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1-1-2018

### **'Captured by Evils' - Combatting Black Money, Corruption and Money Laundering in Bangladesh: The Dog Must Bark to Keep Predators Away'**

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## 'Captured by Evils' - Combatting Black Money, Corruption and Money Laundering in Bangladesh: The Dog Must Bark to Keep Predators Away'

### Abstract

**Purpose:** The purpose of this paper is to demonstrate that the recurrent amnesties to black money holders (BMHs) in Bangladesh have not benefited the national economy, rather have increased corruption and money laundering, and that offering further opportunity to whiten back money as recommended by the Anti-Corruption Commission of Bangladesh will do more harm than good.

**Design/methodology/approach:** This research relies on both primary and secondary materials adopting an archival analysis of the existing literature.

**Findings:** The major findings include the following: the recurrent amnesties to BMHs have damaging impacts on corruption and money laundering in Bangladesh; the Anti-Corruption Commission of Bangladesh's recommendation to provide further opportunity to legalise black money is flawed, ill thought-out and misjudgement of the futility of the amnesties offered to date; and the black money problem could be better addressed through using educational, preventive and punitive measures that have been specifically formulated in this paper.

**Research limitations/implications:** This research does not examine the flaws that may remain in the provisions of existing laws; rather it gives emphasis to the enforcement of the law in place. Legal flaws thus can be a subject matter of another endeavour.

**Practical implications:** As implications, it is expected that this research will encourage the concerned authorities in Bangladesh to stop offering amnesties to BMHs for good. Also, other countries facing a similar problem can learn from the experience of Bangladesh presented, and specific recommendations submitted, in this paper, in dealing with black money, corruption and money laundering.

**Social implications:** It is expected that if the recommendations furnished in this paper are implemented, corruption in, and money laundering from, Bangladesh will reduce. This reduction will facilitate ensuring fairness in the society in many respects, deter criminal activities associated with black money and enable honest taxpayers to buy their homes in a level-playing field.

**Originality/value:** This paper presents original research in terms of analysis of materials and the recommendations submitted to deal with corruption, black money and money laundering.

### Disciplines

Arts and Humanities | Law

### Publication Details

S. M. Solaiman, "Captured by Evils' - Combatting Black Money, Corruption and Money Laundering in Bangladesh: The Dog Must Bark to Keep Predators Away" (2018) 21 (3) Journal of Money Laundering Control 264-289.

# **‘Captured by Evils’ – Combating Black Money, Corruption and Money Laundering in Bangladesh: The Dog Must Bark to Keep Predators Away**

S M Solaiman\*

## **Abstract**

Black money has been a chronic problem in Bangladesh for decades. Successive governments have been offering amnesty to black money holders since 1976 by arguing that the investment of that money in local markets will boost the country’s national economy, and the money will be laundered overseas in the absence of such a privilege. To the contrary, empirical evidence suggests that such recurrent amnesties have not benefited the economy, rather have increased corruption and money laundering. Nonetheless, the Anti-Corruption Commission (ACC) itself has formally suggested the government to give one more chance to BMHs to whiten their black money ‘through purchasing land and apartments to discourage corruption’. This article finds that the ACC’s recommendation is flawed, ill-thought-out and misjudgement of the futility of the amnesties offered to date. It submits specific suggestions to deal with black money in order to reduce corruption and money laundering, and concludes that the watchdog must bark in order to keep predators away.

Purpose: The purpose of this article is to demonstrate that the recurrent amnesties to black money holders in Bangladesh have not benefited the national economy, rather have increased corruption and money laundering, and that offering further opportunity to whiten back money as recommended by the Anti-Corruption Commission of Bangladesh (ACC) will do more harm than good.

Design/methodology: The research carried out in this article relies on both primary and secondary materials adopting an archival analysis of the existing literature.

Findings: The major findings include: the recurrent amnesties to black money holders have damaging impacts on corruption and money laundering in Bangladesh; the ACC’s recommendation to provide further opportunity to legalise black money is flawed, ill-thought-out and misjudgement of the futility of the amnesties offered to date; and the black money problem could be better addressed through employing educational, preventive and punitive measures that have been specifically formulated in this article.

Research limitation/implications: This research does not examine the flaws that may remain in the provisions of existing laws, rather it gives emphasis to the enforcement of the law in place. Legal flaws thus can be a subject–matter of another endeavour.

Practical implications: As implications, it is expected that this research will encourage the concerned authorities in Bangladesh to stop offering amnesties to black money holders for good. Also, other countries facing a similar problem can learn from the experience of Bangladesh presented, and specific recommendations submitted, in this article, in dealing with black money, corruption and money laundering.

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Originality/value: This article presents original research in terms of analysis of materials and the recommendations submitted to deal with corruption, black money and money laundering.

Keywords: Black money, Corruption, Money laundering, Bangladesh

## Introduction

Black money, generally proceeds of corruption and other illegal activities, has been a chronic problem in Bangladesh for decades. Money is usually cleaned and sanitised,<sup>1</sup> but the way of earning or receiving it makes it black or white. Black money is defined by the Bangladesh National Board of Revenue (NBR) as being the money earned legally or illegally, but not declared to the government agencies, thus its holders avoid paying tax.<sup>2</sup> This is an incomplete definition focused on taxation only, and it largely ignores the concept of inherent illegality in holding black money which is typically ‘amassed through immoral, improper and illegitimate means.’<sup>3</sup> Black money is more aptly defined, linking with corruption and other illegal activities, as the ‘money illegally obtained through political and/or bureaucratic corruption, bribery at all levels of the government, semi-government, autonomous or semi-autonomous offices or organisations, as well as money amassed by businesspeople through smuggling, black marketing, shady deals, profiteering, money amassed by labour leaders, student leaders, through extortion – and especially, money amassed by functionaries of the ruling government party and its various organs, and their families, relatives and cronies.’<sup>4</sup> Corruption is one of the ways of ‘grabbing’ black money which is laundered to hide its origins. Thus black money, corruption and money laundering are interrelated.

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<sup>1</sup> David Chaikin, ‘Commercial Corruption and Money Laundering: A Preliminary Analysis’, (2008) 15(3) *Journal of Financial Crime* 269, 273.

<sup>2</sup> Attiya Waris and Laila Abdul Latif, Policy Brief, Black Money Whitening Law: A Study from Bangladesh, 1-2, *Norwegian Institute of International Affairs* (Sept. 2013), 1-3. <https://brage.bibsys.no/xmlui/bitstream/handle/11250/191558/NUPI%20Policy%20Brief-9-13-Warif-Latif.pdf?sequence=3&isAllowed=y> (12 May 2017).

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

Successive governments of Bangladesh have been allowing black money holders (BMHs) to whiten their ‘ill-gotten’ money in different ways, such as investing in securities and real estate markets, claiming that the whitening opportunity will help boost the national economy. However, no credible evidence is available to support that the avowed objective of boosting national economy by granting amnesty to such wrongdoers has been ever achieved. Contrarily, research demonstrates otherwise that such opportunities to invest black money in securities and real estate markets have witnessed no positive impacts on the markets.<sup>5</sup> Instead, the opportunities have furthered corruption and facilitated money laundering making the country world champion in corruption for consecutively 5 years (2001-05) in the yearly corruption perception index (CPI) of Transparency International (TI), a German-based anti-corruption organisation.<sup>6</sup> Taking advantage of such persistent amnesties, corruption gradually permeates all level of society in the country. The situation is so intractable that the Chief Justice of Bangladesh publicly pronounces that ‘if Tk 100 is allocated for any development purpose in the country, Tk 40 is spent and Tk 60 is stolen.’<sup>7</sup>

All opposition political parties have always opposed such legalisation of illegal money, and sometimes even finance ministers have openly admitted the unfairness in granting such amnesties. Nonetheless the successive governments had succumbed to invisible pressures at the time of drafting annual national budgets for decades. The debate about black money is revived every year when members of civil societies, leading economists, and various organisations, such as Transparency International-Bangladesh (TIB),<sup>8</sup> sternly oppose this indemnity. This disapproval is voiced against the unjustified demand of vested quarters organised under the banner of real estate business<sup>9</sup> and stock brokers during the pre-budget parley that this opportunity be given to BMHs. The case is somewhat different this year in that the Anti-Corruption Commission of Bangladesh (ACC) itself has formally suggested the government to give one more chance to BMHs to whiten their black money ‘through purchasing land and apartments to discourage corruption’.<sup>10</sup> By contrast, previously the ACC along with the National Human Rights Commission of Bangladesh intensely opposed such a discriminatory treatment of BMHs by arguing that it contravenes the national constitution, international obligations as well the laws governing anti-money laundering and corruption as discussed shortly below.

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<sup>5</sup> See S M Solaiman, ‘Black Money, ‘White’ Owners, and Blue Tenants in the Bangladesh Housing Market: Where Corruption Makes the Difference as Protectors Turn Predators’ (2016) 23(2) *Journal of Financial Crime* 501; S M Solaiman, ‘Laws Whitening Black Money for Boosting National Economy: Prevention or Legalisation of Corruption in Bangladesh?’ (2014) 17(2) *Journal of Money Laundering Control* 141.

<sup>6</sup> Staff Correspondent, ‘TI Brands Bangladesh Most Corrupt for Fifth Time’ *Daily Star*, Dhaka (19 Oct 2005), Front page.

<sup>7</sup> Staff Reporter, ‘Tk 60 Out of Every Tk 100 Stolen in Dev Project: CJ’ *Daily Star*, Dhaka (19 May 2017), City.

<sup>8</sup> FE Reporter, ‘TIB against Allowing Undisclosed Money in Next Budget’ *Financial Express*, Dhaka (5 Apr 2017), Finance.

<sup>9</sup> FE Report, “‘Undisclosed’ Money Investment to Help Check Capital Flight: REHAB’ *Financial Express*, Dhaka (13 May 2017), Trade & Market; FE Report, ‘Realtors Seek Free Investment of Undisclosed Money’ *Financial Express*, Dhaka (4 Apr 2017), Economy.

<sup>10</sup> Jasim Uddin, ‘Give Money Legalising Scope Once and for All - ACC Suggests Govt’ *New Age*, Dhaka (5 Feb 2017), Business.

It is to be borne in mind that once corruption is tolerated in one area, the evil is likely to spread out all other areas of regulation in our society.<sup>11</sup> Thus the ACC's unusual solicitation in favour of 'predators' provides impetus for this article. However, despite such disputed advocacy by the ACC, it is commendable that its current chairman has already demonstrated greater activism than his predecessors in combating corruption, and this has generated public confidence to some extent that corrupt practices and resultant money laundering will gradually reduce, if the proactive moves continue to operate. Positive effects of the ACC's proactivity is evident in the fact that people have already started leaving luxury cars on the street concealing ownership details fearing prosecution for evading tax and hiding source of income.<sup>12</sup> Despite the ACC's recommendation, the Finance Minister initially states, perhaps being instigated by his past experience of futility, that the government does not want to further offer the whitening opportunity, rather is trying to find out ways of exterminating this privilege.<sup>13</sup> But a later report referring to NBR officials discloses that the opportunity will survive over again this year.<sup>14</sup> In such a situation, the ACC's recommendation and the anticipated budget provision for further mercy towards BMHs warrant a revisit to the past opportunities, public responses thereto, and resultant effects on corruption and money laundering. This article is devoted to that pursuit.

## **History and illegality of amnesties to black money holders in Bangladesh**

The amnesty to BMHs was first introduced in 1976, and the privilege had continued to exist ever since one way or another – although no tangible benefits have been evident over this prolonged period of time.<sup>15</sup> Rather, perhaps more appallingly, the long disputed opportunity has been proved to be not only immoral, unfair, discriminatory, but also illegal and unconstitutional in Bangladesh.<sup>16</sup> Article 27 of the Constitution of Bangladesh provides a fundamental right that all citizens to be treated equally as it reads '[a]ll citizens are equal before law and are entitled to equal protection of law.' The Constitution, as stated in its Art 7(2), is the supreme law of the land, and any law inconsistent with it shall, to the extent of the inconsistency, be void. Arguing that the amnesty is contrary to the purpose of establishing the ACC, Justice Sultan pronounced, while he was chairman of the ACC, that '[i]t goes against the spirit of the constitution of Anti-Corruption Commission. This is self-contradictory,<sup>17</sup> and it contravenes s26 of the *Anti-Corruption Act 2004* (Bangladesh) which enables the ACC to ask anyone to submit necessary statements of one's assets, if it thinks necessary. The amnesty undermines the national and international obligations of the state to prevent corruption and money laundering.<sup>18</sup> Bangladesh ratified the *United Nations Convention against Corruption*

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<sup>11</sup> Susan Rose-Ackerman as cited in Edward L Rubin, 'Corruption, Governance, and Morality' (2014) 92 *Texas Law Review* 943, 963.

<sup>12</sup> Star Online Report, 'Mercedes with Fake Number Plate Seized in Dhaka' *Daily Star*, Dhaka (2 May 2017), City; UNB, 'Posh Car Seized from Hatirjheel' *The Independent*, Dhaka (11 Apr 2017), Metro.

<sup>13</sup> Staff Reporter, 'Budget Will Contain the Ways of Finding Out the Sources of Black Money: Finance Minister' *Bonik Barta*, Dhaka (20 March 17), News (translated from Bengali).

<sup>14</sup> Jasim Uddin, 'Looking Back: Budget FY2016-17 - Legalisation of Undisclosed Money Loses Efficacy' *New Age*, Dhaka (29 May 2017), Bangladesh.

<sup>15</sup> Solaiman (2014), above n 5, 145.

<sup>16</sup> Solaiman (2016) above n 5; Solaiman (2014) above n 5.

<sup>17</sup> Shamim Ahsan, 'Cover Story- A Budget without Direction' *Daily Star*, Dhaka (24 Jun 2005), *Star Magazine*.

<sup>18</sup> Solaiman (2014) above n 5, 150.

2003 (UNCAC) on 27 February 2007 assuming responsibility to prevent corruption as the instrument purports to '[t]o promote and strengthen measures to prevent and combat corruption more efficiently and effectively'<sup>19</sup> and obligates member states to undertake preventive measures against corruption.<sup>20</sup> Particularly, it violates international obligations under Art 5 (preventive anti-corruption policies and practices) and Arts 15-25 (criminalisation and law enforcement) of the UNCAC. Further, the opportunity inherently flouts anti-money laundering legislation of the country, as the offering of amnesty itself facilitates money laundering as the offence is defined in s2(v) of the *Money Laundering Prevention Act 2012* (Bangladesh). The indemnity assists BMHs in legalising their illegally accumulated money, and in laundering that money taking advantage of such leniency. The whitening opportunity directly contradicts tax evasion proscriptions contained in ss165 and 166 of the *Income Tax Ordinance 1984* (Bangladesh), which prescribe that making false statements and concealment of income are criminal offence punishable by imprisonment which may extend to three to five years and fines. Besides, corruption also contravenes human rights, therefore, any act directly or indirectly facilitating corruption infringes on such rights,<sup>21</sup> as further discussed shortly below.

The history, illegality and investment impacts of this indemnity have been previously discussed elsewhere in a greater detail.<sup>22</sup> Based on the above references to different laws, we can briefly conclude that the amnesty at issue is blatantly illegal and unconstitutional. Nonetheless, against all these constitutional and legal prohibitions, s19BBBBB of the *Income Tax Ordinance 1984* (Bangladesh) provides that people can invest their 'undisclosed' income, without facing any question from the taxmen, in residential real estate. This income tax provision constitutes the aforesaid violations of laws impacting heavily on the insinuation of corruption, black money and money laundering in Bangladesh.<sup>23</sup> People from all walks of life, other than the BMHs and certain unscrupulous businesspersons, are opposed to this opportunity, whilst the ACC's support for further opportunity undermines the opposition this year.

## **Critiques of the amnesty to black money holders**

Corruption comes into play in discussing black money as the latter is generally proceeds of the former, thus to some extent, these two evils are synonymous. Besides, corruption and black money mingle in the commission of several crimes including, money laundering, homicides and terrorism. Hence, a definition of corruption is warranted in criticising black money.

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<sup>19</sup> *United Nations Convention against Corruption 2003*, Art 1(a). See also its Art 5 which imposes obligations for preventing measures directly.

<sup>20</sup> See *United Nations Convention against Corruption 2003*, Art 5.

<sup>21</sup> Joel M Ngugi, 'Making the Link Between Corruption and Human Rights: Promises and Perils' (2010) 104 *American Society of International Law Proceedings* 246; Julio Bacio-Terracinot, 'Linking Corruption and Human Rights' (2010) 104 *American Society of International Law Proceedings* 243.

<sup>22</sup> Solaiman (2014) above n 5.

<sup>23</sup> For further details, Solaiman (2014) above n 5; Solaiman (2016) above n 5.

There is no single definition of corruption as it depends on the law of a given jurisdiction. However, it is generally defined as ‘receiving any money from one’s exercise of office from any source other than one’s official employer or as hiring anyone for an administrative position on any basis other than the meritocratic criteria established for the position.’<sup>24</sup> Corruption is usually described as the abuse of power for private gains,<sup>25</sup> or in other words, it ‘is the use or misuse of public office for private gain.’<sup>26</sup> Art 15 of the UNCAC defines the term by referring to numerous acts constituting corruption, such as bribery, embezzlement and misappropriation, conversion, obstruction of justice, trading in influence, abuse of functions and illicit enrichment.

Underkuffler terms corruption as ‘the essence of evil, and to be corrupt is to succumb to the temptations of evil.’<sup>27</sup> Kofi Annan, former UG Secretary General, describes corruption as ‘an insidious plague that has a wide range of corrosive effects on societies’ and further adds that it ‘undermines democracy and the rule of law, leads to violations of human rights, distorts markets, erodes the quality of life and allows organised crime, terrorism and other threats to human security to flourish.’<sup>28</sup>

Any definition regardless, corruption is a crime in all legal systems, nonetheless it exists in almost all countries in varying degrees. Corruption, as a breeding ground of black money, has become cancerous in Bangladesh,<sup>29</sup> while it has turned into a global problem affecting many aspects of humankind, such as international business, human rights, justice administration, health care, economic development and so on.<sup>30</sup>

The evil of corrupt practices cause sufferings to all in a society in various ways, such as the deprivation of justice, undue harassments, starvation, frustration, loss of productivity and so on, whereas corrupt persons enjoy its benefits owing to impunity being granted by the state. Referring to corruption, Sandage asserts that it damages economic growth, diminish completion and causes significant legal and reputational risks to a country.<sup>31</sup> Pope goes on to say that the evil of corruption ‘crushes’ the market forces playing in a free market economy, in support he adds that the ‘honest business person goes broke, the rules of a healthy economic system become twisted, and companies addicted to paying bribes become rotten....’<sup>32</sup> It interferes with the standard ways of defining offences and affects controlling public servants, particularly when clemency is shown to corrupt practices and proceeds thereof.

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<sup>24</sup> As cited in Rubin (2014) above n 11, 957.

<sup>25</sup> See John Sandage, ‘Keynote Speech: Global Corruption and the Universal Approach of the United Nations Convention against Corruption’ (2015) 53 *Osgoode Hall Law Journal* 7, 9.

<sup>26</sup> J Edgardo Campos & Sanjay Pradhan (eds), *The Many Faces of Corruption*, The World Bank (2007), 9.

<sup>27</sup> As cited in Rubin (2014) above n 11, 943.

<sup>28</sup> *United Nations Convention against Corruption 2003*, Foreword (Kofi A. Annan).

<sup>29</sup> UNB, ‘Dr Kamal Urges All to Raise Voice against Corruption’ *Financial Express*, Dhaka (13 May 2017), National.

<sup>30</sup> Beka Feathers, ‘Symposium: Bribes Without Borders: The Challenge Of Fighting Corruption In The Global Context’ (2014) 29 *American University International Law Review* 287, 287.

<sup>31</sup> Sandage (2015), above n 25, 13.

<sup>32</sup> Jeremy Pope, Corruption in Africa: The Role for Transparency International (TI) (1994) 20 *Commonwealth Law Bulletin* 1468, 1470.



Corruption in most cases is a white collar crime, which causes significant social harm, other than physical injuries.<sup>33</sup> Showing soft approach to white-collar criminals, while imposing harsh punishment to meagre thieves, represents inequality in justice, which is embedded in the sentencing and enforcement system in Bangladesh.<sup>34</sup> For example, a shoplifter may be instantly killed by the agitated crowd without trial (it happens in Bangladesh!) or be awarded up to three years imprisonment, whereas bribe-receivers and money launderers are treated in the society with unduly great respect mainly because of their money. It demonstrates implicit public tolerance for white-collar crimes, and intolerance for trivial criminals. A sense of inequality and injustice is thus entrenched in this approach, and it goes against the constitutional guarantee of equality before law, a cornerstone of the administration of justice and the rule of law. A criminal should be treated as criminal. Stuntz asserts that '[u]nequal justice is an oxymoron; law makes justice both equal and just'.<sup>35</sup> Any leniency towards corruption will: only multiply this evil; amply other crimes; magnify public miseries; stagnate national economy; hinder justice delivery; and widen the gap between the haves and have-nots.

## **Impacts of corruption in Bangladesh**

Bangladesh has probably had enough in both offering impunity to, and suffering pains from, corruption. Some of its experiences can be summarised as follows:

### ***Increasing corruption***

A nationwide household survey conducted in 2015<sup>36</sup> by TIB released in June 2016 reveals a significant increase in corruption in Bangladesh. The 2015 survey records an amount of Tk88.22 billion (US\$1102.75m.) paid in bribe in financial year 2014-2015, whilst the amount was Tk73.25 billion (US\$915.63m) in 2012. So the total amount paid as bribe was Tk14.97 billion (US\$187.13m) higher in 2015 than that was found in the previous survey conducted in 2012.<sup>37</sup> The amount paid during 2014-2015 period is equivalent to 0.6 per cent of the country's gross domestic product (GDP) and 3.7 per cent of its revised national budget for 2014-15.<sup>38</sup> It identifies that 67.8 per cent of the surveyed households became victims of corruption when they sought services in 16 sectors including law enforcement agencies, the judiciary, public health and banking.<sup>39</sup>

Paradoxically, many officials of the ACC itself are reportedly involved in corruption, and several officials were punished for their previous offences, and some of the punished officials

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<sup>33</sup> Anonymous, 'Go Directly to Jail: White Collar Sentencing after the Sarbanes-Oxley Act' (2009) 122 *Harvard Law Review* 1728, 1743-44.

<sup>34</sup> For an analysis of the concept and application of 'unequal justice', see William J Stuntz, 'Unequal Justice' (2008) 121 *Harvard Law Review* 1969.

<sup>35</sup> *Id.*, 2040.

<sup>36</sup> Corruption in Service Sector: National Households Survey 2015.

<sup>37</sup> FE Report, 'Graft in Services Sector on the Rise', *Financial Express*, Dhaka (30 Jun 2016), Economy.

<sup>38</sup> *Ibid.*

<sup>39</sup> See for details, *ibid.*

committed the wrongs again.<sup>40</sup> It is not surprising, because the ACC people are recruited from the same society where corruption is widespread. The ACC took departmental punitive actions against 28 of its officials for committing irregularities including receiving bribes between 2004 and 2014.<sup>41</sup> Alarming enough, since the assumption of the office the present ACC chairman, the watchdog has reportedly served show cause notices on at least 800 of its own employees for committing various irregularities as in September 2016.<sup>42</sup> Some of the ACC officers are currently facing criminal charges.<sup>43</sup> In such a circumstance, a question begs to be answered – who will watch the watchers? However, we can conclude, all this reiterates that corruption breeds corruption.

The following figure containing CPI of Transparency International displays that Bangladesh has recently made some progress in international comparison, but corruption is still at an alarming level.

Figure 1: Bangladesh CPI Scores 2001-2015<sup>44</sup>



The 2015 CPI report identifies the most likely causes of corruption in Bangladesh are misgovernance, manipulation, and corruption in the public sector.<sup>45</sup> Although these three may apparently look different, they are factually rooted in ‘corruption’.

### ***Stimulating money laundering***

Empirical evidence on the disputed amnesties suggests that whitening opportunity does entice and facilitate money laundering.<sup>46</sup> The increasing trend in capital flights from Bangladesh is

<sup>40</sup> Ahammad Foyez, ‘Graft, Irregularities: ACC Finds 13 of Its Staff Involved’, *New Age*, Dhaka (26 Sep 16), Front page.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> The figure is adopted from: Muhammad Zamir, ‘Re-visiting Corruption in Bangladesh’, *Financial Express*, Dhaka (25 Jul 2016), Op-Ed.

<sup>45</sup> Ibid.

<sup>46</sup> See Waris & Latif (2013), above n 2.

discussed in the following section in demonstrating link between corruption and money laundering. However money launderers are not being punished, as can be seen in the following table on money laundering complaints and convictions statistics.

*Table 1: Money laundering: complaints and investigations*<sup>47</sup>

Year	Complaints	Dismissed	First Information Report Received	Amounts of Money (Taka in Crore) US\$1=Tk80	Final Reports	Charge Sheeted Accused	Convicts
2009	1	-	2	652.3	-	2	-
2010	56	3	19	71.6	2	4	-
2011	67	6	35	156.7	3	6	1
2012	80	11	132	89.6	11	64	-
2013	81	9	66	9019.9	10	36	2
2014	89	20	20	736.6	13	50	-
2015	26 (Jan-June)	27	11	72.6	4	52	1
Total	400	76	284	10799.3	43	214	4

Table 1 shows that only 4 persons have been convicted over a period of 7 years against 400 complaints being lodged during the same period. It clearly indicates investigation and prosecutorial weaknesses, which need to be addressed immediately.

Further evidence of increasing trend in money laundering from Bangladesh is presented shortly below in showing relation between corruption and money laundering.

### ***Growing banking crimes***

All of the state-owned banks, major commercial banks in the country, have been suffering from capital crisis for several years.<sup>48</sup> Corrupt practices by bank officials and *mala fide* borrowers have created this crisis. A recent research conducted by the Bangladesh Institute of Bank Management (BIBM) finds that banks officers themselves are involved in 90% banking crimes (cheque forgery, irregularities in approving loans, unauthorised money transfers, opening false accounts, credit/debit cards frauds etc).<sup>49</sup> The research carried out by a director of BIBM, who conducted a survey amongst officers and customers of different banks based on crime related information between 2014 and 2016.<sup>50</sup> It digs out that even depositors' savings are not safe because 65 per cent of the committed crimes affect bank savings.<sup>51</sup>

<sup>47</sup> Sumon Afsar & Jesmin Moli, Bangladesh's Success in Preventing Money Laundering Negligible' *Bonik Barta*, Dhaka (22 Dec 2016), First page (translated from Bengali).

<sup>48</sup> Fakhrul Islam & Sanaullah Sakib, 'Tax Money Going to State Owned Banks' *Prothom Alo*, Dhaka (30 May 2017), Economic (translated from Bengali).

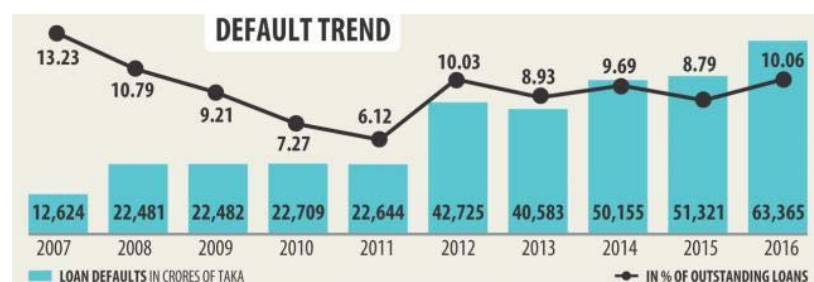
<sup>49</sup> Hassan Adnan, 'Officers Involved in 90% Banking Crimes' *Bonik Barta*, Dhaka (4 Nov 2016), Last page (translated from Bengali).

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

Alongside bank officials, *mala fide* borrowers are yet another factor of these banking irregularities. The rising trend in loan defaults awful as can be seen in the Table below.

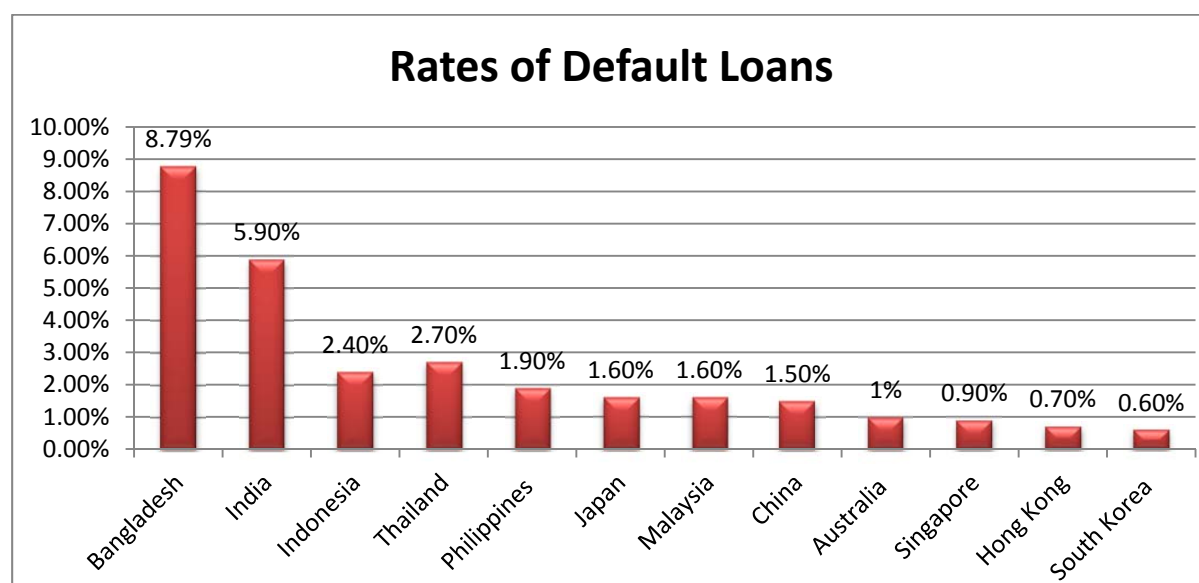
Table 2: Default loans 2007-2016<sup>52</sup>



There is no sign of easing this crisis, rather as on May 2017, defaulted loans in state-run banks have further increased to Tk 41,399.70cr (US\$51749.63m),<sup>53</sup> while it was Tk63,335 cr (US\$89168.75m) in 2016.

Shockingly enough, Bangladesh is champion amongst Asia-Pacific countries in respect of the rate of default loans as depicted below.

Figure 2: Rates of default loans in Asia-Pacific countries (referred to IMF)<sup>54</sup>



A central bank investigation into such loans unearthed that the ‘banks disbursed huge amount of loans in recent years on political consideration, violating rules and regulations’.<sup>55</sup> The

<sup>52</sup> Table 2 is adopted from: Rejaul Karim Byron & Md Fazlur Rahman, ‘Default Loans Soar’, *Daily Star*, Dhaka (26 Aug 2016), Front page.

<sup>53</sup> Staff Correspondent, ‘Defaulted Loans in State-Run Banks Tk 41,399.70cr’ *Financial Express*, Dhaka (26 May 2017), Business.

<sup>54</sup> Special Correspondent, ‘Highest Defaulted Loans in Bangladesh’ *Prothom Alo*, Dhaka (14 May 2016), Economics (translated from Bengali).

<sup>55</sup> AKM Zamir Uddin, ‘Bad Loans Jump to Tk 54,173cr in 9 Months’ *New Age*, Dhaka (3 Dec 2016), Business.

default loans make up 94 per cent of the capital of 38 banks,<sup>56</sup> while cumulative written-off bank loans now stood Tk4140.37 billion (US\$51754.63m) indicating clearly that they failed to exercise due care and diligence in sanctioning credits.<sup>57</sup> Experts blame on corruption for such a situation. For example, Salehuddin Ahmed, a former Bangladesh Bank Governor, says that ‘the problem was created because the loans were given through anomalies and corrupt practices. Furthermore, the loans were never monitored, and actions were not taken to realise them even when the banks came to know that they had become default.’<sup>58</sup> He adds that undue political influence affects these loans in two ways: banks are dictated to approve such loans, and the lenders are subsequently prevented from taking legal actions against the defaults.<sup>59</sup> Thus the borrowers feel safe in borrowing savers’ money (including small savers) knowing that they will never be compelled to return the borrowed money. As a result, a total of 75 per cent young people of the country believe that politicians are misusing their powers, and they demand that punishments for corruption be exemplary.<sup>60</sup>

### ***Generating pessimism***

A total of 47.66 million out of its 160 million people are youth in Bangladesh.<sup>61</sup> They are the future leaders and will be the driving force of the country. Their positive attitude towards the affairs and future of the country is essential. But they are losing confidence in dreaming for a better future as revealed in a recent survey. This pessimism sounds even more worrying than other effects of corruption. A total of 76 per cent young people in Bangladesh have been pessimists caused by widespread corruption and misuse of powers with impunity,<sup>62</sup> while the present Finance Minister admits the government’s failure to effectively combat corruption.<sup>63</sup> Even the current ACC chair is deemed to be pessimist while he finds ‘pervasive corruption’ in government offices, and an influential editorial writes commenting on his views that ‘he, however, appeared to be at loss in the situation as he said that he did not know how to reduce corruption’.<sup>64</sup> This comment is fortified while the ACC chair himself pronounces that ‘corruption has reached such a place that he has no idea how to reduce it.’<sup>65</sup> While the editorial recognises the ACC chair’s genuine concerns, it accuses the ACC by saying, ‘the fact remains that the commission has not done enough to punish the powerful nexus composed of corrupt government officials, unscrupulous businessmen and the politically

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<sup>56</sup> Sayeed Shaeen & Hassan Adnan, ‘94 percent Default Loans of 38 Banks’s Capital, *Bonik Barta*, Dhaka (22 Nov 2016), First page (translated from Bengali).

<sup>57</sup> Siddique Islam, ‘Cumulative Written-off Bank Loans Now Tk 414.37b’, *Financial Express*, Dhaka (26 Jul 16), Economy.

<sup>58</sup> Byron & Rahman (2016), above n 52.

<sup>59</sup> Ibid.

<sup>60</sup> Shwakat Hossain & Ashraful Islam, ‘Young People’s Thought about Bangladesh: Widespread Corruption, No Accountability’ *Prothom Alo*, Dhaka (11 Nov 2016), Bangladesh (translated from Bengali).

<sup>61</sup> Staff Correspondent, ‘Rise of Youth’ *Daily Star*, Dhaka (20 Nov 2014), Front page.

<sup>62</sup> Hossain & Islam (2016), above n 60.

<sup>63</sup> FE Report, ‘Govt Couldn’t Effectively Check Graft, Says Muhith’ *Financial Express*, Dhaka (25 Jul 2016), National.

<sup>64</sup> Anonymous, ‘ACC Chairman’s Statement on Corruption in Govt Recruitment’ *New Age*, Dhaka (4 Aug 2016), Editorial.

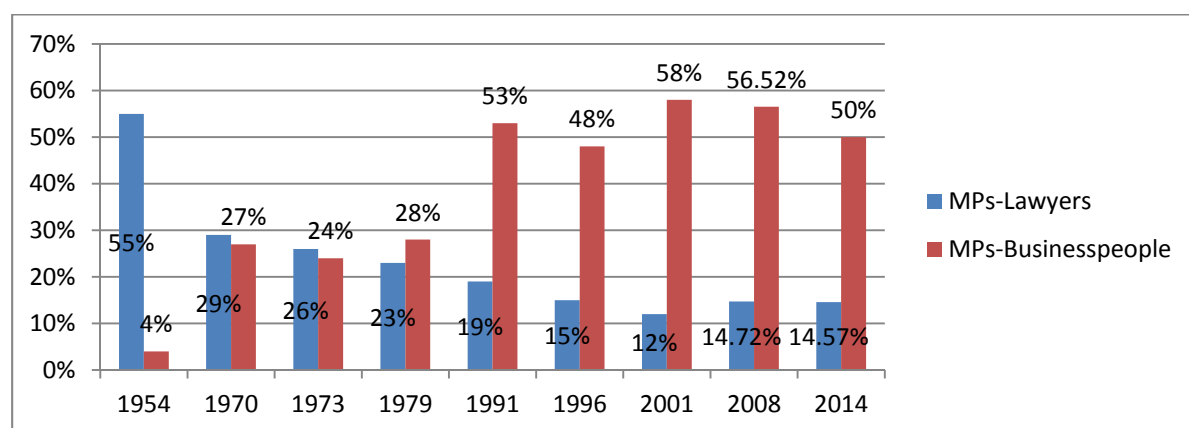
<sup>65</sup> Staff Correspondent, ‘I have No Idea How to Reduce Corruption: ACC chief’ *New Age*, Dhaka (2 Aug 2016), Front page.

powerful quarters that breeds corruption from centre to the periphery.’<sup>66</sup> Hence the failure to prevent corruption has multiplied the ill-practices generating pessimism amongst the generation, which may have long term negative impacts on the future leadership and workforce in the country.

### ***Controlling legislature***

Law makers are generally expected to have adequate knowledge of law and legislative process. To the contrary, the national parliament of the country is being gradually dominated by moneyed people as evident in a recent study. The following Figure shows the dominance of business people instead of lawyers in the parliament.

*Figure 3: Lawyers and business people in the parliament (1954-2014)*<sup>67</sup>



The numbers of MPs from these two different groups provides evidence of the usage of excessive money in elections, because business people are gradually outperforming lawyers. The dominance of lawyers in legislatures all over the world is quite logical. The Bangladesh parliament had lawyers' majority before, however, that is not the case any longer. Lawmakers are now mostly businessmen. They spend a lot of money to buy the nomination. A former law minister who is a lawyer by profession said that lawyers cannot compete with businesspersons in terms of money. The domination of businessmen has reportedly impacted on weakening the quality of legislation and behaviour of legislators.<sup>68</sup> Following the declaration of invalidity and unconstitutionality of certain pieces of legislation and constitutional amendments by the highest court of the country, the Chief Justice of Bangladesh identifies lawmakers' ignorance of law and urged them to make law properly.<sup>69</sup>

Interestingly, there is a correlation between holding elections and laundering money, because a higher amount is plundered during the year of election. For example, the latest national election was held in January 2014, and 2013 witnessed a significant amount of money

<sup>66</sup> Anonymous (2016), above n 64.

<sup>67</sup> Mehedi Al Amin, 'Legislature: Rebuilding of Tradition Trapped in Finance', *Bonik Barta*, Dhaka (25 Sep 2016), First page (translated from Bengali).

<sup>68</sup> Ibid.

<sup>69</sup> Ibid.

laundering.<sup>70</sup> It is widely believed that black money acts as a game changer in elections with respect to securing party nominations and ‘buying’ votes. It is well known that a major source of corruption and money laundering is fraudulent invoicing (under and over invoicing) in international business.

### ***Violating human rights***

Corruption does affect many aspects of our lives including human rights.<sup>71</sup> Government officials who use their official positions for private gains and receive bribes they violate, among others, human rights.

Corruption has both direct and indirect connections with human rights violations, it is thus inversely related to human rights.<sup>72</sup> Although the impacts of corruption vary between individual cases, it is acknowledged that all human rights can be affected by corrupt practices.<sup>73</sup> For example, corruption directly violates human rights when a bribe is offered to a judge to unfairly influence the judge that may deprive the contesting party of the right to fair trial.<sup>74</sup> There is a serious allegation of judicial corruption in Bangladesh. A 2016 survey conducted by TIB reveals that 48.2 per cent people pay bribes to the judiciary.<sup>75</sup> This massive bribery is logically believed to have serious impacts on human rights of the competing litigants. Another example of direct violation could be adulteration of foods through corrupt practices,<sup>76</sup> which are rampant in Bangladesh, and it infringes on the right to life.<sup>77</sup>

In some instances, corruption may not directly violate human rights, but it fuels such violations.<sup>78</sup> In those cases, corruption plays an indirect role in violating human rights when it creates an environment leading to such violations. For example, business people pay bribes to public officials in many countries in order to obtain their consent to important illegal importation of toxic materials from foreign countries.<sup>79</sup> Further, corruption may undermine human rights in several ways, such as: (i) by weakening the capacity of government to uphold, respect, protect and fulfil their national and international human rights obligations; (ii) by reducing the amount of revenue collection resulting in corresponding reduction in

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<sup>70</sup> Shawkat Hossain, ‘Ways of Shiponing off Money – Tk4000.5 cr Laundered’ *Prothom Alo*, Dhaka (24 Jun 2016), Economics (translated from Bengali).

<sup>71</sup> Feathers (2014), above n 30, 287.

<sup>72</sup> Ngugi, (2010), above n 21, 246.

<sup>73</sup> Ibid.

<sup>74</sup> Bacio-Terracinot (2010), above n 21, 243.

<sup>75</sup> FE Report (2016), above n 37. See also, Staff Correspondent, ‘4 Judges to Lose Job for Corruption - Law Ministry Gets SC Approval’ *Daily Star*, Dhaka (14 Aug 2017), Front page; Staff Correspondent, ‘Finds a Section of Dist Judges Affecting Judicial System with Their Personal Conflicts’ *Daily Star*, Dhaka (31 Dec 2014), Front page; Ashutosh Sarkar, ‘SC Won’t Send Rep to JS Body Meet’ *Daily Star*, Dhaka (4 Jan 2011).

<sup>76</sup> See Nabil Azam Dewan, ‘Ensuring Unadulterated Food during Ramadan’ *Financial Express*, Dhaka (27 May 2017), Op-Ed.

<sup>77</sup> For details, see S M Solaiman & A N M A Ali, ‘Extensive Food Adulteration in Bangladesh: A Violation of Fundamental Human Rights and the State’s Binding Obligations’ (2014) 49(5) *Journal of Asian and African Studies* 617; S M Solaiman, & A N M A Ali, ‘Rampant Food Adulteration in Bangladesh: Gross Violations of Fundamental Human Rights with Impunity’ (2013)14(1-2) *Asia-Pacific Journal on Human Rights and the Law* 29.

<sup>78</sup> Bacio-Terracinot (2010), above n 74, 243.

<sup>79</sup> Id, 244.

funding public essential services, such as the right to health care; (iii) by stagnating economic development causing poverty and related deprivation of several rights; and (iv) by preventing fair administration of justice.<sup>80</sup>

Further, a weak regime for the protection of human rights could facilitate corruption, conversely public policies aimed at promoting these rights are likely to prevent corruption.<sup>81</sup> For example, the proper exercise of the freedom of expression, assembly and association can help disclose underhanded transactions, identify their causes and consequences, create appropriate public policies and mobilise public opinion against such evil practices.<sup>82</sup> Similarly, the right to information can serve as a tool against corruption, promote accountability, prevent impunity, improve governance quality.<sup>83</sup>

The above examples clarify that corruption has an inimical relation with human rights, therefore the former must be prevented in order to protect the latter – both cannot coexist at least with respect to some of such rights.

### **Relation between corruption, black money and money laundering**

Corruption generates excessive and unjustifiable profits or possession of black money to be laundered in order to camouflage its illicit origins and add an appearance of legality. Receiving money in a corrupt way itself is criminally prohibited, laundering is another criminal act, and the laundered money is used for further illegal activities including militant operations. So multiple-illegalities are entrenched in corruption in conjunction with laundering. Corruption and money laundering are well connected, the former causes the latter, and eats away public confidence in government and politics in a country.<sup>84</sup> Corruption generates surplus black money for the corrupt and thus stimulates money laundering. Money laundering harms society,<sup>85</sup> and it does emasculate the domestic and international financial institutions and markets.<sup>86</sup> Several commentators observe that the growing intellectual awareness of operational practice between corruption, black money and money laundering reinforces the proposition that these evils are interrelated.<sup>87</sup> Chaikin asserts, linking corruption and money laundering one underpins the other.<sup>88</sup> He adds that further corruption takes place when the individuals involved in siphoning off money is bribed for committing

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<sup>80</sup> Ngugi (2010) above n 21, 246.

<sup>81</sup> Bacio-Terracinot (2010), above n 21, 244.

<sup>82</sup> Ibid.

<sup>83</sup> Ibid.

<sup>84</sup> Iftekhazzaman, 'Corruption Control—Is It Feasible or A Fantasy?' *Daily Star*, Dhaka (9 Dec 2016), Opinion.

<sup>85</sup> Edgardo Rotman, *The Globalization of Criminal Violence* (2000) 10 *Cornell Journal of Law & Public Policy* 1, 13.

<sup>86</sup> Christina Jackson, 'Combating the New Generation of Money-laundering: Regulations and Agencies in the Battle of Compliance, Avoidance, and Prosecution in a Post-September 11 World' (2004) 4 *Journal of High Technology Law* 139, 144.

<sup>87</sup> Seen for example, David J Middleton, 'Lawyers and Client Accounts: Sand Through a Colander' (2008) 11(1) *Journal of Money Laundering Control* 34-45; Richard Pratt, 'Tracking the Proceeds of Corruption' (2002) 7(1) *The Financial Regulator* 35-42; Mario Serio, 'Politically Exposed Persons, AML, Taking the Profit Out of Corruption and Problems for the Banks' (2008) 11(3) *Journal of Money Laundering Control* 269-272.

<sup>88</sup> Chaikin (2008), above n 1, 273.



this laundering offence, and suggests that the effective public policy should be to combat both of these ills simultaneously.<sup>89</sup>

Money launders are not alone, they have both local and foreign collaborators. So laundering is an organised crime. Judicial findings demonstrate that two main collaborators of money launderers are financial institutions, predominantly banks, and professional intermediaries - particularly lawyers.<sup>90</sup> In laundering money, the offenders remove the dirty money from its sources, they move the illicit fund to a new source, the money is integrated into a legal economy by whitening through currency conversion.<sup>91</sup>

There are three stages of money laundering: placement, layering, and integration; while corruption is linked to every stage, one way or another.<sup>92</sup> 'Placement' denotes the initial stage in which the black money is deposited in a financial institution - thus it comes into the financial system; 'layering' represents a complex task by which the money is separated from the origins and invested in multiple vehicles located on different jurisdictions; and 'integration', refers to the final stage at which the original sources are camouflaged and offenders get safe access to the laundered funds.<sup>93</sup> Khoyini et al describe money laundering as a series of activities that are done by both natural and artificial persons in order to legalise proceeds of crimes.<sup>94</sup> Whichever way we look at, we can find corruption and black money are directly connected with money laundering.

## **Corruption and money laundering in Bangladesh**

As a descriptive definition provided in s 2(v) of the *Money Laundering Prevention Act 2012* (Bangladesh), 'money laundering' means:

- (i) knowingly moving, converting, or transferring proceeds of crime or property involved in an offence for the following purposes:-
  - (1) concealing or disguising the illicit nature, source, location, ownership or control of the proceeds of crime; or
  - (2) assisting any person involved in the commission of the predicate offence to evade the legal consequences of such offence;
- (ii) smuggling money or property earned through legal or illegal means to a foreign country;
- (iii) knowingly transferring or remitting the proceeds of crime to a foreign country or remitting or bringing them into Bangladesh from a foreign country with the intention of hiding or disguising its illegal source; or (iv) concluding or attempting to conclude financial transactions in such a manner so as to reporting requirement under this Act may be avoided;
- (v) converting or moving or transferring property with the intention to instigate or assist for

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<sup>89</sup> Id, 270.

<sup>90</sup> For example, see *United States of America v William J. Jefferson* (2007); Paris Court of Appeals, March 18, 2009 - Etete Dan Dausia (Etete case); *Attorney General of Zambia v. Meer Care & Desai* (a law firm) & others EWHC 952 (2007).

<sup>91</sup> See Paulina L Jerez, 'Proposed Brazilian Money Laundering Legislation: Analysis and Recommendations' (1997) 12 *American University International Law Review* 329, 333-34.

<sup>92</sup> See, for further detail, Chaikin (2008), above n 1, 274-75.

<sup>93</sup> Ibid.

<sup>94</sup> Ghafoor Khoyini, Hamid Masjed Sarayi & Soheil Kabiri, 'Money Laundering in Iran's Law and International Document' (2016) 9(5) *Journal of Politics and Law* 257, 258.

committing a predicate offence; (vi) acquiring, possessing or using any property, knowing that such property is the proceeds of a predicate offence; (vii) performing such activities so as to the illegal source of the proceeds of crime may be concealed or disguised; (viii) participating in, associating with, conspiring, attempting, abetting, instigate or counsel to commit any offences mentioned above.

On the other hand, the word ‘corruption’ has been broadly defined in s2(e) of the *Anti-Corruption Act 2004* (Bangladesh) by reference to ‘the offences set out in the schedule to this law’. The schedule identifies the designated offences by referring to sections 161, 162, 163, 164, 165, 165A, 165B, 166, 167, 168, 169, 217, 218, 420, 467, 468, 471 and 477A of the *Penal Code 1860* (Bangladesh); all offences under the *Prevention of Corruption Act 1947* (Bangladesh); crimes related to corruption and bribery under the *Money Laundering Prevention Act 2012*;<sup>95</sup> and offences under ss109,120B and 511 of the *Penal Code 1860* that may relate to any of the offences stated above. Discussions of these offences at some length fall beyond the scope of this article which is less concerned about potential shortcomings or ambiguities in the definitions of the offences, because the lack of enforcement and recurrent amnesties to BMHs overshadow those definitional flaws. In view of the above-stated descriptions of corruption in Bangladeshi laws, it can be said that the offences under the umbrella evil termed ‘corruption’ has been widely defined to incorporate all or at least most forms of corrupt and unholy practices being used in Bangladesh.

Like corruption, money laundering has also been a chronic problem in Bangladesh, thus taking preventive measures has been a national emergency.<sup>96</sup> Moneys are laundered in different ways. Most of the laundered moneys come from international business. Although those business people are engaged in legal trades, they are applying corrupt practices in their payments. The statistics recently disclosed by the Global Financial Integrity (GFI), a Washington-based research organisation, reveal that 87 per cent of illicit financial outflows from Bangladesh from 2005 to 2014 came from fraudulent invoicing in international business.<sup>97</sup> The unscrupulous businesspersons employ this corrupt practice mainly in two ways: under invoicing when importing goods and over invoicing when exporting goods. The balance between the actual price and the invoiced price is kept overseas in a safe custody in collaboration with their overseas counterparts – exporters and importers. According to the GFI report, Bangladesh has suffered a loss between US\$ 6.0 billion and US\$ 9.0 billion to illicit outflows in 2014 alone, whilst broadly the total loss of the country caused by such outflows between 2005 and 2014 is reportedly US\$75 billion.<sup>98</sup> As reported by GFI, US\$5.88 billion is the average illicit financial outflow per year from Bangladesh during the past 10 years.<sup>99</sup> The shocking increasing trend in such financial flows as disclosed by GFI can be witnessed in the figure below.

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<sup>95</sup> Section 2-(cc) of the *Money Laundering Prevention Act 2012* identifies 28 offences as ‘predicate offence’ for the purposes of this legislation, corruption and bribery are listed as number 1.

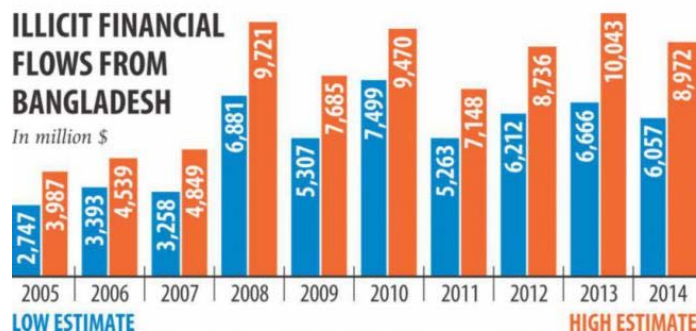
<sup>96</sup> Biru Paksha Paul, ‘Fighting the Financial Haemorrhage’ *Daily Star*, Dhaka (5 May 2017), Opinion.

<sup>97</sup> Hasnat Abdul Hye, ‘Flight of Capital and Economic Haemorrhage’ *Financial Express*, Dhaka (9 May 2017), Op-Ed.

<sup>98</sup> Ibid.

<sup>99</sup> Syed Ashraf Ali, ‘Capital flight: An Enduring Conundrum’ *Financial Express*, Dhaka (29 Jun 2016), Op-Ed.

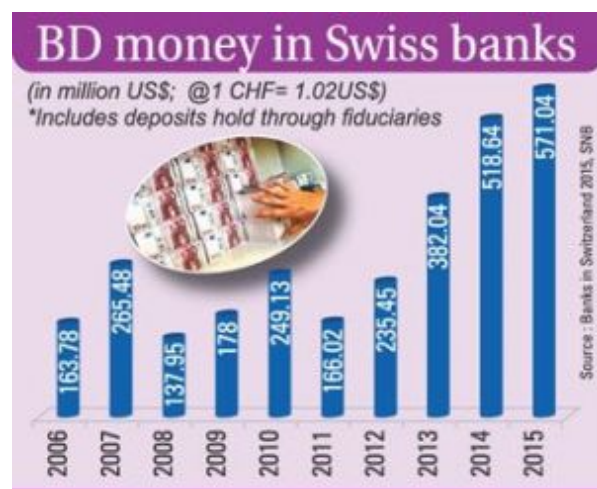
Figure 4: Illicit financial outflows from Bangladesh 2005 - 2014<sup>100</sup>



Source: GFI

Correspondingly, the data provided by the central bank of Switzerland evidences that the Bangladeshis' deposits in Swiss banks are on the rise, and are increased by 10 per cent in 2015.<sup>101</sup> Total funds held by Bangladeshis with the Swiss banks reached US\$ 571 million in 2015.<sup>102</sup> The following figure displays the current rising trend in such deposits by Bangladeshis.

Figure 5: Bangladeshis money deposited in Swiss banks 2006 - 2015<sup>103</sup>



<sup>100</sup> The table is adopted from Paul (2017), above n 96.

<sup>101</sup> Asjadul Kibria, 'BD Money in Swiss Banks up by 10pc' *Financial Express*, Dhaka (1 Jul 16), Finance.

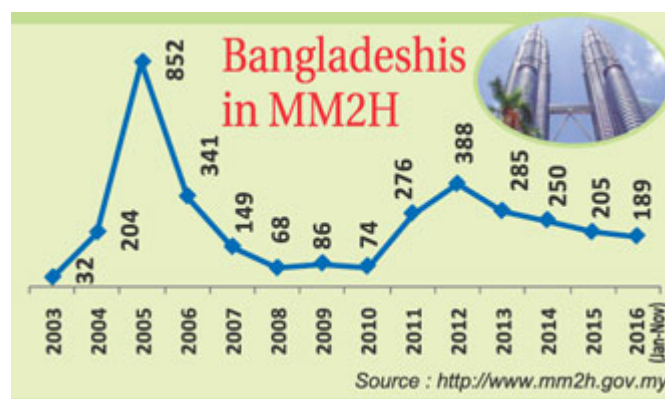
<sup>102</sup> Ibid.

<sup>103</sup> The figure is adopted from Kibria (2016), above n 101.

Similarly, a depressing picture is found in the information on the investment of Bangladeshis in the ‘Second Home Project’ in Malaysia. Over the past decade between 2004 and 2014, a total of 2,850 Bangladeshis bought homes in Malaysia under this project, whilst their numbers in 2016 and 2015 were respectively at least 189 and 215, according to the information provided by the Government of Malaysia.<sup>104</sup> The total number of such Bangladeshi home-buyers in Malaysia reached 3,399 at the end of November 2016, ranking third largest home owners amongst foreigners.<sup>105</sup>

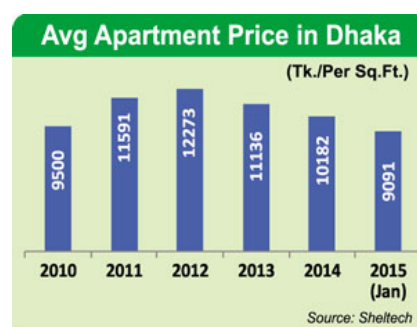
The historic data of Bangladeshis’ home ownerships indicates that the Bangladeshis’ demand to buy home in Malaysia is now stable, as portrayed below.

Figure 6: Bangladeshis homeowners in Malaysia 2003-2016<sup>106</sup>



Bangladeshis are buying properties in Malaysia and laundering money to overseas destinations on the one hand, and the price of the residential apartments in their home country is falling gradually owing to the lack of demand as projected in the following figure.

Figure 7: Falling apartment price in Dhaka<sup>107</sup>



<sup>104</sup> Ahammad Foyez, ‘Malaysia My Second Home - ACC to Probe Bangladeshis’ *New Age*, Dhaka (30 Apr 2017), Bangladesh.

<sup>105</sup> Ibid.

<sup>106</sup> Kamrun Nahar, ‘My Second Home Project - Malaysia Sends Report on 14 Bangladeshi Investors’ *Financial Express*, Dhaka (17 March 2017), Finance.

<sup>107</sup> Shah Alam Nur, ‘Realtors Cut Prices as Demand Drops - 11,000 Flats Remain Unsold: Rehab’ *Financial Express*, Dhaka (22 Apr 2015), Trade & Market.

As of May 2015, Dhaka witnessed as many as 21,000 ready flats that remain unsold, because the financial institutions stop giving housing loans to potential buyers.<sup>108</sup> Commentators views that the stagnation will persist unless the interest rates on home loans are eased.<sup>109</sup> This may imply that BMHs are busy laundering money and buying properties overseas, while white money earners are struggling to manage funds for apartments even though the market force has cut the price. Despite this, there is no gainsaying the fact that the real estate market is still dominated by BMHs, however, they do not wait for amnesty, rather they take it for granted because of the continued indemnity from liability for amassing black money.

Owning a home to live in is everyone's dream - financial ability regardless, and a stable society necessitates such ownership. Nonetheless only 30 per cent people in Bangladesh own their homes, whereas such ownership is up to 80 per cent in developed countries.<sup>110</sup> These 30 per cent homeowners include Bangladeshis living abroad.<sup>111</sup> Despite such a situation, Bangladeshis are busy buying homes overseas.

The aforesaid illicit outflows, deposits in Swiss banks and home-ownerships in Malaysia graphically demonstrate that corruption generating black money and offences of money laundering are on, and preventing this trend has become a challenge for the government. It is however clear that repeated whitening opportunities with impunity have not incentivised BMHs to stop sending money overseas, because while thousands of new flats are awaiting to be sold in the capital city alone in Bangladesh, Bangladeshis are busy laundering their black money. So, the recurrent immunities have only encouraged corruption and resultant money laundering, rather than bringing any fruit to the national economy.

### **Things need to be done to combat corruption and money laundering**

In view of the facts and discussions presented above, there is no denying the fact that both corruption and money laundering are serious problems in Bangladesh. Weakening one of these two vices is expected to correspondingly wane the other. It would be wrong or at least a futile exercise to offer further opportunity to the lawbreakers by honouring the recommendation submitted by the ACC, as the past and existing opportunities have not brought any tangible benefits to the local economy.<sup>112</sup> Measures needed to be taken against these odds should be legally preventive, socially denouncing and constructively educational for both supply and demand sides. Some specific measures are recommended below.

#### ***Strengthening enforcement of existing laws***

This is not to admit that the existing laws are flawless. Rather this article gives emphasis to enforcement of laws governing corruption, black money and money laundering. Strict

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<sup>108</sup> Shahiduzzaman Khan, News Analysis - Points, Counterpoints: Fiscal Sops Afresh for Real Estate Sector?' *Financial Express*, Dhaka (14 May 2015), First page.

<sup>109</sup> Ibid.

<sup>110</sup> Star Business Writer, 'Analysis: ACC's Probe on Home Buyers Sends Chill in Realtors' *Daily Star*, Dhaka (27 Oct 2016), Country (update).

<sup>111</sup> Ibid.

<sup>112</sup> For current expert opinions, see Uddin (2017), above n 14.

enforcement showing the ‘ramifications of misconduct’ is often argued to be the ‘most effective way’ of deterring white-collar crime,<sup>113</sup> and is widely accepted that adequate punishments work as effective deterrence in financial crimes. The culture of tax avoidance has to be addressed strictly. A 2016 study reveals that there are around 6.90 million (4 per cent of total population) people are eligible to pay tax in Bangladesh,<sup>114</sup> whereas only 1.40 million people had Tax Identification Number (TIN) at the end of 2016, however, encouragingly the number has increased to 2.85 million in 2017.<sup>115</sup> Some commentators find that although people want to pay tax, they avoid doing it due to lack of conducive environment caused by ‘unfavourable’ behaviour of tax officials.<sup>116</sup> One of the discouraging factors for potential taxpayer is allegation against tax officials of being unfriendly and corrupt. The recent significant increase in the number of TIN holders is attributable to holding yearly tax fair by NBR during which hundreds of people spontaneously open their TINs every year. This fair has been enjoying rising popularity since its beginning in 2010.<sup>117</sup> It means that honest and friendly behaviour of tax officials can make a difference. However, it must be borne in mind that ‘carrot’ will not work in most cases, so ‘stick’ is essential to prevent breaches of law.

Effective enforcement of laws governing tax, corruption and money laundering entails well trained investigators, strong prosecution teams and efficient benches in the judiciary. Lack of these requirements exists in Bangladesh.

Enforcement must be meaningful demonstrating the force of deterrence. Experts opine that no benefits can be achieved in dealing with BMHs without exemplary punishment being imposed on such wrongdoers.<sup>118</sup> Awarding six months imprisonment for defaulting repayment of Tk10 million (US\$125,000)<sup>119</sup> may rather ‘allure’ future defaulters to stay away from paying back their loans, because of the triviality of the punishment. Given that most big loan defaults are believed to be deliberate, such a trivial punishment is completely unfair compared to the three years’ incarceration of a poor man who steals foods for him or for his minor children.<sup>120</sup> It has to be conceded that a success in fighting corruption requires ‘adopting a multi-pronged approach including introducing tougher new laws and enforcing them.’<sup>121</sup> For example, Hong Kong had a similar problem with black money during 1984-1993, and it has effectively controlled that menace mainly through strict enforcement of

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<sup>113</sup> Eugene Soltes, *Why They Do It: Inside the Mind of the White-Collar Criminal* (2016) New York: Public Affairs, 132.

<sup>114</sup> Star Business Report, ‘Stop Illicit Capital Flight: Analysts’ *Daily Star*, Dhaka (28 Dec 2016), Business.

<sup>115</sup> FE Online Report, ‘2.85m TIN Holders in Country Now’ *Financial Express*, Dhaka (11 May 2017), Economy (update).

<sup>116</sup> Star Business Report (2016), above n 114.

<sup>117</sup> Sohel Parvez, ‘Tax fair in Nov: NBR’ *Daily Star*, Dhaka (2 Sept 2016), Business; Star Business Report, ‘Tax Fair Getting Popular’ *Daily Star*, Dhaka (4 Nov 2016), Business.

<sup>118</sup> Uddin (2017), above n 14.

<sup>119</sup> SM Abu Zaker, ‘Only 6 Months Imprisonment for Default of 100cr Taka’ *Bonik Barta*, Dhaka (22 Nov 16), Editorial (translated from Bengali).

<sup>120</sup> See ss378 and 379 of the *Penal Code 1860* (Bangladesh).

<sup>121</sup> ‘When Corruption Rules - Who Will Clean the Stable?’ *Daily Star*, Dhaka (1 Jul 2016), Editorial.

law.<sup>122</sup> The Hong Kong corruption watchdog successfully prosecuted the corrupt and secured conviction of about 300 of them per year from 1993 to 1997, which evidences that enduring improvement in combating corruption entails strict enforcement of penal provisions.<sup>123</sup> It is widely accepted that the risk of penalty discourages secret dealings and encourages disclosures.<sup>124</sup> Arlen and Kraakman argue that disclosure and nondisclosure of secret information are dependent upon the cost-benefit calculus.<sup>125</sup> The current conviction rates in corruption cases in Bangladesh are not impressive as shown shortly below. Strict and predictable enforcement are needed to create both specific and general deterrence.

### ***Improving corruption investigations***

Investigation into corruption may not always be an easy task, because the offence is committed in private, and in most cases both parties to such a crime remain happy even after the commission of the crime. As coined by Soltes ‘white-collar crimes usually lack videotape or wiretap evidence depicting the crime as it occurred’.<sup>126</sup> He further asserts that proof of such crimes typically requires ‘to be built by the tedious and laborious accumulation of documentation and triangulation of facts’<sup>127</sup> Given that both parties are happy sometimes, it may seem to be victimless crime, but in fact its victims are the whole nation – one way or another. The rates of acquittals and that of the case investigations are not quite impressive. ACC’s investigation needs to be strengthened by imparting adequate training to its relevant officers and increasing the number of such officers in order to carry out expeditious and efficient investigation. One report finds that about 93 per cent of the complaints received by the ACC are not investigated,<sup>128</sup> while another report reveals that the ACC does not consider even 0.5 per cent complains worth investigating, meaning the watchdog puts most complaints into bins.<sup>129</sup> Admittedly, all complaints may not be worthy of investigation, but it sounds absurd that more than 99 per cent of the complaints are frivolous, in an environment where 67.8 per cent households are victims of corruption.<sup>130</sup> This situation warrants deeper consideration as to why people like filing false complaints, and also whether all rejections by the ACC are fair or unduly influenced by any quarter. Further, even those who are prosecuted by the ACC, 68 per cent of them are acquitted, whereas 99.77% are relieved at the committal hearing stage.<sup>131</sup> Out of 662 cases lodged by the ACC between 2012 and 2015, the watchdog lost 411 cases – showing overtly poor performance.<sup>132</sup> All these may imply weaknesses of

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<sup>122</sup> HUI Wing-chi, ‘Combating Corruption: The Hong Kong Experience’ (2014) 6 *Tsinghua China Law Review* 240, 246-47.

<sup>123</sup> *Id.*, 249.

<sup>124</sup> Jennifer Arlen & Reinier Kraakman, Controlling Corporate Misconduct: An Analysis of Corporate Liability Regimes, (1997) 72 *New York University Law Review* 687, 729, 747.

<sup>125</sup> *Ibid.*

<sup>126</sup> Soltes (2016), above n 113, 159.

<sup>127</sup> *Ibid.*

<sup>128</sup> Morshed Noman, ‘Complains More, Investigation Less by ACC’ *Prothom Alo*, Dhaka (31 Oct 2016), Bangladesh (update) (translated from Bengali).

<sup>129</sup> Mizanur Rahman Khan, ‘Story of 99 percent and 68 percent Acquittals’ *Prothom Alo*, Dhaka (28 Oct 2016), Opinion (translated from Bengali).

<sup>130</sup> See for details, FE Report (2016), above n 37.

<sup>131</sup> Khan (2016), above n 129.

<sup>132</sup> Anonymous, ‘Unpalatable, Expensive Failures of Anti-Corruption Commission’ *New Age*, Dhaka (24 Aug 2016), Editorial.

investigators and the investigation process. It is strongly desirable that undue harassment of anyone has to be avoided, and at the same time, true culprits should feel the full force of law. If the scope of investigation appears to be presently narrow leading to refusal of investigations or acquittal of accused persons, it has to be widened to bring more complaints into the microscope of the ACC and ensure a greater success. Above all, a firm commitment of both governments and the independence of the ACC are essential to prosecute politicians themselves and those who are shielded by politicians in particular.<sup>133</sup> Otherwise, the ‘toothless or paper tiger’ the ACC, as it was called by its immediate past chairman,<sup>134</sup> must be destined to fail. The watchdog does have public confidence crisis,<sup>135</sup> public trust can be earned only through its proactive role and notable success in combating corruption. This success requires a more intrusive legal system and enforcement techniques to deal with corruption.<sup>136</sup>

An influential editorial suggests, the watchdog should focus on its capacity building, particularly in skills, efficiency and logistics, and it adds that building an effective ACC warrants a good legal framework supported by structural and functional independence and its operational neutrality.<sup>137</sup> However, the government must stop the culture of impunity, because a threat to punish by the ACC, and indemnity from that punishment before the crooks are hooked, may not work.

### ***Operating proactive financial intelligence agencies***

Both corruption and money laundering are committed typically in secret. Hence a strong and proactive financial intelligence agency needs to be put in place. The agency cannot succeed alone, it has to be supported by other related agencies and financial institutions as it is important to utilise synergy benefits and thereby to improve efficiency and enhance integrity.<sup>138</sup> It is to be borne in mind that a truly intrusive legal system and enforcement technique are necessary to deal with corruption and money laundering.<sup>139</sup>

### ***Raising public resistance and social denounce***

Paying and receiving bribes have been part of culture in Bangladesh, as both sides in many instances consider bribery is justified in that recipients help givers regardless of the legitimacy of the latter’s pursuits. A radical change in public attitude is *sine qua non*, law alone seems insufficient to combat this peril primarily because corruption itself has crippled the power of law for which it cannot take its own course. Hence the law is ineffective. Millions of youths and educated people must come out to resist the corrupt practices at workplace, and BMHs should be socially boycotted. It is not difficult to correctly identify BMHs in our society taking into account their life style compared to their known sources of

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<sup>133</sup> Khan (2016), above n 129.

<sup>134</sup> Shamsul Huq Zahid, ‘What Does Handicap The ACC Most? News Analysis’ *Financial Express*, Dhaka (25 Nov 2015), First Page.

<sup>135</sup> Ibid.

<sup>136</sup> Bacio-Terracinot (2010), above n 21, 244-45.

<sup>137</sup> Anonymous, ‘TIB Report on ACC - Time to Plug the Holes’ *Daily Star*, Dhaka (9 Aug 2016), Editorial.

<sup>138</sup> Anastasia Suhartati Lukito, ‘Financial Intelligent Investigations in Combating Money Laundering Crime: An Indonesian Legal Perspective’ (2016) 19(1) *Journal of Money Laundering Control* 92,100.

<sup>139</sup> Bacio-Terracinot (2010), above n 21, 244-45.



income, though the bribes givers could not be easily singled out as many people secretly bribe officials even to obtain their legal entitlements expeditiously, and they should be motivated to be whistle-blowers.

### ***Using public media for mass education***

The role of media in fighting corruption is widely recognised. The chairman of the ACC has recently pronounced that their only friends are journalists.<sup>140</sup> Consistently, Wolfensohn spells out:

A free press is not a luxury. A free press is at the absolute core of equitable development because if you cannot enfranchise poor people, if they do not have a right to expression, if there is no searchlight on corruption and inequitable practices, you cannot build the public consensus needed to bring about change.<sup>141</sup>

Likewise, Transparency International highlighted the profound significance of free media alongside an independent judiciary in fighting corruption.<sup>142</sup> It is appreciable that the press and electronic media in Bangladesh enjoy significant freedom compared to many other developing countries. However, their roles need to be more educational mirroring that the society intensely denounces corruption. The media need to be investigative in digging out corrupt practices, and be meticulous in disclosing the significance of financial crimes and related punishments. All these can deter potential offenders, keep the society informed of the people involved in such crimes, and stimulate social movement against these evils.

### ***Educating students at institutions***

Lack of moral education facilitated by an environment conducive to adopt unfair means has worsened the malpractice of corruption in Bangladesh. Alongside the minimisation of corruption friendly environment, the level of moral education in general should be raised in order to ensure a sustainable improvement in preventing this social disease. The current institutional curricula at any level of education do not incorporate moral teachings that may positively influence students' thinking and determination against corruption. Moral education should be made compulsory at both primary and secondary levels demonstrating the responsibility of an individual as an ordinary citizen as well as a public official. A common compulsory subject titled 'Bangladesh Studies' incorporating critical facets of people's lives in Bangladesh including moral teachings can be introduced at the tertiary level. It must address the socio-economic harm that may be caused by corruption to an individual, society and the national economy. Of course, all students will not abide by that moral principles, but some will certainly do – that some can make a difference in the long term.

### ***Targeting both supply and demand sides***

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<sup>140</sup> Staff Correspondent, 'ACC Has No Friends Except Journos – Says Its Chairman' *Daily Star*, Dhaka (15 May 2017), City.

<sup>141</sup> As quoted in Hall, Kenneth and Chuck-A-Sang, *Myrtle Confronting Challenges, Maximizing Opportunities: A New Diplomacy for Market Access* (2007) Kingston: Ian Randle Publishers, 134.

<sup>142</sup> Transparency International, 'Pakistan's Anti-Corruption Program: Observations and Recommendations' (May 2002) TI: Berlin, 3.

Law should impose bar on both givers and receivers of bribes. Givers can be excused if they act as whistle-blowers whose protection could make a significant difference in unearthing corruption. Of course, the receivers should be punished adequately, though the *mala fide* givers who bribe officials to gain something undue and subsequently remain silent should also be penalised less rigorously. However, those who are compelled to pay bribes in securing their legitimate claims may be excused with reprimand, and should be motivated to lodge complaints to appropriate authorities against the corrupt officials as whistle-blowers.

As acknowledged earlier, despite huge money laundering being occurred, BMHs still control the property market making it hard for honest taxpayers to buy their homes to live in.<sup>143</sup> This well-known fact is reinforced by the unexpected response of Rehab<sup>144</sup> to the ACC's request for information on the property ownerships by individuals. Rehab claims that such a request from the ACC has contributed to shrinking investment in real estate.<sup>145</sup> It indirectly supports the claim that black money has some influence in the real estate market. Arguably, the real estate industry could somehow make some progress by allowing black money, but ownership level is likely to decrease due to concentration of home ownership amongst mostly the BMHs. We need more to increase and diversify the ownership level for social stability and meaningful democracy than erecting numerous high rises.<sup>146</sup>

Proffering whistle-blower protection would be critical to implementing this recommendation. It is appreciable that Bangladesh has enacted the *Whistleblower Protection Act 2011* aimed at providing legal protection to persons who will disclose critical information relating to public interest. The protection of whistle-blowers has been commonplace in dealing with criminal activities worldwide.<sup>147</sup> Law in book would not be enough, it must be applied in order to get its benefit. Public should be made well aware of this law.

### ***Ensuring transparency in official activities***

Transparency has a hostile relation with corruption, therefore strengthening the former must weaken the latter. Art 13 of the UNCAC, ratified by Bangladesh in 2007, imposes responsibility on state parties that 'each State Party shall ... promote active participation of individuals and groups outside the public sector, such as civil society, non-governmental organisations and community-based organisations, in the prevention of and the fight against corruption ...'. The government of Bangladesh in 2009 made a plan to implement the pledges under the above Convention. With this end in view, several pieces of legislation, such as the *Right to Information Act 2009*, the *Whistle-blower Protection Act 2011*, and the *National Integrity Strategy 2012*, have been enacted.<sup>148</sup> Bangladesh has subscribed to the 2015 *UN Sustainable Development Goals 2030*, Goal 16 of which confers obligations to the

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<sup>143</sup> See Solaiman (2016), above n 5.

<sup>144</sup> Real Estate and Housing Association of Bangladesh (Rehab).

<sup>145</sup> Star Business Writer (2016), above n 110.

<sup>146</sup> Star Business Writer (2016), above n 110.

<sup>147</sup> See, for the benefits of whistle-blower protection, Anonymous, 'Note: Rethinking The Professional Responsibilities of Federal Agency Lawyers' (2002) 115 *Harvard Law Review* 1170; Brittany N Henderson & Gary M Farmer, 'Correlation Between Inmate Brutality and Lack of Whistleblower Protection in Florida' (2016) 40 *Nova Law Review* 1.

<sup>148</sup> Iftekharuzzaman (2016), above n 84.

government: to improve accountability at all levels; to substantially reduce corruption and bribery in all forms; significantly reduce illicit financial flows and combat all forms of organised crimes; and to ensure public access to information and protect fundamental freedoms.

All these are good initiatives, however, laws in paper must be translated into practice in order to get their benefits. So enforcement of these laws can improve the accountability of state functionaries, such as the ACC, the executive, the judiciary, the legislature, the law enforcement agencies<sup>149</sup> – this is what is needed most at this stage.

### ***Introducing naming and shaming of offenders***

‘Name and shame’ is a useful regulatory tool.<sup>150</sup> A national database of convicted offenders of all categories (petty criminals excepted) could be created, as many other countries have such a source of information on criminals.<sup>151</sup> The database should include names and addresses of all criminals, the crimes committed by them and the penalties awarded to them. For corporations which are involved in criminal activities, their information should also be made public in the same way as individual, and in addition, companies could be compelled to publicise their convictions by court orders as introduced in Australia.<sup>152</sup> This is expected to create considerable specific and general deterrence, which may contribute to lessening commission of the crimes at hand.

### ***Increasing housing affordability for honest taxpayers***

Amnesty to BMHs is sought to increase housing price and facilitate home ownership by perceived ‘criminals’ only. This is so because honest earners can hardly beat the dishonest in terms of bid prices. As a result, BMHs will buy one house after another, and honest taxpayers will rent those houses to live in by paying their hard-earned ‘originally’ white money to those BMHs. What a serious injustice this is from social, moral and legal points of view!<sup>153</sup> This issue can be effectively addressed in a fair and honest way. *First*, state owned banks must stop giving ‘bad’ loans in order to avoid ever increasing defaults. Evidence, as cited above, suggests that dishonest bank officers in conjunction with amoral politicians knowingly and deliberately approve loans to those *mala fide* ineligible borrowers who will not be able to repay their debts. A question begs to be answered, why state owned banks have been suffering financial crisis and capital losses, whereas private banks at the same time are making huge profits.<sup>154</sup> *Secondly*, interest rates on home loans should be reasonably reduced in comparison with other countries. The demand side could then be stronger than what BMHs

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<sup>149</sup> Ibid.

<sup>150</sup> Arlen & Kraakman, above n 124, 129, 147.

<sup>151</sup> For a list of food safety offenders in New South Wales, Australia, see Department of Primary Industries Food Authority, NSW Government, ‘Offences’ <http://www.foodauthority.nsw.gov.au/offences/prosecutions> (27 May 2017).

<sup>152</sup> See for example, s49E of the *Crimes Act 1900* (Australian Capital Territory).

<sup>153</sup> See Solaiman (2016), above n 5.

<sup>154</sup> For private banks’ massive net profits, see Rejaul Karim Byron, ‘Private Banks Book Hefty Net Profits’ *Daily Star*, Dhaka (14 Mar 2017), Business.

could do. The reduced interest rate would be affordable to lenders if the present disproportionate loan defaults could be minimised. *Thirdly*, the disposal of financial cases should be expedited and punishment should be increased giving a strong signal to potential *mala fide* borrowers that borrowed money shall have to be returned or they will have to face legal sanctions. In practice, many defaulters are sued, cases are not disposed of, and paradoxically they manage to get further loans using undue influence.<sup>155</sup> Alternative dispute resolution (ADR) can be introduced, and wilful defaulters must be adequately punished instead of rewarding through rescheduling their loans or awarding new loans.<sup>156</sup> *Fourthly*, sometimes, bank officials get indulged in financial crimes owing to lack of training and adequate knowledge.<sup>157</sup> In such cases, officers need to be properly trained.<sup>158</sup> *Fifthly*, a national list of insolvency needs to be created, and be made public through a database. Also, a national list of personal property securities should be introduced and maintained so that the same asset cannot be further used as security without the knowledge of the previous and new lenders. Such a list is maintained in Australia under the *Personal Property Securities Act 2009* (Cth). *Sixthly*, the recapitalisation of banks after making capital loss by taxpayers' money should be stopped, and banks themselves must recover their losses.<sup>159</sup>

#### ***Adopting voluntary self-governance code***

Crimes are essentially deviation from certain standards of human behaviours.<sup>160</sup> Financial institutions are directly involved in corruption and money laundering. All businesses must have an ethical code of self-governance, and they should voluntarily yet strictly adhere to that code. For example, banks in Australia have a Code of Banking Practice developed by the Australian Bankers' Association setting out standards of good banking practice. Johnson emphasised that 'corruption should be fought with a combination of legal and ethical tools, including (a) prohibitions of clearly improper conduct, (b) disclosure requirements that expose questionable practices to public scrutiny, and (c) clear statements of aspirational principles.'<sup>161</sup> To successfully combat corruption, all these - prohibitions, disclosure requirements, or aspirational principles – should be used simultaneously.<sup>162</sup> He asserts ethics code, adequate training on ethical conduct, and useful mechanisms are critical to fighting corruption.<sup>163</sup> So, adopting a well-articulated code of ethics by individual business organisations and another code by the respective industry can contribute to lessening financial crimes. The governance weakness in the banking sector is obvious, as the Centre for Policy Dialogue (CPD), a think tank, observes that the banking sector has been a 'growing malignancy' for the economy of Bangladesh owing to rising loan defaults and lack of good

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<sup>155</sup> Adnan (4 Nov 2016), above n 49.

<sup>156</sup> Byron & Rahman (2016) above n 52.

<sup>157</sup> Adnan (2016), above n 49.

<sup>158</sup> Ibid.

<sup>159</sup> Byron & Rahman (2016), above n 52.

<sup>160</sup> Laura S Underkuffler, *Captured by Evil – The Idea of Corruption in Law* (2013) New Haven: Yale University Press, 14-15.

<sup>161</sup> Vincent R Johnson, 'Higher Education, Corruption, and Reform' 4(1), 2012 4(1) *Contemporary Readings in Law and Social Justice* 478, 482.

<sup>162</sup> Ibid.

<sup>163</sup> Ibid.

governance.<sup>164</sup> So the banking governance weaknesses should be addressed before it becomes too late.

## Conclusions

A 1975 speech of the father of the nation and the first president of Bangladesh is worth quoting – when he called upon the people: ‘... the number one priority is to root out corruption ... I need your help ... I will enforce the law, I will not spare anybody ... it has to be a people’s movement ... It has to be a movement to socially boycott the bribe-taker and the corrupt. ... who can do it? Students can do it, the youth can, intellectuals can, the people can, each house should be turned into a fortress against corruption’.<sup>165</sup> What a prophetic call he made decades ago. His party is now in government headed by his daughter who is also sincere about eliminating corruption, however, her commitment alone may not be sufficient to root out this evil. Before the situation deteriorates further, both the people and government need to realise that unrestrained corruption ‘cripples institutional trust and public confidence in the political system’.<sup>166</sup> It does ruins the prospect of economic progress and social development of a nation.<sup>167</sup> This article argues corruption is the dominant source of black money and money laundering. While all of these three should be addressed simultaneously, top priority needs to be given to preventing corruption. The ACC’s recommendation to offer further whitening opportunity to BMHs seems to be flawed, ill-thought-out and misjudgement of the futility of the amnesties offered thus far. The government and state machineries alone might not be sufficient to root out the vicious practices of mostly financially and/or politically influential people, active protest of the society is essential. Crystallising social protests entails public awareness and moral education. This article demonstrates the causes and effects of the black money legalising opportunity showing that such amnesties have effectually contributed to increasing corruption and money laundering. It gives emphasis to the prevention of these crimes, submits specific recommendations aimed at strengthening legal regulation and enhancing social denounce. Recommendations include: (i) strengthening enforcement of existing laws; (ii) improving corruption investigations; (iii) operating proactive financial intelligence agencies; (iv) raising public resistance and social denounce; (v) using public media for mass education; (vi) educating students at institutions; (vii) targeting both supply and demand sides; (viii) ensuring transparency in official activities; (ix) introducing naming and shaming of offenders; (x) increasing housing affordability for honest taxpayers; and (xi) adopting voluntary self-governance code. It is reasonably believed that the implementation of these recommendations will discourage people to engage in the commission of the offences in question, and thereby contribute to achieving the national socio-economic development. We have to admit that passivity does not bring about any changes which require concerned authorities to be proactive, as we

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<sup>164</sup> Star Online Report, ‘Bangladesh’s Banking Sector Malignancy for Economy: CPD’ *Daily Star*, Dhaka (27 May 2017), Business (update).

<sup>165</sup> Iftekharuzzaman (2016), above n 84.

<sup>166</sup> Luis Roniger, ‘Political Clientelism, Democracy, and Market Economy’ (2004) 36(3) *Comparative Politics* 353, 367 as quoted in Samuel Issacharoff, ‘On Political Corruption’ (2011) 124 *Harvard Law Review* 118,130.

<sup>167</sup> Pope (1994), above n 32, 1470.

‘cannot beat something with nothing’.<sup>168</sup> So the graft watchdog must bark to keep predators away.

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<sup>168</sup> Rubin (2014), above n 11, 964.