

# Making the most of submarine cable connectivity for Bangladesh

ROHAN SAMARAJIVA

THE SEA-ME-WE4 cable has landed in Bangladesh. This is great news. In this time of off-shoring and Business Process Outsourcing (BPO), a country that is not connected to the outside world through optical fibre cable is at a tremendous disadvantage. Satellite connectivity is simply not enough for participation in the BPO business: the costs are too high; the latency is a problem in some cases; and the lack of redundancy is a deal breaker.

But a cable does not, by itself, do the job. There are a whole series of nationally controllable conditions that have to be met for the promise of the cable to be realised. To understand these, it is useful to look at Nigeria, a country that got connected to a submarine cable for the first time, like Bangladesh, just three years ago.

Why Nigeria? Why not Sri Lanka? Why not Pakistan? Both Pakistan and Sri Lanka were connected to submarine cables many years ago: SEA-ME-WE2 as well as SEA-ME-WE3. The only non-landlocked South Asian countries that were not connected to submarine cables until now are Bangladesh and the Maldives.

Even, Myanmar, which now occupies the absolute bottom in the world's telecoms rankings, was connected to submarine cable (SEA-ME-WE3) before Bangladesh. The Maldives, which has the highest telecoms rankings in South Asia, is a micro-state with very high telecom rates, and is dependent on satellites for international and intra-national connectivity.

Nigeria, a member of the Commonwealth and rich in natural resources like Bangladesh, is Africa's most populous country. It compares well with South Asia in terms of telecoms indicators, with fixed telephones per 100 population slightly higher than Bangladesh and mobile telephones per 100 population higher than Bangladesh, India, and Pakistan.

Nigeria was dependent on expensive satellite connectivity until the 28,800 km long SAT-3/WASC/SAFE cable landed on its shores in 2002. Like today's Bangladesh, hopes were high of what the submarine cable would deliver. Regrettably the cable has not delivered.

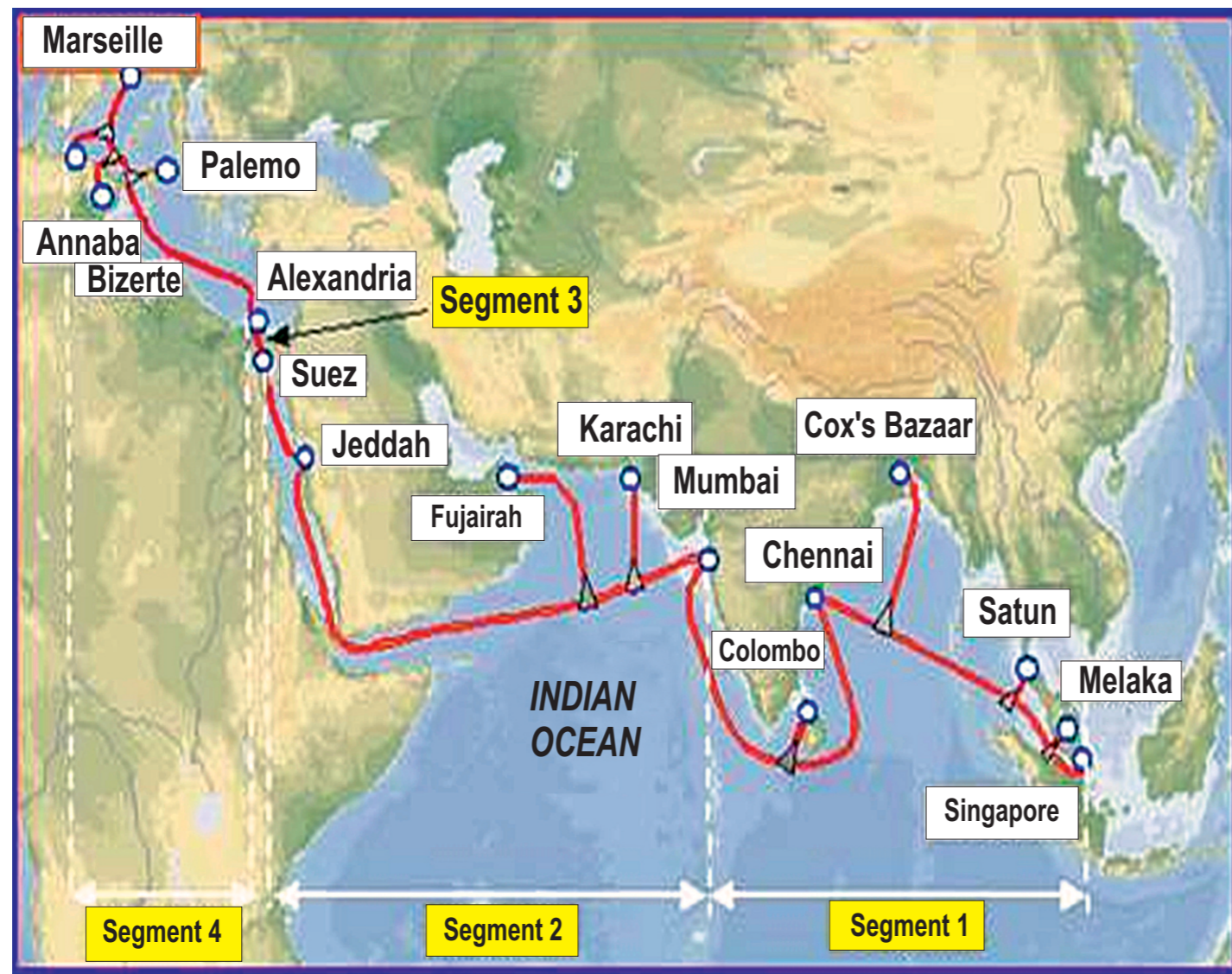
This is because neither the Nigerian government nor its industry and civil society made the effort to establish the right national conditions for the cable. As a result, it did not help the ITES sector; it did not improve Internet connectivity; it did not contribute to fulfilling the needs of the people of Nigeria for reliable, cost-effective connectivity.

The SAT-3 cable did not increase Internet traffic from Africa, including Nigeria. Indeed, the year-on-year growth slowed in the year after the cable (71 percent in 2002 and 53 percent in 2003). In the case of Nigeria, one reason could have been delays in completing the national infrastructure necessary for full use of the cable.

While the landing station was completed in December of 2001 and the cable was inaugurated in May of 2002, the traffic started flowing from Nigeria only in April 2003. Those familiar with the repeated delays in contracting the "dry" segment of the cable from Cox's Bazaar to Chittagong are likely to see the similarities. Harry Goldstein quotes the SAT-3 administrator as saying that "in many of these countries... backhaul network is quite not accessible or may not be fully in place or may not have the capacity to support international access" (Surf Africa, IEEE Spectrum, February 2004).

And the prices were not conducive to use by information technology enabled services (ITES) entrepreneurs. More than a year after the landing of SAT-3, a US-returned Nigerian ITES entrepreneur, Dr. Aloy Chife, CEO of Socketworks, told Goldstein of his frustrations. He had spent \$13,000 in capital costs and was spending \$1,000 a month in operations costs for a VSAT connection to run his business, while cable capacity lay unused: "The worst thing that happened to SAT-3/WASC was that the Nigerian people were represented by the most incompetent

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A cable is an opportunity: Illustration shows the path of the submarine cable network that will connect Bangladesh with the information superhighway.

and most dysfunctional company in the world, NITEL."

It was only after the competitor to NITEL, Globacom, got frustrated by the obstructionism of the incumbent and decided to build its own \$150 million cable from Lagos to London that NITEL saw sense and launched a wholesale Internet service in April 2005. But that was too little, too late. Faced with the fiasco of an underutilised cable, the Nigerian government is trying to repair the mess; and finding it difficult because vested interests have got locked in.

The Nigerian government is now considering spinning off the cable operations as a company separate from the about-to-be privatised NITEL and regulating it as an essential facility. But now, the unions are protesting the hiving off of the potentially lucrative cable segment that can be used as a weapon against competitors. Whether the government will succeed in doing the right thing, even three years later, depends on its ability to make the unions see sense.

### A cable is an opportunity

Sometimes, there are advantages to starting late. Bangladesh is possibly the largest country lacking submarine connectivity as late as 2005. But, it has the advantage of learning from the mistakes of others. The model of one operator being fully responsible for international connectivity is obsolete. In this obsolete model, the "owner/operator" of the cable station builds reliable connectivity from the cable station to customers' premises (or nearby points) and determines the prices to charge from the customers.

In an environment where domestic competition exists, the customers include not only end-users but other operators. Therefore the regulatory agency has to step in, to ensure that the capacity is made available at cost-effective and non-discriminatory terms and to ensure high reliability. This requires a strong and competent regulatory agency.

A model more appropriate for a quasi-competitive environment like Bangladesh, is to treat the submarine cable station as a common facility where different operators can co-locate their equipment at non-discriminatory and cost-oriented rates. This is what is theoretically optimal for a competitive environment. This too requires a strong regulator to ensure that co-location is properly

provided. Because not all operators may wish to incur the high capital costs of directly interfacing with the submarine cable, especially at the outset before demand has built up, a pragmatic solution would be a synthesis of the solutions described above. That is, the incumbent operator Bangladesh Telegraph and Telephone Board (BTTB) builds capacity to major population/commercial centers and offers connectivity at non-discriminatory and cost-oriented terms to other operators (the "buy" option).

But all operators are also given the "build" option in that they can, if they so wish, build the link to the cable station, co-locate equipment, etc. The offering of both build and buy options reduces the burden placed on regulation. The fact that the incumbent's customers (the other operators) are free to build their own capacity and enter into direct competition at the facility-level tends to moderate the incumbent's anti-competitive urges.

The above arrangement can ensure better utilisation of Bangladesh's fibre lifeline to the service economy; but there remain the problems of implementation. As long as the operator of the cable segment is also active in the downstream service sectors, it has incentives to use its control of the bottleneck to harm its competitors.

It will not be driven by the desire to sell as much capacity as possible and optimise revenues from the cable business. These incentives will be overridden by the incentives to gain advantages over competitors in downstream markets. Opacity of BTTB's accounts will make it difficult for the regulator to find out whether it is discriminating against its downstream competitors.

Implementation also requires a competent and committed regulator and a modern, competition-centred regulatory regime written into the governing legislation. Without lessening the urgency of reforming Bangladesh's regulatory framework, the immediate problem can be addressed by structurally separating the cable segment (the share of the SEA-ME-WE 4 cable, the cable station, the fibre connecting the landing station to major population centers, the redundancy channels and related facilities) from BTTB, vesting its ownership in a fully government owned company.

To ensure that the new company is truly separate from BTTB

and that it is efficiently managed, it is necessary to concession out its management to a competent international operator through a transparent bidding process. The management contract must include provisions for avoiding conflict of interest (operator cannot be involved in running downstream businesses within Bangladesh), incentivising greatest use of capacity, and ensuring non-discriminatory pricing to operators (e.g. mandating web-publication of capacity sale terms and prices as well as quality of service indicators).

The implementation of this institutional arrangement will, no doubt, take some time. It should have been done as soon as Bangladesh decided to join the SEA-ME-WE 4 consortium. But that is water under the bridge. Given the current delays in completing the Chittagong-Cox's Bazaar dry segment, the government can expeditiously implement this solution without wasting more time.

The choice before the government today is no different from that facing a home builder who discovers that the foundation of his house is fundamentally flawed. Fixing the foundation will take time and money, but those costs less than those of perpetually repairing the house with the flawed foundation or of being unable to make full use of the house.

### If the opportunity is seized

The significance of connecting Bangladesh to the world through an optical fibre cable must be emphasised. A densely populated country like Bangladesh has little alternative but to develop its services sector in the globalised economy of today. It is unlikely that its agriculture and industry sectors can adequately employ its youth and pay them well.

Already, Bangladesh is exporting services on a massive scale, in the form of low-paid workers to the Middle East and elsewhere. This is disruptive to families, dangerous and demeaning to the workers, and non-optimal for the economy, in that the wages that are earned do not nourish other Bangladeshi businesses. The challenge is to shift from exporting workers to exporting work. The key to this is telecommunications.

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If the government of Bangladesh and the relevant stakeholders learn from the mistakes of others and create a policy and regulatory environment that will allow the greatest participation of multiple players in the large task of cost-effectively connecting the people and companies of Bangladesh to the burgeoning service markets of the world, and also help the country's agriculture and industry sectors to be more competitive, the promise of the service economy will no longer be a distant dream.

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# EC infighting is unwarranted and unlawful

DR. BADIUL ALAM MAJUMDAR

THE infighting within the Election Commission (EC) over the electoral roll issue has not only gone on for too long, it has surpassed all reasonable limits. In fact, it has become rather silly and even farcical. According to media reports, the Chief Election Commissioner (CEC) claims that the decision to prepare a new electoral roll was taken by the full Commission. However, his other two colleagues accuse him of making the decision unilaterally and over their objections; the two Commissioners are reported to be in favour of only updating the existing electoral roll. The full Commission apparently has not even met for months and the CEC, as its Chairman, took no initiative to resolve the matter. The impasse is clearly unwarranted and embarrassing, and it also appears to have made the Commission dysfunctional.

More seriously, the CEC's decision appears to be unlawful. The existing law prohibits the CEC, or any Commissioner, from acting alone without the authorization of the Commission. The Appellate Division of the Bangladesh Supreme Court has also addressed this issue and stated clearly that the EC is a composite body, and an individual Commissioner can only act when he/she is authorized by the Commission itself. We are surprised that our CEC, despite being a jurist himself, ignored the law and also the verdict of the highest court of the land.

### Legal basis of the EC

The EC was established under Article 118(1) of our Constitution, which states: "There shall be an Election Commission for Bangladesh consisting of a Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time direct, and the appointment of the Chief Election Commissioner and other Election Commissioners (if any) shall, subject to the provisions of any law made in that behalf, be made by the President." Thus, it is a constitutional body entrusted with the responsibility of holding elections.

The Chief Election Commissioner and Election Commissioners (Remuneration and Privileges) Ordinance, 1983 deals with the salary, allowances, and privileges of the Election Commissioners, but it is silent with respect to the decision making procedure within the Commission. Perhaps the lawmakers thought it unnecessary and perhaps even improper to dictate how the EC should transact its business because of their regard for the sagacity and wisdom of the individuals that they had in mind for the Commission. Nevertheless, Article 3(3) of the Ordinance recognizes the equal standing of all Commissioners and states that "the term 'Election Commissioner' includes the Chief Election Commissioner."

Although the 1983 Ordinance is silent about the manner of decision making, The Representation of the People Order, 1972 clearly states that the CEC, the designated Chairman of the EC, or any other individual member of the Commission, requires authorization from the EC itself to act on its behalf. Article 4 of the Order states: "The Commission may authorize its Chairman or any of its members or any of its officers to exercise and perform all or any of its powers and functions under this order."

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We can also refer to the relevant Indian law which more explicitly makes it clear that the CEC does not enjoy a status superior to that of the EC. Chapter III of The Chief Election Commissioner and Other Election Commissioners (Conditions of Service) Amendment Ordinance, 1993 of India clearly states: "Transaction of Business of Election Commission"

9. The business of the Election Commission shall be transacted in accordance with the provisions of this Act.

10. (1) The Election Commission may, by unanimous decision, regulate the procedure for transaction of the business as also allocation of the business amongst the Chief Election Commissioner and other Election Commissioners. (2) Save as provided in sub-section (1) all business of the Election Commission shall, as far as possible, be transacted unanimously. (3) Subject to the provisions of the sub-section (2), if the Chief Election Commissioner and other Election Commissioners differ in opinion on any matter, such matter shall be decided according to the opinion of the majority."

### Court decisions

In addition to the electoral laws, judicial decisions also clearly forbid the CEC from making unilateral decisions. For example, in *Jatiya Party vs Election Commission* (53 DLR (AD) (2001)), the Appellate Division of the Bangladesh Supreme Court reaffirmed that for exercising powers and functions of the EC (under The Representation of the People Order, 1972), "the Acting Chief Election Commissioner must get authorisation from the Commission itself, otherwise his action under the Order will be coram non iudice and without jurisdiction." This is clearly an unequivocal interpretation of the law by the highest court of the land regarding the decision making procedure within the Commission.

The Indian Supreme Court opinion on this issue is particularly instructive. In *T.N. Seshan v. Union of India* ((1995) 4 SCC), the Indian Supreme Court found: "By clause (1) of Article 324, the Constitution-makers entrusted the task of conducting all elections in the country to a Commission referred to as the Election Commission and not to an individual. It may be that if it is single-member body the decisions may have to be taken by the CEC but still they will be the decisions of the Election Commission. They will go down as precedents of the Election Commission and not the individual. It would be wrong to project the individual and eclipse the Election Commission. Nobody can be above the institution which he is supposed to serve. He is merely the creature of the institution, he can exist only if the institution exists. To project the individual as mightier than the institution would be a grave mistake. Therefore,



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even if the Election Commission is a single-member body, the CEC is merely a functionary of that body; to put it differently, the alter ego of the Commission and no more. And if it is a multi-member body the CEC is obliged to act as its Chairman...the function of the Chairman would be to preside over meetings, preserve order, conduct the business of the day, ensure that precise decisions are taken and correctly recorded and do all that is necessary for smooth transaction of business...He must so conduct himself at the meetings chaired by him that he is able to win the confidence of his colleagues on the Commission and carry them with him. This a chairman may find difficult to achieve if he thinks that others who are members of the Commission are his subordinates." Thus building consensus rather than conflicts is the primary role of the CEC.

To conclude, it is clear from the relevant laws as well as from court decisions from Bangladesh and abroad that the status of the CEC is not above the other Commissioners. The Election Commission's decisions must be made unanimously, and in the case of differences of opinion, on the basis of the opinion of the majority. Yet, our CEC has been acting as if he is above the other Commissioners and also above the law, and has made important decisions regarding electoral rolls, ignoring the objections of his other two colleagues. (Curiously, the CEC is also reported to be happy with the working of the EC secretariat while there is widespread demand from many quarters for its administrative and financial independence.) These are unwarranted developments and they clearly raise serious questions about the transparency of the Commission. It also seriously erodes and undermines the credibility of the Election Commission -- a very important constitutional body entrusted with the responsibility of holding free, fair, and impartial elections.

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# Trapped between the devil and the deep blue sea

SHAMSHER CHOWDHURY

BNP and the ruling coalition have certainly made a mess of handling terrorism. It could very well be accused of aggravating the incidences instead of decreasing them, to say nothing of the fact that some of its lawmakers are corrupt. But that is not what I am worried about at this time. I am now worried, along with the entire nation, about the rising of bomb blasts and the arrival of suicide bombers.

While people all over the country are worried about these bomb blasts and the prevailing debilitating affairs facing the country, all Awami League could think of is to stick to its single coveted agenda of "removal of the present regime," as though by some magic all the problems of terrorism in the country will disappear by achieving that single objective.

If Awami League is the lone patriotic party in the country, then why to date it has not provided the nation with a single concrete alternative proposal in any of the major crises facing the country? Yes, it has held a number of seminars and workshops mostly aimed at vilifying the government and finding ways and means of toppling it.

Awami League says it cannot "sit down with a Prime Minister whose hands are stained with bloods and who has killed thousands of leaders and workers." I understand the anger and am also able to reciprocate the sentiment, but I must admit that even then it cannot be bigger than the crisis facing the nation today.

On the other hand, as I have said on many

previous occasions, and through the columns of this prestigious daily, there can be no justification for any one rightly or wrongly demanding the resignation and actively working towards that goal, particularly against a democratically elected government.

While rejecting the offer for dialogue, Awami Secretary General says that the offer is an "eyewash and simply aimed at diverting peoples attention." The venerable Secretary General of Awami League must also realize that no matter what, BNP is, and will perhaps continue to be, the second largest political party of consequence for a foreseeable future, and hence any effort to totally sideline and ignore it is certainly not a very wise move. The way things are developing even if Awami League is on the seat of power it simply cannot be effective enough in running the affairs of the government without the active involvement of BNP.

Forgive me if I am too unduly aggressive in my deliberations, but let me say this, that I too have suffered the loss of a brother in 1971 in no less a person than Shaheed Munier Chowdhury. Today I am somewhat confused when the "think tanks" of present day Awami League are mad at Jamaat-e-Islami, the main coalition partner of the current regime led by BNP.

Jamaat existed even when Awami rulers ran the country. Awami rulers knew then as much as they do today about its role in our War of Liberation. Why no stern action was taken against the party then? The truth of it all is that Awami League at that time needed Jamaat in

order for it to stay in power but now the political dimensions have changed.

I am yet to see a single instance where Awami League, as the only claimant of spearheading our struggle for liberation, has brought to trial any of the individuals involved in war crimes. Many amongst the Awami sympathizers would answer to my question by just saying that it could not be done for multiple reasons, be that as it may, I strongly believe that at least one such trial could have taken place.

Frankly, as I see it, both Awami League and the ruling coalition led by BNP are working against the interests of the people at large. Both the parties, if anything, continue to serve the interests of their parties and their families. The leadership of both the parties is totally devoid of any real pragmatism or vision.

If BNP has murdered the secular values of the society and its administration is threatening the very security of the country, Awami League is yet to show any real wisdom in tackling the growing menace either. All its efforts are directed to the single agenda of removing this government, no matter what. The truth of it all is that, amidst all this, we the people, as the famous saying goes, are caught between the devil and the deep blue sea.