

**SHORT ARTICLE****PRESENT SITUATION, PROBLEMS AND SOLUTIONS IN THE LEGAL SYSTEM RELATED TO CORRUPTION CONTROL AND CORRUPTION CASES IN BANGLADESH**

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Corruption has been perceived as a national problem. The growing socio-economic complexities in recent years widened the scope of bribery and corruption, particularly, among the public servants, which eventually went a long way in eating up the vitals of the social equilibrium in the country. For combating the menace there have been efforts in formulating laws providing for speedy trials and effective punishments of such offences. With the changing needs the laws against corruption have been amended from time to time to make the same more effective for achieving the optimum object in eradicating bribery and corruption from among the public servants. Although it is clear to every one that corruption was formerly of a domestic nature, but now it has emerged as a phenomenon transnational in character. In this regard, the roles of the decision-makers, high officials and bureaucracy are considerably remarkable.

Basically corruption is a governance issue and structural adjustment is a program for implementation by the government of measures to improve economic governance through reducing the role of the government as a producer of private and joint goods and service, as a regulator beyond protection of consumers rights and creation of competitive condition, setting standards, increasing the role of the market through deregulation, liberalization of trade and financial regime and improving efficiency by reducing bureaucratic control. It is recognized that corruption / malfeasance is most likely to occur regardless of political structure or social and economic development where public and private sectors broadly defined, meet ( Staphenhurst and Sedigh, 1999). The strategy for limiting corruption requires strengthened institutions (e.g. free independent media, active electoral institutions including parliament, public interest protecting judiciary with proactive and imaginative role, effective watchdog agencies including a system of corrective institutions) and appropriate administrative

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system to promote financial and economic reforms that promote and reward efficiency, neutrality and discourage politicization and partisanism. However, lack of political will, entrenched influential coalescing interest on both sides of the table and non transparent action against which society watchdog agency is absent or inactive, create favorable condition for continuation and expand areas of corrupt practices.

## **2. Corruption what does it mean:**

Corruption means, “abuse of power for private gain”.

In shorter sense, corruption includes “abuse of authority, bribery, favoritism, extortion, fraud, patronage, theft, deceit, malfeasance and illegality (Caiden, 1991).”

In broader sense, corruption refers to “use of ones official position for personal and group gain and that includes unethical actions like bribery, nepotism, patronage, conflict of interest, divided loyalty, influence peddling, misuse or stealing of government property, selling of favors, receiving kickbacks, embezzlement, fraud, extortion, misappropriation under or over invoicing administrative documents and use of regulation as bureaucratic capital” (AAPAM, 1991)”.

### **United Nations Dictionary of social sciences defines corruption as follows:**

A Corruption in public life is the use of public power for private profit, preferment or prestige or for the benefit of a group or class, in a way that constitutes a breach of law or standards of high moral conduct.

### **Encyclopedic law dictionary defines corruption as follows:**

A public servant is said to commit an offence and criminal misconduct in the discharge of his duty if he, by corrupt or illegal means or by otherwise abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage. Such act is corruption (Bishambar Lal Vs. State of Punjab, AIR 1966 Punj 175).

From the above discussion it is clear that, corruption is a problem that seriously affects legitimacy of democracy, distorts the economic system and contributes to social disintegration. It is also the main obstacle to the socio-economic developments of the country.

## **3. Current situation of Corruption in Bangladesh:**

Corruption is one of the main obstacles to the socio-economic development of the country. It should never be forgotten that corruption poses a serious development challenge. In the political realm, it undermines democracy and good governance by subverting formal processes, at the

same time corruption undermines the legitimacy of government and such democratic values as trust and tolerance. It generates considerable distortions and inefficiency of government officials and reduces accountability. Corruption reinforces political instability and underdevelopment (Ouma, 1991). Some other equally damaging consequences of corruption are undermining of public confidence in government; engendering wrong economic choices and construing of government ability to implement policies; it makes the poor pay the price and threatens government strategy of private- sector, oriented growth (World Bank 1996). In our country maximum poor people do not engage in corruption in the first place. In fact, even if they wanted to, they might not have the resources, power, position and state patronization to do so. We may have a mini scenario of corruption from the source of Bureau of Anti Corruption (BAC):

#### Cases disposed of in courts during 1994-2000

Year	Previous year	Current year	Charge sheets	Cases disposed of in courts	Punishment	Acquittal	Pending case
1994	3591	1201	4792	501	215	286	4291
1995	4291	764	5055	564	249	315	4491
1996	4491	355	4846	458	204	254	4388
1997	4388	457	4845	475	172	303	4370
1998	4370	550	4920	380	180	200	4540
1999	4540	600	5140	412	175	237	4728
2000	4728	516	5244	405	178	227	4831

Till October, 2003 the number of pending cases are about 5000 (five thousand).

The above picture itself shows the extent of bad governance, lack of accountability and suspension of rule of law in our country and obviously these are responsible for slow growth rate in the process of economic development. Integrity is a moral purity. The wise man or woman will live a life of integrity, which is a part of wisdom. Those who follow corruption or falsehood will be destroyed by the decisions and actions of their lives. Almost the whole machinery of the state has been suffering from lack of patriotism and decreasing rate of integrity.

Corruption jeopardizes the society in several ways, which are as below:

- I. It reduces efficiency of government officials;
- II. It discourages investment & growth;
- III. It negatively impacts on the rule of law;
- IV. It deflects public resources;
- V. It creates low labor productivity;

- VI. Cost of services becomes inflated through corrupt pay-offs;
- VII. It distorts public spending;
- VIII. Corruption tends to fuel arbitrary rule with dire implications for both democracy and investor confidence as public trust declines and economic marginalization takes hold;
- IX. It causes inequality and pervasive poverty;
- X. Corruption resulting from tax evasion reduces the government tax revenues;
- XI. It intrinsically undermines the quality of governance;
- XII. It makes opportunity to deflect funds by corrupt officials;
- XIII. Where corruption occurs, the public good is generally regarded as being of secondary importance;
- XIV. It distorts prices throughout the economy, as the costs of bribes are passed onto the final consumer and it creates delays in economic transactions and additional uncertainty, which may be a crucial element in undermining investment and encouraging capital flight, and
- XV. It superimposes informal practices over the proper rules and procedures of government.

#### **4. Causes of corruption in Bangladesh:**

The main causes of corruption in Bangladesh may be categorized as bellow:

##### **A. Political causes of corruption:**

- (i) Political instability;
- (ii) Lack of patriotism;
- (iii) Inadequacy of existing laws;
- (iv) Lack of accountability;
- (v) Centralization of power;
- (vi) Lack of strong supervising and monitoring system;
- (vii) Inefficiency of our Anti Corruption Commission;
- (viii) Corruption in anti corruption department, and
- (ix) Lack of political will.

##### **B. Social causes of corruption:**

- (i) Poverty;

- (ii) Unemployment;
- (iii) Law and order situation;
- (iv) Fascination for luxurious life;
- (v) Fragile social status;
- (vi) Availability of illegal arms, and
- (vii) Lack of social awareness.

**C. Economic causes of corruption:**

- (i) Unequal distribution of wealth and income;
- (ii) Expensive life style;
- (iii) Financial uncertainty, and
- (iv) Economic insolvency.

**D. Other causes:**

- (i) Lack of patriotism;
- (ii) High ambition, and
- (iii) Ambiguity of law.

**5. Latest position of the legal system:**

For an effective and speedy step to prevent corruption the previous elected Government has taken initiative and passed an Act named as The Anti-Corruption Commission Act, 2004 (Act 5 of 2005)

The main features of the Act are as follows:

- (I) There shall be a Commission named as Anti Corruption Commission, that will be an independent and neutral in nature and function;
- (II) The Commission shall be comprised of three commissioners who shall be appointed by the President on the recommendation of a selection committee;
- (III) Commissioner shall be appointed for four years and shall not be eligible for reappointment after the tenure;
- (IV) President will appoint a chairman among the commissioners;
- (V) Commissioner shall be removed from the office on the same ground and as per the same a judge of the Supreme Court is removed;

- (VI) Chairman and commissioners of the commission shall be entitled to the same remuneration, allowances and other facilities as the judge of a High Court Division are entitled to;
- (VII) Commission shall have the following powers-
- (VIII) To enquire and investigate;
- (IX) To hear the accused;
- (X) To direct to submit a statement of property in the prescribed manner, and
- (XI) To take possession of property disproportionate to one's known sources of income.
- (XII) Commissioners shall be independent in the exercise of their functions;
- (XIII) Approval from the Commission shall be required before filling any case of corruption, and
- (XIV) At the commencement of this Act, The Anti- Corruption Act, 1957 shall stand repealed and the employees of the BAC shall also stand transferred to the Commission.

#### **6. Legal system related to corruption control in Bangladesh:**

Corruption assumes different shapes and forms in different countries. Bangladesh is a developing country and corruption has spread in this country as well as other developing countries. The newly created Anti- Corruption Commission is the foremost among the agencies engaged in combating corruption in Bangladesh. The main job of this organization is to take legal actions after conducting inquiry into corruption that takes place in society.

#### **Function of the Commission:**

The main task of the Anti- corruption Commission is checking corruption. The Commission performs the following tasks in the process of prevention of Corruption:

- I. Receiving and screening complaints related to corruption;
- II. Undertaking inquiry to ascertain whether the complaint is correct.;
- III. Lodging formal complaint in the Police Station;
- IV. Completing the investigation;
- V. Completing the investigation process for undertaking legal measures;
- VI. Prosecuting cases , and
- VII. Routine official work.

### **7. Existing Laws:**

To prevent corruption existing laws which are in force in Bangladesh are as follows:

- I. The Anti-Corruption Commission Act, 2004 (Act 5 of 2004);
- II. The Prevention of Money Laundering Act, 2002 (Act VII of 2002);
- III. The Criminal Law Amendment (Sanction for Prosecution) Rules, 1977;
- IV. The Anti-Corruption (Tribunal) Ordinance, 1960;
- V. The Criminal Law Amendment Act, 1958 (Act XL of 1958);
- VI. The Anti-Corruption Rules, 1957;
- VII. The Prevention of Corruption Act, 1947 (Act II of 1947), and
- VIII. The Criminal Law Amendment Ordinance, 1944 (Ord. XXXVII of 1944).

### **8. Fighting and combating corruption:**

According to public perception both petty and general corruption has increased in Bangladesh like other developed and developing countries. Corruption has been identified as a great problem in the public administration and society, which ultimately has jeopardized our progress. Very often we talk about honesty and moral values but some times we find it easier to be dishonest. All around the world people share the fact that corruption is human behavior. It is not a natural disaster or a technical problem. Corruption is a symptom of bad governance which slows down sustainable economic growth (The Hague Declaration, 2001) .

To mitigate such acute problem no pragmatic and preventive measures have been taken as a result it has spread as chronic disease. To combating corruption we may have to propose some recommendations such as:

- I. Constructing a meaningful multilateral Agreement with other developed and developing countries;
- II. Applying modern technology in investigation system;
- III. Appoint an Ombudsman and establish related office;
- IV. Establish a really independent Anti Corruption Commission;
- V. Establish a task force on public sector transparency, made up by independent members drawn from various professional and occupational groups;
- VI. Expansion of education;
- VII. To enhance social values and practice of morality;
- VIII. Initiate program for establishing public complaint offices;

- IX. Formulate and announce public policy on transparency;
- X. Key sectors, ministries , agencies to announce their respective objectives and performance targets at the beginning of the year to enable continuous performance evaluation;
- XI. Effective scheme for development of moral, socio- cultural, religious and political values is to be designed by the Government and the social organizations;
- XII. Expansion of employment opportunity;
- XIII. Modernization and re- organization of police;
- XIV. Eradication of pollution and criminalization of politics;
- XV. Number of Courts to be increased to combat the case flow;
- XVI. To establish rule of Law;
- XVII. Separation of Judiciary from executive;
- XVIII. Strengthen interest groups;
- XIX. Reform of traditional anti – corruption laws and to formulate different code of conduct for the officials of Anti- Corruption;
- XX. Democracy should be institutionalized;
- XXI. To ensure proper salary for the govt. officials considering the market price of necessary goods;
- XXII. To decrease revenue expenditure through decentralization of power;
- XXIII. Corrupt officials and peoples should be dealt with firmly and ruthlessly, exemplary punishment must be imposed on the corrupt officials or people;
- XXIV. Activate the role of opposition in the parliament so that they can play constructive role in formulating policies ;
- XXV. Above all the governments will have to be committed to curb corruption.

**In fine:** We can say that all these measures cannot be materialized by the Government alone as the most problem relates to human behavior, which is usually changed and influenced by social values and ethics. Different NGOs, social organizations, notable personalities may play a vital role in this regard. Increasing growth of corruption cannot be met by any specific discipline as the problems stem from various factors as already stated. Coordinated attack through enlightened political, administrative,



educational and legal initiatives is needed. Law and courts are not the only means of ensuring justice and reducing corruption. The entire socio-political system requires radical changes and reforms, which must be tuned for up-gradation of values. Specially political leaders have shown increasing awareness of the need to curb corruption recognizing a mandate in the growing public calls for action.

From the above discussion, it is clear that to fight against corruption successfully, three conditions are believed to be necessary; 1. Top political leader of strong will against corruption, 2. Effective anti –corruption strategies, 3. Efficient anti- corruption system. It is generally accepted that any efforts to eradicate corruption tend to be in vain without the back up of the political power and both preventive and punitive strategic approaches are needed.

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