

INTERNATIONAL ANTI-CORRUPTION DAY

Salvage the banking sector, unmask the kingpins



Iftekharuzzaman is the executive director at Transparency International Bangladesh (TIB).

IFTEKHARUZZAMAN

That the bank and non-bank financial sector of Bangladesh has long been devilled by scandalous corruption in the form of deliberate loan default, swindling, and money laundering is now common knowledge. While the latest revelation of massive embezzlement at the Islami Bank, together with at least three other banks, may have shocked and awed observers, it is just the tip of the iceberg and only one of the numerous such dirty games of collusive fraud that have been allowed over the years to become a part of the country's bank loan culture.

Like the case of the Islami Bank, the ones involving the Social Islami Bank and First Security Islami Bank, the earlier scandals involving the Oriental Bank, Farmers Bank, Union Bank, BASIC Bank, Janata Bank, Rupali Bank, and non-bank financial institutions like International Leasing and Financial Services, People's Leasing and Financial Services, FAS Finance and Investment and Bangladesh Investment Finance Company have two things in common. One, none of the kingpins of the scandals has been brought to account, and two, in almost every scandal, the use of fake and anonymous entities has been the key enabler.

The masterminds involved in such corrupt activities operate by hiding behind secretive and fake companies and shadowy bank accounts to secure loans, make transfers, and launder money. Those who actually own, control, and benefit from such "shell companies," known as beneficial owners, act by hiding with deceitful paperwork in collusion with lawyers, accountants, nominee shareholders and, not least, the relevant bank officials often at the highest levels.

As a result of the game of secrecy of the real beneficiaries, those involved in banking sector corruption and money laundering have hardly been brought to justice. On the contrary, they have secured for themselves an ever-increasing lobby power, to hold the government and the central bank hostage to the extent of policy capture and extorting further concessions and even protection.

Even in cases where the relevant authorities like Bangladesh Financial Intelligence Unit (BFIU), Anti-Corruption Commission (ACC) and other law enforcement agencies attempted investigations, they couldn't go anywhere beyond small fries, because the big fish were protected partly by financial and political lobby power and partly by the veil of secrecy.

In the absence of any means to ensure beneficial ownership transparency (BOT) in the country, there is practically no means to control and prevent the banking sector scandals and other related crimes such as tax evasion and money laundering, which have extensively deepened and widened.

In the meantime, BOT has gained increasing global prominence as a powerful instrument to prevent and control large-scale corruption in the banking sector. Several years of research and advocacy by Transparency International have led to the global standard for BOT adopted by the Financial Action Task Force, which requires every country to set up a national beneficial ownership register and to disclose who ultimately owns, controls, and benefits from a company or other similar entities.

If there is necessary political will to salvage the banking sector and



VISUAL: EHSANUR RAZA RONNY

prevent further collapse, Bangladesh must create the legal and institutional structure to ensure beneficial ownership transparency without any delay. In the absence of BOT, the only way to identify and track company ownership is to rely on information available from banks, which are not only insufficient but also flawed, as years of scandals in the sector have shown.

Almost every such scandal of deliberate loan default and other forms of embezzlement of bank money has shown time and again that banks cannot be trusted to provide reliable information about beneficial owners, because in nearly all cases, banks themselves are colluders and facilitators of illicit transactions.

BOT, if accompanied by the

adoption of the Common Reporting Standard (CRS) for automatic exchange of all national and international financial transactions, will open up advantages of multiple mechanisms to facilitate unveiling of the identities of beneficial owners.

Experience of countries that have set up public BOT registers and adopted CRS shows enormous opportunities to unveil the secrecy, based on which prevention and control of some of the worst forms of forgery, swindling, tax evasion, and money laundering are possible. It can lead to uncovering of conflicts of interest, expose high-level corruption, and track the processes of money laundering and illicitly earned wealth.

Information on real owners or

persons behind companies and other business entities is also critical for promoting integrity in the financial sector in general and for the tax system in particular. It will help regulators and oversight institutions as well as credible banking authorities to specifically know the customer, and thereby prevent the operation of fake and anonymous entities. BOT can also facilitate tracking and scrutiny of the public procurement process.

It may be mentioned that, as part of accessing funds through the IMF Rapid Financing Instrument, Bangladesh committed in June 2020 to ensure beneficial ownership transparency. However, there is no evidence of any follow-up action. The government only reiterated to the

international lender as of May 2022 that they "will seek to adopt reforms to allow publication of beneficial ownership of companies awarded public procurement contracts as soon as possible."

Notably, while the pledge to adopt reforms remains vague and open-ended without a deadline, it also indicates the self-defeating intention to limit the scope to public procurement only. While BOT in public procurement is highly important, such limited reforms, even if implemented, will remain far short of addressing the much bigger issue of banking sector scandals.

The government should urgently take a strategically designed initiative for beneficial ownership transparency – not merely because of a conditionality agreed on with the IMF but, more importantly, acting upon its own realisation of the critical importance of effectively confronting the challenges of banking scandals.

This would require the necessary legal reform to establish a central register of beneficial ownership information of all companies, which should be available in open data format as public information. Institutional capacity will have to be developed to create the register, and independent verification and cross-checking of information on the register with information available in other relevant sources (like the tax database) will be needed. The provision must be created such that the services of financial institutions, bankers, lawyers, and accountants are strictly conditional upon specific verification and disclosure of the true identity of the customer, be it the frontline owner, real owner, controller or a beneficiary hidden behind fake papers.

Whether or not such aspirational reforms will be possible in the abiding context will depend on the commitment and capacity of the political authority to prioritise public interest, independent of fear of or favour for the kingpins and beneficiaries of scandals in the banking sector, who have pushed it to the brink of collapse.

'Change laws that undermine women's position in the family'

Barrister Sara Hossain, executive director of Bangladesh Legal Aid Services Trust, speaks to Shuprova Tasneem of The Daily Star about where we go next in dealing with violence against women in Bangladesh.

The recent amendment that disallows the use of character evidence in rape trials is a positive change that rights activists have long been campaigning for. What is the next major change you would like to see?

If we look at the evolution of laws related to gender-based violence (GBV) in Bangladesh, the changes – fuelled by women's outrage at the status quo – have come from a place of understanding the right to equality, dignity and self-determination, not from a position of pity for a victim. It started with a demand for accountability for routine and extreme violence, although unfortunately, we still continue to witness the powerful using their influence to evade justice.

What we need now is a focus on the survivor, and the financial assistance, health support (including for mental health), and safety and security that she requires to survive a process of justice that can be unacceptably lengthy. So far, our whole focus has been on criminal law and punishment and accountability, and less on reparations and compensation for survivors.

While we can't stop looking at legal barriers, we must also demand emergency shelters, improvement of safety net measures that already exist, speeding up the process of claiming maintenance and, crucially, we need to make sure those seeking justice through the courts are not threatened or intimidated by the accused.

We have heard government officials talk about how GBV cases are lower in Bangladesh than in certain countries (although we must remember that these are just reported cases). But our concern is not with numbers; it's

with what happens to a woman who faces violence. Can she report it? Can she seek support? Whether through a legal process and accountability, or by simply getting on with her life, we still don't have the same pathway to justice and reparations that we see elsewhere.

We also need to address the issue of rights within the family, since this hugely impacts women's capacity to seek protection against violence. Our current family laws give women very different rights from men, and also create inequalities between women. For example, the difficulties Hindu and Christian women face in seeking divorce clearly limits their ability to ensure their own safety. Muslim women can only get three months of maintenance after divorce, and no rights to the home she built with her husband or any other safety net provisions. How can you seek protection against domestic violence in such situations?

If we're really serious about

As women, we often don't realise that we have the right to withdraw consent or not give it for longer, because society doesn't allow you to think that and our law is quite difficult in terms of how it's applied.

tackling GBV, we have to look at laws that continue to undermine women's position within the family, particularly within marriage.

Finally, we need to address the stigma that is still very much



Barrister Sara Hossain.

PHOTO: COURTESY

prevalent, especially around unmarried and divorced women. We need to stop viewing survivors as "unfortunates" and acknowledge that women are entitled to seek justice.

What concrete measures can the state take right now to remove the obstacles that women face when seeking justice?

When we were young, girls were taught that life would send many problems their way and they would have to deal with them. If you are harassed, you can't talk about it, you just have to avoid it. Without a change in perspectives, changes in the legal system are not enough. Girls should not be raised to accept and tolerate violence, as if they have no

other choice.

In terms of concrete measures, the reform of laws that discriminate between the sexes is a priority. The current rape law still has many colonial-era influences that women's rights activists have long been campaigning against, and the removal of character evidence is a result of this, although now we need to ensure its implementation.

There has been a lot of institutional changes within the police, especially in terms of dealing with GBV, such as its establishment of victim support centres. Although there aren't enough, they exist in quite a few districts and are working with women's rights organisations on a regular basis. More recently,

police created help desks for women, children, disabled persons, etc. The system is not always put into practice, but at least the intent is there and a basic structure has been put into place.

There is also a High Court directive that clarifies that police cannot refuse someone filing a rape case, that they must be given medical care immediately, and that police cannot discriminate in this regard. There are also different police circulars on how they should treat rape survivors.

Despite that, there are still instances of police refusing to accept cases or not providing support to survivors, especially if they don't have family support, either. At the end of the day, police, lawyers, and judges all exist within a patriarchal society and are influenced by its norms. The attitude that if you are a victim of violence, then you must learn to deal with it, is still too common.

The main thing we need to work on now is removing the power of influencers over the process of justice and ensuring that women get equal rights and opportunities when pursuing justice.

The issue of social stigma against survivors of violence always comes up in these conversations. Can we ever get past this huge obstacle faced by them?

The way the state and society responded to the Birangona after 1971 carries lessons for us on how we should think about survivors of violence today. We know that giving them recognition as survivors of extreme sexual violence was an important part of the response they needed, as well as the initial support in government rehabilitation centres (1972-1975). Steps were taken to ensure opportunities for

employment, financial support, critical medical intervention like MR and, crucially, victims were almost immediately seen through the lens of survivor. Obviously, there were many challenges over the next 40 years, and state recognition only came recently, but it happened.

Groups like Naripokkho also campaigned against the use of words like *ijot* or *shombhrom* when talking about Birangona, arguing that it's not the women or their communities who have been dishonoured, but the men who carried out these acts of violence. These words are very loaded, but unfortunately continue to be used today, even coming up recently in a draft legislation. An important step would be to move away from subjective terms like "decent" or "moral" and talk about dignity instead.

We must also highlight the question of consent. You still hear the victims being questioned – how did she get herself into this situation? The question of consent in sexual violence cases can be complex, and there will be other corroborating factors as well, but it cannot be completely missing from cases, like it so often is now.

The notion of what consent is for and the extent to which it is given has to be clearly understood. As women, we often don't realise that we have the right to withdraw consent or not give it for longer, because society doesn't allow you to think that and our law is quite difficult in terms of how it's applied.

A big shift needs to happen, and it needs to come from the understanding that girls and women have the right to determine their own lives and, very importantly, what happens with their own bodies.