned media.

III. PARTICIPATION AND GOVERNMENT RESPONSIVENESS

11.0 Political participation

Is there full citizen participation in public life?
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Summary assessment

There are several voluntary and civic associations, and most have overcome their early uneasy relationship with government. They display diverse objectives, sectors of operation, and target populations. Only a third of formal sector employees are, however, unionized. The poverty of the country has obliged people to support each other; the preponderance of cooperatives is evidence of this. Reservations have ensured female presence in political and public life, and further development of local government will show the success of the policy. Constitutional equality of access across social groups to office is failed by the practical means to office, principally education and wealth. Equally, minorities would find it difficult to command votes in sufficient numbers. Local bodies are more representative than parliament. Hierarchy and socio-economic inequality impose limits to redress of this problem, but a beginning is being made by institutional and legal interventions.

11.1 How extensive is the range of voluntary associations, citizen groups, social movements etc. and how independent are they from government?

Bangladesh has a very wide network of voluntary and civic associations. There are both registered (with government bodies) and unregistered associations. Unregistered associations are run with their own fund and carry out their activities almost freely. Whereas the registered associations are eligible to get funds both from domestic and foreign sources and as a cost of that they have to abide by certain rules and regulations. Of course, the stringency of the regulations is decreasing gradually. The present situation reflects an accommodative attitude on the part of the government creating a cooperative framework for the government and NGOs. The following lines give us the present picture and trend:

NGOs themselves are co-operating more directly with government. Until recent years there was something of a stand-off: NGOs dismissed the government as inept and corrupt; the government accused foreign-funded NGOs of undermining their authority or even threatening national sovereignty. Now the atmosphere is mutually more tolerant and productive. NGOs are less defensive, and the government is anxious to involve NGOs not just as agents for planning and delivering services locally, but also as partners in planning at a national level. The National Environmental Management Action Plan was a pioneering example where NGOs took the initiative in enabling community participation. But since then officials have been keen to invite NGOs to contribute in many other areas (UNFPA, 1997: 8).

These associations are again divided into different categories owing to the nature of their work (credit, conscientization and advocacy), areas of operations (urban and rural), clientele or better known as target group (women, children, peasants etc.). Associations are mostly concerned with the material well being of the people involved. The important sectors in which these associations are involved are health, family planning and sanitation; education (adult and non-formal primary education); social forestry, agriculture, poultry, livestock, fisheries and sericulture.

Voluntary associations have a long history and their existence may be traced back to the British colonial period when they organized relief and welfare activities. Their transformation into the agents of development is a post-colonial phenomenon (Siddiqui, 1998: 297-328). Today, according to Fazle Hasan Abed, the Founder and Executive Director of the Bangladesh Rural Advancement Committee (BRAC), NGOs have been working in about 50,000 out of 68,000 villages in the country. About forty lakh families have benefited from the NGO sector (Abdul Quddus, 1999: 241-246). Urban associations are student organizations, cultural bodies, professional groups and trade unions. Students have a very rich tradition of fighting for democracy and human rights. They played a very important role in language movement in the 1950s, against the dictatorial regime of Ayub Khan in the 1960s, in the organization of the historic liberation war in the late 1960s and in the liberation war itself in 1971. In independent Bangladesh also students came

forward to face, fight and win over the undemocratic elements including bringing the downfall of the dictatorial regime of Hossain Mohammad Ershad in 1990. Different cultural bodies and professional groups also played an important role in this downfall. However, student organizations, trade unions and even cultural groups are often aligned with one or the other political parties.

Based on the right guaranteed to the citizens by Article 38 of the Constitution, the workers in different industrial undertakings can form trade unions in order to protect and enhance their rights and privileges. Bangladesh being a signatory to International Labour Organization (ILO) and other Conventions, it allows union activities to promote workers' rights and their freedom to bargain for wages and other benefits with the employers (Akkas and Ferdous, 1998: 143-165). However, the number of trade union is not large. As of 1995, there are only 4,796 trade unions with a total membership of 1,720,679 (Talukder, 1997). This means unions represent only a little over one-thirds of the formal sector employees (Akkas and Ferdous, 1998: 153).

11.2 How extensive is citizen participation in voluntary associations and self-management organizations, and in other voluntary public activity?

It was reported in Section 11.1 above that Bangladesh has a very wide network of voluntary and civic associations. It is a resource poor country with heavy population pressure on land and, hence, people in this country have always been trying to solve their problems collectively. The first co-operative society in this country was formed in 1904. Since then the number of co-operative societies have gradually increased recruiting more and more members. It has been reported that there are nearly 147,000 co-operative societies in the country today with a total strength of about 7,557,000 members. Table 4 gives a picture of the nature of the societies, their number and people associated with them as members (See Quarterly Statistics of Bangladesh of Co-operative Sector, Government of Bangladesh, June 1999, p. 2).

Table 4: Cooperative Societies in Bangladesh in 1999

Nature of co-operative societies	Number of societies	Number of members
Farmers	74,259	29,96,079
Rickshawpullers	461	37,938
Autorickshaw drivers	327	4,13,046
Tempo drivers	95	NA
Industrial workers	1,596	3,24,410
Milk producers	301	34,932
Fishermen	3,349	3,76,653
Housing societies	158	31,525

The Government of Bangladesh has also been organising different self-managed activities for the unemployed youths, both male and female. The objective of this programme is to provide training and credit to the unemployed youths so that they can engage in self-managed economic activities. The youth development directive has provided training to 828,026 youths so far and an amount of Tk. 211 crores has been given to them as loans (See the National Youth Festival, 1999: 4). Another organization, *Karma Sangsthan Bank*, which started its activities only in 1998, has also been engaging people in different income generating activities. They provide credit to both individuals and co-operative societies countrywide. They have distributed 12 crores of taka so far. The **Vulnerable Groups Development (VGD)** project, aided by World Food Programme (WFP) and implemented jointly by WFP and Union Parishad, is currently the largest development project for the poorest women living in the rural areas. The project aims to improve the socio-economic conditions of its target group so that they can sustain themselves above the “hard-core” poverty level. Under the project, the women are organized into groups and provided with skills training, savings and credit facilities. Women are provided with assistance under four sub-projects namely Union Parishad Vulnerable Groups Development (UPVGD), which is the main VGD project utilising almost 90% of all VGD resources. The VGD includes Women’s Training Centres (WTC), Institutional Feeding and Development Centres (IFDC) and Group Leader and Extension Workers (GLEW). The impact evaluation studies have indicated that the VGD Project has an excellent targeting mechanism. It has also

shown that VGD women with access to development services including credit are more likely to improve their economic position than women not receiving a development package (World Food Programme, 1996: i-ii, 3). There are also more similar community based initiatives where rural citizens voluntarily participate.

11.3 How far do women participate in political life and public office at all levels?

The Constitution of the country guarantees women's human rights and fundamental freedoms. Articles 9, 10, 27, 28 (1 - 4) and 65(3) call for equality of women with men and ensure women's participation in national and local politics. The Constitution further permits the Government to make special laws for improving the status of women. This has made it possible to reserve seats in elected bodies and to introduce the quota system in employment even though reserved seats in the parliament was already in practice during the seventh parliament when they had 30 seats. In different tiers of the local government bodies, there are also provisions of reserved seats for women. In recently enacted Zila Parisad (district council) Bill, there will be five seats reserved for women for each Zila Parisad. For each of the Upazila Parisad (sub-district council), Union Parisad and Gram Parisad there is the provision of three seats reserved for women. In order to increase the participation of women in public offices, the Government has introduced a quota system for women. Presently 10% gazetted and 15% non-gazetted posts in the Government offices and equivalent number of posts in the autonomous bodies are reserved for women.

In government primary schools, 60% of the posts are reserved for girls. The previous government of Sheikh Hasina came up with a policy decision to recruit women in the regular Army and the response from them is very encouraging. As one high official of Army said, "We have been very encouraged by the large number of female applicants. It is beyond all expectations" (*The Daily Star*, August 18, 2000). It may be mentioned that 15,000 females applied for officers' posts in the Army in the first batch, which was double that of male applicants. There were 38 women members in the seventh Parliament along with 30 from the reserved seats. Among

the directly elected women members, one is the daughter of the first assassinated president and the other a widow of another assassinated president, both who were the Prime minister and leader of the Opposition respectively. The special provisions are also made for women representation in local bodies. In the last union parishad elections held in 1997 nearly 14,000 women were elected to 4,400 union parishads mostly from reserved seats and a handful as members and chairmen from general seats (Zarina Rahman Khan, 2000:4). However, 44,134 women ran for 12,828 posts in 4,276 unions (Shehabuddin, 1999). Along with women the Constitution also provides special representation for peasants and workers (Article 9).

11.4 How equal is access for all social groups to public office, and how fairly are they represented within it?

The Constitution of the Republic provides for equality in all spheres. Articles 27, 28 and 29 contain equality provisions. Article 27 says that all citizens are equal before the law and are entitled to equal protection by the law. Article 28 (1) lays down that the state shall not discriminate against any citizen on grounds of religion, race, caste, sex or place of birth. Similarly Article 28 (3) says that no citizen shall, on grounds of religion, race, caste, sex or place of birth be subjected to any disability, liability, restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution. Article 29 (1) says “there shall be equality of opportunity for all citizens in respect of employment or office in the service of the Republic”. In order to give special assistance to marginalised groups of citizens, the Constitution maintains provisions for the state to make necessary arrangements and, therefore, Article 29 (3) clearly lays down that “nothing in this Article shall prevent this state from:

- a) Making special provision in favour of any backward section of citizens for the purpose of securing their adequate representation in the service of the Republic;
- b) Giving effect to any law which makes provisions for reserving appointments relating to any religious or denominational institution to persons of that religion or denomination;

- c) Reserving for member of one sex any class of employment or office on the ground that it is considered by its nature to be unsuited to members of the opposite sex.

Constitutional provisions thus maintain equal opportunities for all to be represented in public bodies. But the reality is far too different. Minorities and poor people are never adequately represented. It is true that there is no bar to contest for the election for different bodies. But the very high cost that an election incurs keeps out the poor and disadvantaged sections of the population from representation. The observation made by Professor Rehman Sobhan, Chairman of the Centre for Policy Dialogue reflects the reality. He observes, "Unfortunately, democracy is a rich man's game in Bangladesh. Business is the primary or secondary occupation of about 75 per cent of the elected representatives. This process excludes the poor and the women from representative bodies." (*The Daily Star*, 11 August, 2000) Another author, Professor Imtiaz Ahmed depicts the situation as follows:

The present organization of electoral politics, in so far as it caters to win the votes of the majority section of the prospective voters, is bound to reproduce majority-minority dichotomy. This has critical implications for a country which is pluralist and has a number of historically-constructed communities or sub-national groups. (Imtiaz, 1997: 79)

In the seventh Parliament there were only 11 male and 3 female members belonging to minority communities (Hindus 8, tribal Buddhists 3 and Hindus 2, tribal Buddhist 1). All the three female members came from seats reserved for women. Taken together, minority groups occupied only 4.24 per cent seats in the Parliament, though they form nearly 12 per cent of the total population. The overall female representation was insignificant. There were only 8 women members from the general seats. With 30 members from the reserved seats, they occupy only 11.5 per cent of the seats. In the eighth parliament only five persons of religious and ethnic minorities got elected. The situation in the local councils is slightly better than that of the Parliament (Article 65). The factors like low literacy of the general population and urgency of earning a living among the

poor people tend to limit the scope of political participation of the poor and disadvantaged beyond the local councils.

11.5 What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public support do they have?

The government has been trying to improve the situation in a number of ways as stated above. Laws have already been passed to institute local government at Zila (district), Upazila (sub-district), Union and Gram (village) levels. Elections to Union Parishads have already been held. The previous government of Sheikh Hasina was very keen to hold elections to other bodies as early as possible. But the elections could not be held due to the general demands by the then opposition political parties to hold all these elections under the caretaker government. They have now come to power and have expressed their desire to hold elections to local bodies as early as possible.

12.0 Government responsiveness

Is government responsive to the concerns of its citizens?
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Summary assessment

The parliamentary system is designed for public consultation, but the specifics of Bangladesh have sacrificed this potential. The result has been secrecy in government dealings, and "unconsulted legislation". Local government, NGOs, and the introduction of various parliamentary practices may help. MPs are generally approachable and infrastructure development has aided this. But vast constituencies and general illiteracy have encouraged and facilitated the growth of intermediaries. Public services have improved but are still insufficient. Despite various weaknesses, the government's performance on various fronts earns spontaneous approval, such as the country's unanimous election to the UN Security Council. Public opinion may also force a government decision, as in the award of salaries to non-government education establishments. As an effort to improve consultation and responsiveness, the government must reach an understanding with opposition.

12.1 How open and systematic are the procedures for public consultation on government policy and legislation, and how equal is the access for relevant interests to government?

Parliamentary practice and procedures provide ample scopes for public consultation on policy and legislation through the Members of Parliament (MPs). But the long-standing practice of the opposition members of boycotting the parliamentary proceedings has squeezed the scope to a great extent. Thus a main grouse of the then opposition had been that it was not taken into government confidence on the matter of CHT accord. The hasty parliamentary passage of the now defunct Public Safety Act (1999) is a more recent example of unconsulted legislation. Lawyers, academics, and human rights workers have continued to protest to no avail. This reluctance to include the official opposition and key professional groups in a critical piece of lawmaking reveals insular, inscrutable procedures. 'Relevant

interests' do not enjoy equal access. Numerous studies have been made of emerging elites, (Maniruzzaman, 1982) labeling them conveniently as a 'middle class'. The component groups can act as a pressure group, each coming to prominence at a special time, but are not a consistent group in any sense.

None of these says anything about the bulk of the populace outside the charmed circle of recognized interests. The majority of the population has limited chances to influence government policy directly but they are in constant contact with their MPs. However, there have been successful local government elections in recent years, and channels for representation at central level may form. The potential for consultation has been heightened due to the creation of a four tier local government system where people even at the lowest level of the society will get chance to represent and be represented in the system of governance. Even the marginalised groups of the population will have the representation in these local bodies. As for example, there will be three seats reserved for women in each of the Gram Parisad, Union Parisad and Upazila Parisad. Because there are interrelations and interactions between and among these different tiers of the local government, i.e. the Gram Parisad (village council) and the Zila Parisad (district council), the practice of committee system in the parliament as well as in the local bodies and Prime Minister's 'question-answer' session in the parliament have thus widened the scope of consultation. However, the committees in the present parliament are yet to be formed and the Prime Minister's 'question answer' session has been suspended. The wide network of NGOs throughout the country has also enlarged the gamut of consultation. An example of government failure to consult can be best demonstrated by the government's decision to construct an International Centre in Dhaka for the purpose of hosting the next Non-align Movement (NAM) Summit in the city. The original idea was to construct the Centre in the heart of the city amidst tree-covered public grounds. The implementation of the government decision would have required the cutting-down of a large number of trees that could cause adverse effects for the environment. However, following public announcement of the decision, public outcry across the country forced the government to cancel the plans.

12.2 How accessible are elected representatives to their constituents?

Elected representatives are comparatively accessible to their constituents. There are 300 MPs and almost every Upazila has got one MP. Most of the MPs make visits to their constituents regularly. This becomes more so when a new election approaches. The development of communication network has also facilitated larger numbers of visits by MPs and Ministers to their constituencies. The tense relation between the MPs and the Upazila chairpersons is another reason for regular visits to constituencies by MPs. Rivalry between them often motivates MPs to keep a close contact with his/her constituency. Furthermore, the opposition MPs have regularly been boycotting the Parliament sessions and, therefore, they visit their constituents often to inform them of the reasons for their boycott. As a byproduct, the outcomes of the above political situation have in turn created avenues for people to meet their representatives more frequently.

During their visits the MPs belonging to both government and opposition political parties assure their electors that they would always work for the improvement of the constituencies and people. Each MP is entitled to distribute goods worth Tk. 25,000,00.00 in his or her constituency. The government party MPs are, however, in a better position, because they can in addition to their own allocation, influence the government to award extra grants for development activities. Opposition MPs talk of ensuring better government. Representatives at the lower levels i.e., UP chairmen and members are mostly engaged in distributing Vulnerable Group Feeding (VGD) cards, relief materials and dispensing petty justices to their electors. In all these cases, the local party functionaries are usually found to play a crucial role, which some times creates barriers in the interactions between representatives and the electors. Popular accessibility to elected representatives seems to be positively correlated to the establishment of a stable political system in which power transfer takes place only through elections. That possibility has gained ground because of the constitutionally accepted system of caretaker government to administer general elections.

12.3 How accessible and reliable are public services for those who need them, and how systematic is consultation with users over service delivery?

In Section 7.1 it was stated that Bangladesh is a resource poor country, with most of its development projects being implemented with the help of foreign aid. The situation has improved and the country has already made remarkable progress. In food production, in public health, in family planning, and recently in education, Bangladesh has taken strides that would have seemed impossible a few decades ago. In terms of social organization it has also produced an array of vibrant NGOs, and in the political arena it is now opening up a new phase of democracy. Yet millions of its people have yet to benefit fully from these developments. As a result half the population struggle for survival below the poverty line, and a quarter of a million children die each year before their fifth birthday.

Another dimension of the problem is the differences in the possessions of goods and services due to the differences of communal identities. The former State Minister for Planning, Dr. Mahiuddin Khan Alamgir in his address to the inaugural session of the Bangladesh Economic Association, observed that the poverty situation in the country had improved but people belonging to marginalised sections and tribal groups are still poverty stricken (*The Daily Sangbad*, August 11, 2000). Jyotirindriya Bodhipriya Larma alias Shantu Larma, Chairman of the Parbattya Chattagram Jana Sanghati Samity (PCJSS), in his address to the rally organized by the Jatiya Adibashi Samanaya Committee in observance of the World Day of the Indigenous on August 9, 2000, complained that the tribal people are still deprived of their social, political and economic rights. He further said, "Besides the CHT people, ethnic minorities all over the country are fighting to protect their fundamental rights which are at stake due to discrimination and repression on them" (*The Daily Star*, August 10, 2000).

The demands for public consultations are old. However, the demand for consultation has now greater appeal and impact due to the spread of education, free flow of information and wide network of NGO activities. Thus the demand for public consultation is not an NGO demand but NGOs have played and have been playing a very important role in this respect. On February 3, 2000 a civil society

organization named Oikyabaddha Nagorik Andolon (United Citizens' Movement) in collaboration with Association of Development Agencies in Bangladesh (ADAB), the national apex forum of local, national, and international NGOs, organized a mammoth citizens rally in the Dhaka city demanding an end to anarchy, misrule, exploitation, injustice and fundamentalism. Tens of thousands of people from across the country converged at the rally place, where the organizers declared their charter of demands which included strengthening of democracy, ensuring good governance and free election, fighting communalism and corruption, empowering women, eradicating poverty, protecting environment and resisting the enemies of independence (*The Daily Star*, February 4, 2001).

The increasing importance attached by the government to the 'bottom up' approach in planning in place of the age old 'top down' approach is an indicator to the importance of consultation. Moreover, the MPs, ministers and government officials are found to attend conferences, seminars, discussion sessions where the act of consultation takes place more structurally among the participants.

12.4 How much confidence do people have in the ability of government to solve the main problems confronting society, and in their own ability to influence it?

As stated in section 7.2, the present government is a democratically elected government and it has the credibility as well as acceptability of the people. However, a combination of allegations by the AL that the elections of 2001 were rigged, the post election torture of religious minorities as well as political opponents have reduced the level of popular acceptance. In addition, some decisions such as the closure of the largest and oldest Jute Mill in the country, the ban on the two stroke engine run motor vehicles in the Dhaka city, reducing the rates of interest on different savings bonds and certificates, etc have reduced the government's popularity. Moreover, the government has failed to make much headway in controlling miscreants, checking corruptions, and improving the law and order situation. The previous government of Sheikh Hasina was in a better position. Other than the fairness and neutrality of election (12 June 1996) that put that government to power, some subsequent measures taken by the government to solve important issues had widened the horizon of the government's acceptability to the people. Beyond the

national boundary, the government was also credited by certain international events such as the election of Bangladesh to the UN Security Council for the second time (with 100% support), winning of the UNESCO Peace Prize by the Prime Minister, etc. The people could also influence the government in its behaviour and activities. Popular opinion worked successfully to help government in reaching the decision on whether or not to sign the Status of Forces Agreement (SOFA) in 1998. Again, popular demand compelled the government to create provision for paying 80% of the salaries to the non-government school and college teachers and staff. The government also wanted to give effect to the demand from the people, particularly from women and their organizations to amend the Constitution. For example, to create the provision for 64 reserved seats for women in place of the prevailing 30 seats.

In general, the public accepts the government and notes its responsiveness. However, it is said that “transforming a country like Bangladesh into a modern state, where parliamentary democracy is conducted in parliament, and where public servants serve the public, will place heavy demands on the country’s leadership. But it will also be much more demanding of its citizens. This form of government only thrives with informed public consent - from people with a positive vision of the country’s future, and who expect more, and demand more, of their leaders” (UNFPA, 1997: 9).

12.5 What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of political priority and public do they have?

The success of parliamentary democracy heavily depends on the cooperation and consultation between the government and opposition legislators. But in Bangladesh, for the last ten years the opposition legislators have been boycotting the Parliament; though both of the parties feel that they should work together. The Government has always been saying that they want to make the Parliament ‘the Centre of Administration’. The sooner the conflict between the government and opposition legislators can be resolved the better. Issues like the representation of different marginalised groups of population in public services and elected bodies can be addressed by making special provisions already sanctioned by the Constitution.

13.0 Decentralization

Are decisions taken at the level of government, which is most appropriate for the people affected?

Summary assessment

There is a long standing tradition of local government, but it has not exercised much independence. The shaky status of the Upazila is an example; it remains to be seen how this tier will develop. An encouraging feature is the wide interest in local elections. Cooperation with relevant external agencies is more feasible at local level than national; local bodies are mandated to involve local partners as the latter are seen to enjoy popular trust and participation. A start has been made with the enactment of laws, but more practical outcomes such as in development programmes or taxation remains to be seen.

13.1 How independent are the sub-central tiers of government from the centre, and how far do they have the powers and resources to carry out their responsibilities?

While a system of local government has long existed, it has not been allowed to develop enough to exercise much independence from the center. In 1982, administrative reforms added an Upazila or sub district level to the traditional three levels and vested it with administrative, economic, and judicial authority. In November 1991, the 1982 reforms were 'cancelled' though elections had been held to 460 Upazilas six years before (Banks et al, 1989). The Local Government (Union Parishad) Second Amendment Act 1997 provides the mandate for elected councils backed by bureaucracy. These are ostensibly nonpartisan and offer participatory potential, especially as they bear tax raising and budgeting powers, are consulted on development projects, and are authorized to recruit their own staff. The UNDP is committed to train 60,000 members of local government in over five years (Shehabuddin, *op. cit.*)

“Citing the need to decentralize to better involve and benefit the nation’s citizens, the government proposed the establishment of a four-tier local government system in mid 1997 Elections were held throughout December 1997 for the positions of members and chairpersons in union *parishads* (UPs). They have been hailed as an important step forward involving the people in the task of nation building and democratic development. The level of excitement surrounding these elections was such that in Sylhet, for example, people even returned from overseas simply to participate in the elections. Particularly impressive, however, was the high participation of women, not only as voters—as had already been the case in the 1996 parliamentary elections – but also as candidates. To be precise, 83% of female voters went to the polls, while 44,134 women ran for 12,828 posts in 4,276 unions. The Upazila Parishad Bill has been enacted by the Parliament in 1998 which is known as Local Government (Upazila Parishad) Act, 1998. The Act proposes to make the *Upazila* or sub-district level the most important tier of local government. Critics have, of course, objected to clauses in the Act that give the government, rather than the Election Commission, the authority to frame the rules of the election as well as “to dissolve the *parishad* under certain circumstances...” (Shehabuddin, *op. cit.*) The Zila Parishad Bill has also been enacted by the Parliament on July 3, 2000 which is known as the Local Government (Zila Parishad) Act, 2000. According to this Act, the Zila Parishad will consist of one Chairperson and twenty members including five women members from the reserved seats indirectly elected by an electoral college consisting of the Mayor and Commissioners of the City Corporation, where it exists, Chairpersons and Commissioners of the Pourashavas (Municipalities), Chairpersons of the Upazila Parishads and Chairpersons and Members of the Union Parishads. The MPs of the districts will be advisors to the concerned Zila Parishads. The indirect nature of election as well as a provision for the appointment of District Administrators by the Government and that the Parishads are elected have been criticised by the opponents. The Parishad is supposed to review all development activities of the district and undertake some important tasks such as setting up of agricultural farms, taking measures for disbursing agricultural loans etc.

Tier-chart of the Local Councils

Zila Parishad
(District Council)
(Including all Upazila chairs)

Upazila Parishad
(Sub District Council)

(Only chair elected; 3 women elected by Union women members from the reserved seats from amongst themselves)

Union Parishad
(Group of villages)
(Chair and all members are elected)
Gram Parishad
(Village Council)

(All members are elected except the head of the Parishad who is elected to the Union Parishad as a member from the ward)

(Total Membership in 1997: approx 60,000, at least 20% women)

Zilas: 64 Upazilas:460 Unions: 4,000 Grams:68000

Source: Based on Shehabuddin (1999).

The durability of Upazila as the ultimate unit of devolution lends it some credence: a district would be unwieldy and a 'union' too limited. A sub district or Upazila, comprising 10 unions at most, would appear to be a rational unit for disbursing benefits or administering territory. However, their declared non-party affiliation, government control of their election, and the neglect of some 'groups' such as peasants and workers while providing for women, suggests that local government is a politically charged issue.

The introduction of the directly elected UP women members in the election of 1997 has not changed the nature of the relationship between UPs and the central government. UPs have still to look at the central government for development grants and hence to work according to different instructions issued by the central government from time to time. However, it has brought a change in the status of women members who are directly elected, though from the reserved category. One woman under this category is elected from a constituency consisting of three different wards, which are represented by three members elected under general category. However, due to the lack of cooperation from the men counterparts, the women members find it difficult to discharge their responsibilities to their electors. They communicate their problems to the government, which has responded positively. The present situation is as follows:

(UP chairmen are) instructed to take necessary measures for forming five additional standing committees... for facilitating women's participation as chairpersons in at least one of the standing committees... the ceiling of UP implemented project value (has been) increased from Tk. 10,000 to Tk. 25,000 each and the number of projects implementable by each UP (has been increased) from five to eight... women UP members will have to be chairpersons of one-third of the PICs (Project Implementation Committees); and women members not handling PICs because the one-third quota requirement will compulsorily have to be members of the PICs... a woman UP councilor will be member of the committee formed for site selection of tube-wells in the three wards from which she is elected (Zarina Rahman Khan, 1999: 9-10).

See also Section 1.4 for a discussion on the special features of Chittagong decentralization and the threat that it will create for the country.

13.2 How far are these levels of government subject to free and fair electoral authorization, and to the criteria of openness, accountability and responsiveness in their operation?

The city corporations and union parishads covering town and country respectively are the cutting edge elected bodies. Nonpartisan local elections always elicited high interest. Post-Ershad party politics began to look beyond the Sangsad. This is a more hopeful trend than the learned habit of street politics, which are all abrasion and no resolution.

Ahmed (1995) records an increase in candidature from 2.9 in 1994 and 3.7 in 1973 to 4.5 in 1992 per union parishad seat. Not to be outdone, the 1994 (urban) corporation elections showed a national mean of 7.5 for (mostly non-party) commissioners and 12 for mayoral posts (actively partisan). In contrast with the rural poll, female filing of papers was negligible even in Dhaka wards.... 'The government policy of reserving a percentage of seats for women in both local and national councils also has the paradoxical effect of discouraging the parties from nominating female candidates for general seats. What most parties do is that they utilize their energies to capture as many general seats as possible in the knowledge that whichever party can claim an absolute majority of general seats is automatically assured of the seats reserved for woman' (ibid).

The maturation of the Election Commission adds credibility to each election it oversees. Despite its inability to enforce most guidelines in 1994, the Commission's strident warnings did pay off. The main parties' own interest in assessing the real extent of their support, and the ruling BNP's need to appear responsible.

Maturation of locally elected bodies is the next step: They may be forced into greater openness, accountability, and responsiveness than their elders in Dhaka. Ahmed (op cit) suggests the 1994 municipal poll has shown that only multiparty competition can aid such democratization, though parties are still formally banned and were therefore only proxy for the candidates. However, it may be

mentioned here that the voter turnout in the 2002 City Corporations Elections was very low, mainly due to political reasons.

13.3 How extensive is the co-operation of government at the most local level with relevant partners, associations and communities in the formation and implementation of policy, and in service provision?

Co-operation at the local level can be achieved a bit easily in comparison to the national level. The decision to delegate authority and devolve administrative as well as development functions to the grass roots level is guided by the objective to induce faster and appropriate development through the direct participation of the local people. This helps in identifying the local problems as well as needs, in formulating development plans of projects - involving local people. This ensures transparency and accountability, the two most important matters that are considered very much in case of co-operation and joint venture. The local councils are also provided with some mandatory rights and privileges to organize and ensure participation of different development agencies within their respective boundaries. For example, Union Parishads have the right to review the development activities of all agencies at the Union level and to make recommendations to Upazila Parishads or Thana Parishads. The local government representatives at the village level are instructed to work for the implementation of local plans in co-operation and involvement of the local people. Some of the other factors that help greater co-operation to take place at the local level are close proximity of homes and hearths resulting in the continuous interactions among the people. Today people are very conscious and ready to put all their efforts to work together in order to develop their locality with the hope of bringing changes to their lives.

The government has recognised that NGOs have largely progressed and grown in size and that they are important civil society actors. This recognition has resulted in the creation of institutionalized mechanism of policy dialogue between the government and NGOs through their apex and network bodies, Government-NGO Consultative Council (GNCC).

NGOs have also entered into partnerships with government on health and education projects, i.e. in vaccination projects, girls' education and awareness campaigns. The World Bank has identified three types of collaborative arrangements between government and NGOs at programme implementation level, which are (i) sub-contract (most common practice), (ii) joint implementation (seldom practiced), and (iii) government as financier of NGO projects (growing importance in the micro-credit sector, e.g. under the umbrella of the *Palli Karma Sahayak Foundation* (PKSF)). Partnership arrangements between government and NGOs are in place in many donor-supported projects, e.g. the European Commission supported Integrated Food Assisted Development Project (IFADEP) or the Adarsha Gram (ideal village) Project. In general, collaboration appears to work well in social sectors such as health and education. It works less well on issues of enhancing the poor's access to land, water and forest resources (Berthed Kuhn, 1999:17-18).

13.4 What measures, if any, are being taken to remedy publicly identified problems in this field, and what degree of priority and public support do they have?

The rejuvenation of town and country in 1994/2002 and 1992/1997 respectively by means of local elections is itself a successful measure against centralized hyperactivity. But for this aspect of democracy to acquire any depth, local government must receive equal priority and public support. Its integration with development activity, tax and distributive powers, and independence from the center lie in the future. By now laws have been enacted for Upazila (sub-district), Zila(district) councils and the government is very keen to see that elected bodies are established at all the four tiers. Our experience is that in all previous local elections, people's response as well as participation was very positive. However, BNP and its allied political parties had reservation with regard to the upper two tiers i.e., Upazila and Zila Parishad. Because, Zila Parishad (Local Government (Zila Parishad) Act, 2000 was passed by the Parliament in their absence and Upazila Parishads were abolished by the BNP government when they came to power in 1991. BNP is now in power. They have decided to continue the present structure of local government and, in the meanwhile, hold elections for urban local bodies.

IV. DEMOCRACY BEYOND THE STATE

14.0 International Dimensions of Democracy

Are the country's external relations conducted in accordance with democratic norms?

Summary assessment

The dependence of the country on foreign aid weakens its international position. An energetic Diaspora makes healthy remittances, but its precarious living conditions make this source uncertain. Exports are subject to stringent trade regimes. Hence, a degree of economic subordination looks set to continue, and Bangladesh is not a partner so much as on the receiving end. Effective aid utilization is a live issue, and political conditionality has joined earlier demands. Bangladesh is a signatory to a number of human rights conventions. Appropriate 'enabling' of national legislation is being considered. Rights groups accuse the government of half-hearted measures on gender and other questions. Bangladesh's treatment of Myanmarese refugees has been satisfactory though there have been some complaints over methods, but the larger question continues to be that of 'urban refugees', raising the question of their citizenship and social integration. But the absence of a refugee law means that applicants are treated as foreigners. Overseas, the country has had a respectable record opposing apartheid, supporting Palestinians, and contributing to UN peace operations and restoration of democracy. Improvement on the international front requires prior decision on development strategy and the role of foreign resources. Media and parliamentary debate can help reach a national consensus. Bangladesh must accede to all rights conventions.

14.1 How free is governance of the country from subordination to external agencies, economic, cultural or political?

One may say that in this age of globalization no country is subordinate to the other. It is a question of interdependence and balance of rights and obligations, to what extent they are violated

and redress to access to justice. In that context, Bangladesh is not in a good condition.

There are savings and investment gap, and in order to fill that gap the country needs foreign investment or foreign aid. It is quite dependent on flow of external finance, and caprices of that flow. To a great extent these are subject to changing priorities of the country of origin over which the recipient has no control. Secondly, each year Bangladesh receives about USD\$2b in remittance. The migrant workers, who send this money, are subjected to rigorous immigration rules. In spite of liberalisation of capital and goods flow, labour has remained virtually the most immobile factor of production. Opportunities of work are very much dependent on economic and political situation of the host countries. Bangladesh has no control over this situation. Thirdly, Bangladesh has espoused export-oriented strategy for foreign exchange earning; it is also a source of employment. Clothing sector is the most important sector in this respect. Readymade garments (RMG) export is regulated by Multi-fibre Agreement (MFA) and is subjected to various kinds of Non-tariff Barriers (NTB), including social and economic labeling, sanitary standards – all these deter exports. Market access is affected by countervailing measures such as unfair anti-dumping factors. All these are beyond control of Bangladeshi entrepreneurs and government. In addition, the migrant workers are currently working overseas in the following countries that can sometimes make labour rights monitoring difficult: India, Saudi Arabia, UAE, Thailand, Sri Lanka, Turkey, Philippines, Iran, Belarus, Ukraine, South Korea, Yugoslavia, Sweden, Germany, Nepal, Japan, Myanmar, Pakistan, Spain, Qatar, Hong Kong, Indonesia, USA, Oman, Bosnia, Latvia, Hungary, Lithuania, Poland, Maldives, Malaysia, etc.

Bangladesh is very much concerned with the regional environment and the turbulent situation in the region. The Prime Minister Sheikh Hasina's visit to India and Pakistan in 1998 in the post-nuclear explosion time in 1998, her concern with the successful operation of South Asian Association for Regional Co-operation (SAARC) and her initiative in the formation of the Association of Asian Parliamentarians for Peace (AAPP) are all testimony to the fact that the nation is in favour of peace.

14.2 How far are government relations with external donors based on principles of partnership and transparency?

There has never been a relationship of partnership. It was always donor-client relationship, though the situation has varied. Bangladesh has failed to put up a complete plan with all operational details for the development of the country and utilization of foreign aid. Aid basket is the amalgam of bankable projects – those projects in which donors are interested. This brings erosion of efficiency in the use of money. Nowadays the concept is better appreciated by the donors. In that sense there has been a conceptual reorientation of the donors and institutional capacity of recipients. Partnership so far has been an illusive objective though there is an increasing recognition of partnership as a participatory process.

Conditionality and aid utilisation are two important areas of contention in donor recipient relationship between Bangladesh and its development partners. Bilateral donors are guided by policy-making considerations in their home countries. Questions such as ‘promoting democracy’ and ‘market mechanism’ are often pushed by national legislatures and in that respect their aid officials have little flexibility. Conditionalities are imposed by the multilateral donors as well. With new claimants for soft loan the multilateral donors, like their bilateral counterparts, are looking for efficient organisation and capable government for proper use of their aid.

Donors feel that factors in the past such as limited aid absorptive capacity due to ill-conceived project planning, bureaucratic inefficiency and lack of coordination between various agencies, have acted as a major disincentive in increasing the volume of aid to the country. Bangladesh officials, of course, insist that decline in the amount of aid and imposition of more stringent conditionalities are major issues of concern for them. They argue that changes in the modality of commodity aid disbursement, tied to domestic sources of aid disbursing country, severely undermine the quality of aid. In addition, supply-based technical assistance, instead of being demand driven, also erodes the quality of aid.

Bangladesh receives foreign aid under three headings, Project Aid, Commodity Aid and Food Aid. Project aid is used to finance the projects under the Annual Development Plan (ADP) and commodity

aid is spent for the procurement of intermediate inputs and raw materials. Food aid is used to procure food items. The major sources of official aid are OECD countries (Canada, Germany, Japan and USA), OPEC (Kuwait, UAE, Saudi Arabia), India, China, Russia and the multilateral financing institutions e.g., World Bank, IDA, ADB and EU. Aid is also mobilized through NGOs. In the immediate wake of independence of Bangladesh, NGOs were involved in relief and rehabilitation work and reconstruction of the war devastated economy. Gradually the NGO sector has emerged as an important actor in the overall development process of the country.

Natural gas has become an important issue in Bangladesh's relationship with western donors and also with its neighbour, India. When Awami League was in power negotiations with western companies on exploration and marketing of the gas resource, the major opposition party, the BNP, opposed the government's decision in this regard. Once BNP came to power there was marked change in its policy and it explored option for selling gas to India. Analysts believe that the government is under intense pressure from the donors, particularly the U.S. to agree to export gas. However, the government's move had come under strong opposition from people of all strata. Awami League, now in opposition, is also opposed to gas sale.

14.3 How far the government support the UN human rights treaties and respect international law?

Article 25(1) of the Constitution states that the State shall base its international relations on the principles of respect for national sovereignty and equality, non-interference in the internal affairs of other countries, peaceful settlement of international disputes, and respect for international law and the principles enunciated in the United Nations Charter. Therefore, Bangladesh is committed to respect the principles of the UN Charter and the fundamental principles of international law. As of today Bangladesh is a signatory to a total of 14 international instruments. However, Bangladesh is yet to ratify the International Convention on Civil and Political Rights (ICCPR) (1966) and the Convention on the Rights of Migrant Workers and the Members of their Families (1990). (*See Appendix I for details*)

It may be noted that the State is obligated to introduce appropriate legislation, policy and administrative reforms to ensure compliance with each of the provisions of the international treaties. In other words, enabling laws are to be framed to make the provisions of international law applicable in the country through municipal law. Bangladesh Law Commission and the Ministry of Law, Justice and Parliamentary Affairs are currently involved in examining these treaties and expected to propose legislative changes in conformity with all ratified conventions.

Bangladesh has made reservations on some specific provisions of a few of the international treaties that it has ratified. Despite the fact that Bangladesh had entered into equality provisions in several instruments such as the CEDAW and the CRC, and reaffirmed gender equality in the Vienna Declaration (1993) and the Beijing Plan of Action (1995), it has a number of reservations on ICESR, CAT and Consent to Marriage.

Human rights, women's and other civil society organizations voiced their disappointment in the Bangladeshi government's reservations. They argue that Bangladesh's reservation with regard to Articles 2 and 3 contradicts the constitutional commitment to gender equality and deviates from Bangladesh's earlier stand of adopting Beijing Plan of Action which upheld the "equal right to work". Likewise reservations that are made on Articles 2 and 8 pertaining to work conditions does not conform to ILO Conventions 110 and 111 and are also against the spirit of Fundamental Principles of State Policy enunciated in Articles 19 and 20 of the Bangladesh Constitution.

With regard to the Convention against Torture, Bangladesh has entered its Reservation to Article 14 that provides compensation to be awarded to the victims of torture. On the Consent to Marriage Convention its reservation on Article 1 is based on the premise that Muslim Family Laws Ordinance (1961) requires the consent of each party to a marriage, the lack of such consent does not invalidate the marriage. The concerned Article of the Convention requires "full and free consent of both parties in the presence of a competent authority".

14.4 How far does the government respect its international obligations in its treatment of refugees and asylum seekers and how free from arbitrary discrimination is its immigration policy?

Bangladesh is a refugee producing country and also a country of first asylum. In the last thirty years Bangladesh has received two major influxes of Rohingya refugees from the Arakan state of Myanmar and provided shelter, protection and assistance to them. In spite of its own resource constraints by accepting these people and providing them with temporary asylum Bangladesh has acted as a responsible member of the community of nations. In July 2000, there were about 23,000 Rohingya refugees stranded in camps in the southeastern tip of the country. The country also hosts a small number of urban refugees. About a quarter of a million Urdu-speaking Muslims, known as the Biharis, have been living in 66 camps scattered all over the country since independence. The citizenship status of these people is still undefined.

Bangladesh's treatment of refugees has been generally satisfactory. In the face of massive influx of refugees in 1978 and 1991-2, the country received a large quantum of international help. Although not a party to the Refugee Convention, Bangladesh upheld the basic principles of refugee protection. There has been occasional violation of rights of refugees when on occasions force was applied to induce "voluntary repatriation". Prolong stay of refugees and depressing their wages in the job market have also led to tension between the local people and the refugees.

Like its other South Asian neighbours, Bangladesh is not a party to the 1951 UN Convention on Refugees, nor there exist any regional instrument governing treatment of refugees in South Asia. There is the absence of national legislation pertaining to the refugees or asylum seekers. Absence of refugee specific legislation leads to ad hoc administrative measures under which asylum seekers run the risk of being deported to their countries of origin where their lives might be at risk. To safeguard the interests of those who flee persecution, distinctions must be made between them and those who cross border for other reasons. It is only by developing through national legislation that a distinction may be drawn between a refugee and a migrant.

Since 1997, a citizen's initiative has been launched at the regional level to mobilise support for the adoption of refugee law. This initiative of the Eminent Persons Groups has developed a Model National Law on Refugees and has been actively lobbying their respective governments for its enactment. The absence of a refugee law means that any person including an asylum seeker is treated under Foreigner's Act or Passport Act of the country.

14.5 How consistent is the government in its support for human rights and democracy abroad?

Constitutionally, the government is committed to support human rights and democracy and just struggle of peoples against imperialism, colonialism, and racialism. Bangladesh has been an ardent supporter of struggle of the black people of South Africa. It also consistently supported the Palestinian cause.

Bangladesh has actively participated in the UN Peace-keeping missions and has earned itself a good reputation. It has committed a large number of troops in these missions. Most of these missions have been directed to keep warring parties apart with the goal of promoting peace and democracy in the countries concerned.

14.6 What measures, if any, are being taken to remedy publicly identified problems in this field and what degree of political priority and public support do they have?

Bangladesh needs to effectively articulate its development priorities. One of the major objectives of such plan should be mobilization of domestic resources and domestic savings. Such a plan should also incorporate clear policies with regard to priorities in receiving aid and technical support, and direction for the development of the trade sector. Success of any development plan to a great extent hinges on support from the main political parties. Efforts must be directed to reach consensus on this issue of national importance through parliamentary discussions and debates in the media. A clear articulation of policy based on national priorities is likely to minimize donor driven direction of aid disbursement. Bangladesh

should be able to clearly present its national needs to its development partners. It needs to convince them that the government is committed to implement reform agenda that suits its own development priorities. Bangladesh should accede to the international human rights conventions that it has not acceded to thus far. It should actively consider ICCPR, UN 1951 Convention on Refugees and UN 1990 Convention on Migrant Workers Rights and Members of their Families. In order to ensure constitutional guarantee for equality of sexes, efforts must be made to rescind the reservations made to ICESR and Consent to Marriage Convention.

Public demand is very high on all the above issues. Government seems to have taken these issues seriously. In order to keep the development process going, it wanted to borrow from IMF. However, the government decided against it as the terms and conditions imposed by IMF were extremely unfavourable. Instead, the government took some concrete measures to attract flow of remittance of the Bangladeshi migrant workers abroad, through formal banking channels by implementing concrete banking sector reform measures. Foreign exchange earners have also been provided with savings and investment ventures. These measures have resulted in major improvement in foreign exchange reserve. This year more than US \$ 2.5 billion remittances were received. This is the highest in the country's remittance earning history. The government has established a new ministry named Expatriates' Welfare and Overseas Employment to protect the interests of migrant workers and also to encourage long-term non-resident Bangladeshis in UK, USA and other countries to invest in Bangladesh. Academics and civil society organizations are actively advocating for accession to International Covenant on Civil and Political Rights, UN 1951 Convention on Refugees and UN 1990 Convention on Rights of All Migrant Workers and Their Families. The government has shown positive interest in ratifying the 1990 UN Convention.

CONCLUSION

Bangladesh, one of the least developed countries of the world, emerged as an independent state in 1971 through a nine-month liberation war with the active help of the friendly neighbor, India. Presently, Bangladesh is in the fourth decade of its independence. These four decades of history point to a track record of both successes and failures. Democracy, the very basis of Bangladesh's independence, has also been seriously dented by intervening periods of undemocratic military regimes. However, the resilience of the people and their pro-democracy leaders has ensured that democracy wins over the military rule.

Democracy is a process with no finality yet achieved in any society of the world, which implies that there is always a scope to develop and improve a country's state of democracy. The assessment of the state of democracy in Bangladesh shows the country is on the road to democratic consolidation even though much more still has to be done. Bangladesh has achieved a high level of political coherence and stability. The basic human rights especially civil and political rights and freedoms are not only entrenched in the constitution but are largely protected and defended. The courts are generally autonomous and the media is relatively free and often critical of government. The civil society is active and organized into trade unions, student and youth groups, women lobby groups and human rights organizations are active across the society. However, elements of violence and exclusion such as the activities of the Maoist groups and threats of expulsion of ethnic, tribal and religious minorities constitute serious challenges to the country's democracy.

An examination of the present situation as well as the past experience indicates that the following steps are necessary to further institutionalize democracy in Bangladesh.

1. Create Stability in Parliament and Increase its Role as the Supreme Legislative Authority

Bangladesh is a parliamentary democracy. Parliament is supposed to be sovereign here but this is yet to be the case. Parliament strengthening should be the focus of all discussions and decisions pertaining to the country's development. Our experience shows that Parliament was never allowed to play its role due to one-party dominance and the opposition's boycott. During the military regimes, parliaments were used as rubber-stamps of the executive decisions. The present 8th parliament elected in October 2001 has also

experienced the boycott by the largest opposition party. The Awami League boycotted the first and second sessions of parliament and only came in at the third session after enormous public pressure. This step by Awami League is welcomed and the party must remain in parliament as the official opposition. It is now the Government's turn to create and maintain an environment congenial to accommodate the opposition parties. The immediate task that needs to be done is to form the parliamentary committees with opposition MPs in position of chairpersons in relation to both their strength in the parliament and their request. There is also the need to address the issues of the Prime Minister's Question-Answer session, provision of allowing private electronic media in the parliament to cover its proceedings and the number of Private Members days may be increased from the present provision of one day a week. The continued efforts to empower women, who form almost half of the total population of the country, must be further encouraged by the introduction of the system of reserved seats for women in the parliament through direct election.

2. Strengthen Local Democracy

Democracy entails popular participation in the process of administration and development. The practice of local government may facilitate popular participation and, therefore, it is necessary to strengthen the local government system. It is a positive sign that the present government of Begum Khaleda Zia has decided to implement the system of four-tier local government system enacted by the previous government of Sheikh Hasina, though they are yet to decide whether the Upazila Parishad system should be implemented in the present form. They think that the implementation of the upazila system in its present form would create a role conflict between the MPs and Upazila Parishad chairpersons. However, they are still planning to implement the system with the provision of advisory role for the MPs to the Upazila Parishads. The government has declared that it would soon hold elections to the Union Parishads. In order to make these elections free and fair, the Election Commission should be strengthened. The present government in a decision taken in the Cabinet Meeting of 14 September 2002 has decided to return the authority and power to hold local council elections to the Election Commission. This is a move in the right direction.

3. Increase Freedom of Information and Media

Free flow of information is the life-blood of any democracy and, therefore, provisions should be made available so that people can get

relevant information at the right time. There are barriers at the moment in this respect. The Official Secrets Act, 1923, The Post Office Act, 1898, The Telegraph Act, 1933, The Printing Press and Publication Act, 1973, The Special Powers Act, 1974 and Section 54 of the Criminal Procedure Code are some instruments that obstruct the free flow of information. Coupled with time-to-time restrictions imposed on the journalists by the government, the above-mentioned laws infringe peoples' rights to information and, thereby, cripple democracy. Attacks on journalists and newspapers are now on the increase where police excesses are also noticeable. Civil society organizations are active against these laws, provisions, restrictions and police excesses. The government should do away with the barriers through parliament. It may be mentioned here that both the large political parties, Bangladesh Nationalist Party (along with its allies) and Awami League have pledged in their election manifestos to ensure free flow of information.

4. Double Efforts to Fight Corruption

Corruption, violation of human rights and the lack of accountability on the part of the government functionaries are elements that have been instrumental to the process of weakening the democracy in the country. Corruption has slowed down the pace of development as well as reduced the total outlay. Violations of human rights have deprived people of both the opportunity to contribute to the development and the enjoyment of its benefits. Lack of accountability has encouraged people in power position to indulge in corruption as well as violations of human rights. It is, therefore, imperative to ensure good governance that the Government guarantees transparency and accountability. This is the concern not only of the public but of the donor community as well. In order to ameliorate these problems, the government should take immediate steps to transform the present Anti Corruption Bureau to an independent Anti Corruption Commission, appoint the Ombudsman and separate judiciary from the executive to ensure rule of law in the country. The recent Cabinet decision (15 September 2002) to establish a 5- member National Human Rights Commission to investigate the incidents of violation of human rights and suggest remedies should be accompanied by similar steps in the reform of the judiciary and anti corruption measures.

Bangladesh is still a young and fragile democracy. There are, however, a lot that has been achieved but the road ahead is still rough and rocky in light of the high levels of poverty, official corruption and human rights abuses.

Appendix -1

International Instruments to which Bangladesh is a signatory

- The International Convention on Slavery (1926) as amended in 1963;
- The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (1956)
- The Convention on Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)
- The Convention on Suppression and Punishment on the Crime and Apartheid (1973)
- The International Convention on the Elimination of all Forms of Racial Discrimination (CERD) (1945)
- The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) (1979); and
- The Convention on the Rights of the Child (CRC) (1989)

On 5 October, 1998 Bangladesh ratified five more international human rights instruments. These are:

- The International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966)
- The Convention on the Prevention and Punishment of the Crime of Genocide (1948)
- The Convention on the Political Rights of Women (1953)
- The Convention on Consent to Marriage, Minimum Age for and Registration of Marriage (1962)
- The Convention against Torture and other Cruel, Inhuman and Degrading Treatment or Punishment (CAT) (1984)

Not ratified instruments:

- The International Convention on Civil and Political Rights (ICCPR) (1966)
- The Convention on the Rights of all Migrant Workers and the Members of their Families (1990)

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