

STRONG INSTITUTIONS FOR GOOD GOVERNANCE

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Anti-Corruption Commission: How can it be truly effective?



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The zero tolerance pledge

A policy of zero tolerance against corruption announced by the prime minister is at the core of the election manifesto of the Awami League (AL), the party that ensured an unbelievably sweeping victory through an unprecedented election held on December 30, 2018. The manifesto also emphasised the importance of an effective Anti-Corruption Commission (ACC).

Making anti-corruption pledges for elections is nothing new. What can be new is a true delivery of the lofty commitment. Similar anti-corruption pronouncements were made on the eve of previous elections, particularly in 2008 and 2014. When such a pledge comes from the highest level wherein lies absolute power, one is inclined to believe that the ACC has got the mandate to be truly effective. But is it real?

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ACC: A government creation for government's accountability
The answer is rather simple: the ACC will be as effective as the government of the day wants it to be. ACC's effectiveness depends no less on the extent to which its leadership is capable of making best use of the legal and institutional capacity to deliver the mandate of the ACC. No government has yet given full freedom to ACC, nor has the ACC been able to operate as effectively as to enjoy public trust. The reality is that, successive governments have treated ACC as part of its executive wing while the ACC has also viewed itself as a government body, both losing sight of the fact that although set up by the government, ACC's job is to hold the government to account.

The track record

When the ACC was set up in November

2004, it raised many expectations. However, it did not take long for the people to be disillusioned. That the then government lacked the commitment to let the Commission function independently and effectively was a commonplace wisdom. Everyone knew that the commissioners were appointed on partisan political consideration.

The Commission failed to demonstrate a seriousness of purpose and sense of direction. The three commissioners engaged in mutual acrimony and mistrust of each other on matters like who among them was more powerful. The Commission also inherited the baggage of the infamous Bureau of Anti-Corruption when it sweepingly absorbed its staff without due scrutiny, and therefore sowed the seeds of ACC's deficit of efficiency and integrity.

Abuse of power to control abuse
The reconstitution of the Commission by the military-backed caretaker government of 2007-8 provided it some degree of dynamism and vibrancy. A number of high-profile individuals suspected of involvement in corruption were arrested. Special tribunal was set up for speedy trial. However, typical of a regime under military influence, the ACC hardly operated independently, as a high-powered and controversial task force worked parallel with it, often dictating terms.

Controversial actions such as collection of arbitrary penalty and ransom for corruption through the so-called Truth and Accountability Commission were aplenty. The ACC was perceived to have lent itself to be used for what came to be infamously known as de-politicisation and so-called minus-two formula. Power was

abused in the name of controlling abuse of power as due process was ruthlessly violated.

Political and administrative influence

Expectations about the Commission's effectiveness were raised after the 2008 national elections that brought to power the grand coalition government led by AL which identified corruption control as one of the top five strategic priorities. Among a series of related commitments was a pledge to strengthen the independence and effectiveness of the ACC. However, within a year of assuming power, the government introduced a set of amendments to the Anti-Corruption Act designed to drastically curtail the independence and effectiveness of the Commission.

Facing fierce criticism of stakeholders, the government eventually backed out, though efforts to curtail ACC's effectiveness continued in many guises. The provision for prior approval of the government before arresting public officials alleged of corruption, the latest version of which is contained in the Public Service Act 2018, is not only unconstitutional and discriminatory, but it also directly undermines ACC's effectiveness.

The Commission is widely believed to have been under pressure from a section of the political and administrative authority for which, justifiably or not, any real action by ACC against people in positions of power is considered to be too risky for itself. Beyond the so-called "small fries", ACC is seen to act only when allegations do not involve individuals directly or indirectly related to ruling authority—politically or otherwise. Due to a perception that ACC predominantly targets the political opponents of the government, the Commission is often believed to be used to promote the political agenda of the ruling party.

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