

Public Financial Management Review

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Financial Management Academy (FIMA)

(The Training Wing of the Office of the Comptroller and Auditor General of Bangladesh)

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On behalf of the Editorial Board

It gives me immense pleasure to introduce the second issue of the Public Financial Management Review, a journal published by the Financial Management Academy (FIMA). As the first issue of the journal was well-received by the readers, we felt encouraged to publish the second issue with a number of insightful articles contributed by our officers on various aspects of public financial management and beyond.

The primary objective of the Financial Management Academy is to promote professionalism in the field of financial management by equipping the officers with necessary knowledge and skills to effectively address the challenges of modern governance. I believe, the articles published in the journal bear the hallmark of our collective efforts to contribute to the advancement of public financial management practices in Bangladesh.

In this issue, a diverse range of topics has been covered that delve into critical areas of public financial management with contemporary contexts, such as constitutional framework, fiscal policy, agile audit, public private partnership, digital currency, artificial intelligence, public procurement and so on. Each article reflects innovative and fresh ideas of our officers, who have been diligently working on the frontier of financial management to enhance transparency and accountability in public administration.

Furthermore, this journal serves as a platform for the exchange of ideas and best practices among the PFM professionals. We believe that the articles presented here will stimulate discussions and encourage further research and innovation in public financial management.

I would like to place on record my deep appreciation to all the authors who have contributed to this publication. I would also like to convey my heartfelt gratitude to the editorial team for their sincere efforts in reviewing and editing the articles, ensuring the quality and coherence. Moreover, it would be remiss on my part if I do not acknowledge the unwavering commitment and support demonstrated by the FIMA faculty. The publication of the second issue would not have been possible without their resolute support.

I take this opportunity to acknowledge the support and encouragement we have been receiving from the Office of the Comptroller and Auditor General of Bangladesh in our endeavors to turn the Financial Management Academy into a center of excellence.

I trust that this journal will serve as a valuable resource for practitioners, academics, and policymakers in their pursuit of effective and efficient financial management practices. FIMA will warmly welcome any suggestions for further improvement of this journal.

Abul Kalam Azad
Director General

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Disclosing Public Private Partnership (PPP) in Financial Reports

Tanveer Akhtar Hossain Khan*

Abstract

This article underscores the necessity of disclosing Public Private Partnerships (PPP) in financial reporting, advocating for relevant accounting standards and transparency. Despite PPP being increasingly used to address budget deficits, there is a lack of disclosure regarding related financing and expenditure in financial reports, leading to accountability issues. The absence of proper accounting policies and standards for PPP in National Accounting Standards further exacerbates the problem. The article urges for the implementation of a sound accounting system to disclose PPP results, recognizing assets, liabilities, and Viability Gap Financing (VGF) in the government's financial statements. It also lays emphasis on independent oversight for ensuring transparency. In addition, sectoral challenges of PPP are also addressed, with recommendations provided for effective disclosure in financial reports.

1.0 Introduction

PPPs are long-term contracts between public and private entities where they collaborate to allocate skills, assets, and financial resources to deliver services efficiently. The public sector retains responsibility for service delivery while the private sector provides the service for an extended period. PPPs involve the construction or acquisition of assets by one unit, its operation, and eventual handover to another unit. These partnerships are used in various sectors such as healthcare, education, transportation, and public security. Governments engage in PPPs to improve efficiency and access to financing. PPPs can be government-funded or user-funded, with different payment models.

it is important to note that the term PPP can be used for various contractual

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arrangements, and careful attention should be given to ensure genuine partnerships that deliver value for money and public benefits.

In PPP, the focus should be on delivering value for money, quality outcomes, and long-term benefits to the public. If the primary motivation is to shift expenditure off-budget or debt off the balance sheet, it can lead to suboptimal results and compromise the efficiency of PPP projects. Governments should make informed decisions, conduct thorough evaluations, and maintain transparency and accountability throughout the PPP lifecycle to ensure optimal value for the public.

Akbar Ali Khan in his famous book *Friendly Fires, Humpty Dumpty Disorders and Others Essays*, noted that “According to the rule of thumb, (investment requirement in physical infrastructure at 7.5% of GDP), total investment in physical infrastructure in Bangladesh stands at \$6.7 billion. ADP allocation of physical infrastructure in 2009-10 is \$1.7 billion. This implies a shortfall of 75% (according to another formula, the shortfall stands at 90% of requirement). This gap cannot be met either from government’s own resources (total ADP can meet only 65% of total infrastructure needs) or from concessional external assistance (if total aid were diverted to physical infrastructure only 30% of required investment could be provided). The only feasible source for meeting the gaps of investment in physical infrastructure is private sector investment. Unfortunately, the average annual investment by private sector in physical infrastructure in Bangladesh during the last decade is only \$20 million per annum, equivalent to, 003% of total requirement.”

The situation becomes far worse due to COVID pandemic and other developments taking place globally which deter private sector investment in the public sector. So, infrastructure procurement through public private partnership (PPP) is particularly vulnerable in the current context. Moreover, PPP contracts are inherently incomplete because decision-makers cannot possibly anticipate all events over the 30 years or more that is typical of a PPP contract. However, ADB’s Asian Development Outlook projects economic recovery with a 5.2% growth rate in 2022 and 5.3% in 2023, which can help reduce vulnerability to external shocks. Public investment, including PPPs, is crucial for post-COVID-19 recovery and maximizing economic development in fiscally constrained environments. To ensure cost-effective and affordable PPP infrastructure, one of the mandatory requirements is transparent and acceptable disclosure. This disclosure should incorporate direct and contingent PPP liabilities within medium-term expenditure and fiscal frameworks to ensure fiscal sustainability.

2.0 Main Characteristics of PPP

The main characteristics of PPP include-

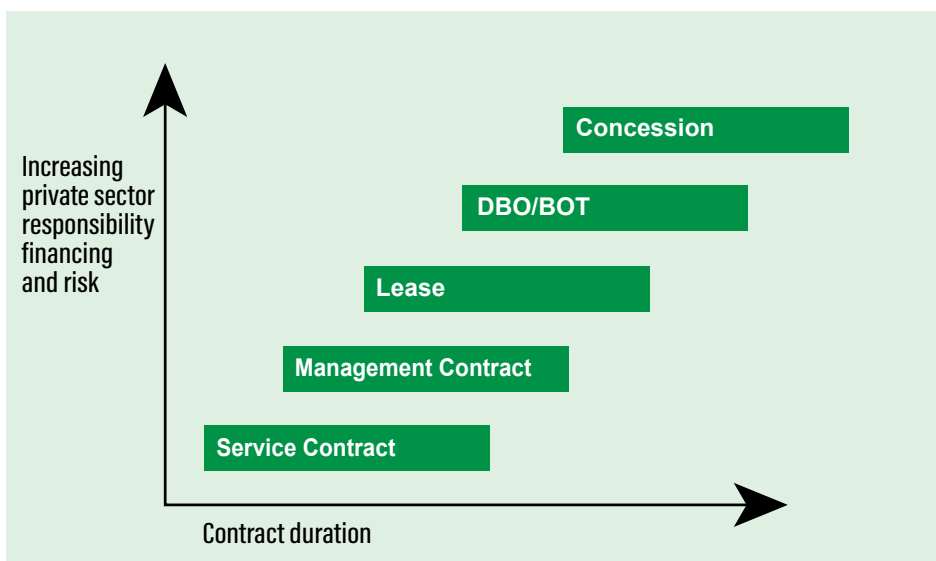
- It involves partnerships between government and commercial partners for the delivery of public services.
- Government payments constitute a major portion of the fees received by the partner under the contract.
- PPP contracts focus on specific assets that require significant initial capital expenditure or major renovation/refurbishment.
- The contract specifies the delivery of agreed services linked to these assets, with defined quality and volume standards.
- PPP can be used for new asset construction or the refurbishment of existing assets, where the work represents the major part of the asset's value.
- Valuation of assets without observed market prices is based on re-valued acquisition costs less accumulated write-downs.
- Construction risk and asset creation or renewal are key factors in determining if a contract qualifies as a PPP.
- Government is the main purchaser of services from the partner in PPPs, with regular payments made once the assets are supplied.
- The demand for services can originate from government or third-party users.
- Government payments typically exceed 90% of the total, as most contracts follow specific economic models.
- Different government units may participate in the contract to varying degrees, across different subsectors of government.

PPs can take different forms depending on the nature of the procurement, desired allocation of risk, and investment requirements. PPPs can take various forms, including:

- Service contracts: The private partner provides a specified service without operating public assets.
- Management contracts: The private partner operates public assets and receives a management fee and profit-sharing incentives.
- Leases: The private partner pays a lease fee and generates income from asset use, assuming greater operational risk.
- Design/Build-Operate-Transfer (DBO/BOT): The private partner invests in and operates infrastructure, with eventual transfer to public ownership.

- Concessions: Maximum risk is transferred to a private operator in exchange for an exclusive operating license, often involving new investments and asset assumption.
- Each category has different contract durations and risk allocation which are depicted in the following diagram-

Diagram 1: Different Forms of PPP



Source: ADB- Pacific Public Sector Policy Brief- Public Private Partnership

2.1 Why PPP becomes important tool of economic development?

The low-income developing nations require significant investments in infrastructure to meet their developmental goals. Given limited fiscal space and financing constraints, these countries are turning to the private sector through public private partnerships (PPPs) to complement public investment. But sound management of PPPs is necessary to achieve efficient infrastructure development while mitigating fiscal risks. PPPs offer governance principles that integrate public investment management, incentivize private capital mobilization, improve project management, reduce costs for governments, aid budgetary management, and ensure timely completion and ongoing maintenance of infrastructure projects.

PPP is important in our economy in order to achieve the desired economic goals by attracting investment. Because there is a need to increase the share of investment in the Gross Domestic Product (GDP) from the current range (FY 23-

24) of 24-25% to 35-40% by 2030. To achieve the target Bangladesh will have to invest \$119.9 billion annually during the post-pandemic decade from 2021 to 2030 to meet the Sustainable Development Goal (SDG) target of achieving 7% annual GDP growth. In respect to this, according to the Bangladesh Bureau of Statistics (BBS), Bangladesh's total investment at the current market price stood at \$106.24 billion in the last fiscal year 2022-23, of which private investment accounted for \$75.45 billion and public investment \$30.79 billion. It means that we have a shortfall from our estimated target of \$119.9 billion annually. Investments should be between 36-40% to achieve this 7% growth and we were not on track even during the pre-pandemic period. So, it was crucial to attract private sector investment for infrastructure development and services in order to meet these investment needs and drive economic growth effectively.

2.2 PPP journey in Bangladesh

In 1997, the Private Sector Infrastructure Development Project (PSIDP) was launched as a TA project with the aim of creating a favorable and supportive environment for public private partnerships (PPPs) in Bangladesh. Subsequently, in 1998, the Infrastructure Development Company Limited (IDCOL) was established to provide long-term debt financing for PPP projects. In 1999, the Infrastructure Investment Facilitation Centre (IIFC) was set up as a government-owned entity with the responsibility of offering technical assistance for the development and implementation of PPP projects. To streamline the process and bring about consistency in the development of PPPs, the Private Sector Infrastructure Guideline (PSIG) was issued in 2004. This guideline aimed to harmonize the procedures involved in PPP development. Additionally, the Private Infrastructure Committee (PICOM), an influential inter-ministerial committee, was established in the same year with the objective of facilitating and promoting PPPs. The Secretariat of PICOM was assigned to the Board of Investment, with the IIFC serving as the technical advisor in support of their activities.

Bangladesh has established a comprehensive set of regulatory frameworks and policies to facilitate the implementation of Public Private Partnerships (PPPs) in the country. These frameworks provide guidelines on various aspects of PPP projects, to ensure transparency, efficiency, and accountability. Some of the key regulatory frameworks and policies related to PPP implementation in Bangladesh include:

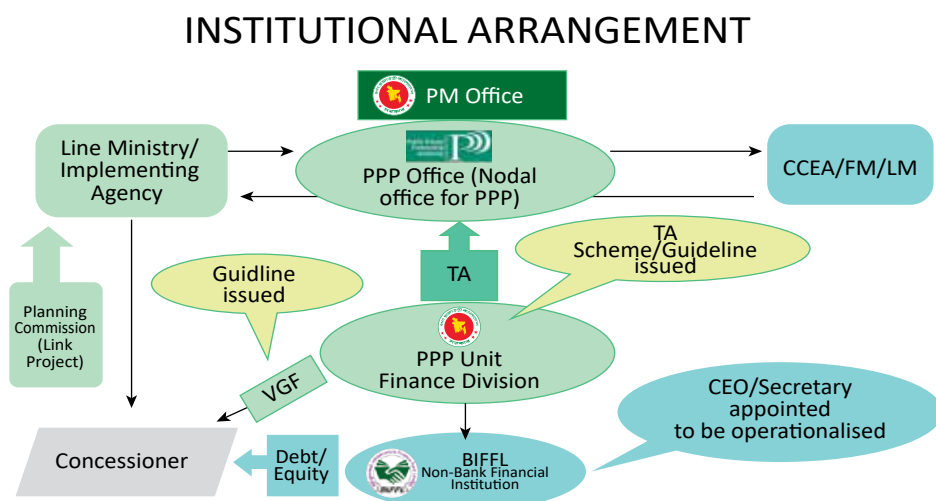
- Policy for Implementing PPP Projects through Government to Government (G2G) Partnership (2017)
- PPP Law, 2015
- Guidelines for Unsolicited Proposals (2018)
- PPP Authority's Organogram and Fund Operating Procedure (2016)

- PPPTAF Fund Delegation of Financial Powers (2014)
- Guideline for Viability Gap Funding (VGF) for PPP Project (2012)
- Guidelines for Contractual Employment in PPP Authority (2018)
- Rules for Public Private Partnership Technical Assistance Financing (2018)
- Rules for Viability Gap Financing for Public Private Partnership Projects (2018)
- National Priority Project Rules (2018)
- Procurement Guideline for PPP Projects (2018)
- PPP Authority’s Fund Operating Procedure (2018)

A new institutional framework has been set up including the creation of the PPP authority under Section 4 of PPP Act, 2015 to support line ministries and their executing agencies to undertake projects. This authority has been set up to serve as a catalyst for proactively advancing PPP initiatives by providing support to line ministries on various aspects that include among others, project development, tendering, financing, and identification. Besides, this authority is also responsible for evaluating the feasibility of a project proposal sent by line ministries. This authority is funded with revolving fund of BDT 200 crore as technical assistance by Finance Division, Ministry of Finance to perform such evaluation using the assistance of both public and private expertise. After the evaluation, if the project is found out feasible, the project proposal is sent to Cabinet Committee on Economic Affairs (CCEA) for getting approval.

This robust institutional framework safeguards public finances and ensures efficient use of public resources in PPPs. The following figure shows the institutional framework of Bangladesh-

Diagram 2: Institutional Framework of Bangladesh



Viability Gap Financing (VGF) is a financial tool used in Public Private Partnerships (PPPs) to bridge the viability gap or financial shortfall between project costs and the revenue or returns expected from the project. It is a form of financial support provided by the government or a public authority to make a project economically viable for private sector participation. The VGF is used to provide financial support to financially not viable but socially and economically beneficial PPP Projects or to maximize the Value for Money (VFM) for the government.

According to the Rules for Viability Gap Financing for Public Private Partnership Projects, 2018, The VGF will take the following forms:

(a) Capital Grant: Capital grant is disbursed during the construction phase of the PPP project on a pro rata basis with the equity contribution subscribed and expended by the private sector company for each agreed project construction milestone of the PPP Project; and/or

(b) Annuity: Annuity is disbursed on a periodic basis (for example, monthly, quarterly, half yearly or yearly) during the period when the project company provides service under the PPP project after the commencement of operations.

The VGF will be managed and administered by the Finance Division, Ministry of Finance through its designated PPP unit.

Currently, only two projects are being implemented (Project 1: Dhaka Bypass Expressway, Project 2: Dhaka Elevated Expressway) under this arrangement. The related information of these projects is shown in the following table:

Table-1: Implementation status of PPP projects

Project Name	Estimated Cost	Project Duration	VGF Amount	Implementing Agency	Contract Signing of VGF
1. Dhaka Bypass Expressway	BDT 2963 Crore	25 Years	BDT 889 Crore	Road and Transport Authority Sichuan Road and Bridge Group Corporation Ltd. Shamim Enterprise Ltd. UDC Construction Ltd (SRBG-SEL-UDC)	The VGF contract was signed between PPP unit, Finance Division; Dhaka Bypass Expressway Development Company Limited (DBE-DCL) and Bangladesh Infrastructure Finance Fund Limited (BIFFL) on 6th April, 2021

Project Name	Estimated Cost	Project Duration	VGF Amount	Implementing Agency	Contract Signing of VGF
2. Dhaka elevated expressway	BDT 8940.18 Crore	25 Years	BDT ± 2414 Crore	Bangladesh Bridge Authority and Private Investment Company First Dhaka Elevated Expressway Co. Ltd	The VGF contract was signed between PPP unit, FD, MoF; First Dhaka Elevated Expressway (FDEE) and City Bank on 25 th February, 2020

A successful Public Private partnership (PPP) should meet three fundamental conditions. Firstly, it should provide benefits for the private sector, such as generating a consistent revenue stream or expanding market access. Secondly, it should deliver services that consumers desire who would not have access to at the same price under normal circumstances. It means the involvement of the private sector brings additional capabilities, resources, and innovation to address limited public funding, lack of expertise, or insufficient resources in the public sector. The PPP should aim to provide services that are not readily available or accessible, bridging the gap between demand and capacity. It should also strive to deliver services at a reasonable and competitive price, ensuring affordability for consumers while allowing the private sector to generate profits. This balance can be achieved through market-driven pricing and regulatory mechanisms that protect consumers' interests. Lastly, a PPP should also provide benefits for the government, which could include fulfilling political needs, meeting social obligations, and addressing development imperatives. By satisfying these three conditions, a PPP can effectively balance the interests of the private sector, the consumers, and the government, leading to a mutually beneficial and successful partnership.

The following 'Infrascopie Index' of Economist Intelligence Unit (EIU)¹ provides an understanding that Bangladesh still has long way to go for creating effective environment for PPP:

¹ Economist Intelligence Unit (EIU) is the research and analysis division of The Economist Group, the sister company to The Economist newspaper.

Table-2: EIU Infrascop Index Score

Parameter	Value	Unit
PPP financing rank (out of 21)	9	no.
PPP financing score (out of 100)	47	no.
Investment and business climate rank (out of 21)	17	no.
Investment and business climate rank (out of 100)	56	no.

Table-3: Ranking by different parameter

UEI Infrascop Index Score		
PPP regulations rank (out of 21)	8	no.
PPP regulations score (out of 100)	65	no.
PPP institutions rank (out of 21)	6	no.
PPP institutions score (out of 100)	90	no.
PPP market maturity rank (out of 21)	4	no.
PPP market maturity score (out of 100)	71	no.

Source: ADB: public-private partnership monitor bangladesh

3.0 Absence of PPP related accounting policy and standards

From the above discussion, it is understandable that Bangladesh has numbers of PPP related framework and guidelines to implement PPP projects. But all the efforts may go astray unless proper accounting policy and treatment are defined to capture and disclose PPP related transactions properly for ensuring accountability and transparency. In addition, no real steps have been taken to ensure the disclosure of detailed accounting records of equities, assets and liabilities of different PPP projects. Moreover, in our existing national accounting standards which is Accounts Code has not addressed this newly developed issue since it was last updated in 1999. In this scenario, OCAG may take the necessary steps to update Accounts Code by including PPP related accounting policy and standards under the mandate of Article 131 of the Constitution as well as the detailed accounting treatment need to be developed in the Project Accounting Module of iBAS++ in compliant with accounting policy and standards to be set by OCAG. In this connection, relevant internationally accepted accounting

standards and treatment mentioned in the following may be considered while developing PPP related accounting policy and standards.

3.1 Financing modality

Public Private partnerships (PPPs) are often driven by the goal of improving the quality of public services while reducing costs. Budget constraints can also motivate governments to seek external resources and alternative means of building infrastructure. By entering into PPP contracts, government can spread the cost of new assets over time, avoiding a large initial capital expenditure. In some cases, the government may provide financing to the private partner if it is unable to borrow at favorable interest rates, thereby reducing the overall cost of the project and ensuring its viability. If the government provides the majority of the financing, the asset may be classified on the government's balance sheet. Government financing may be provided at different stages, including during the construction phase or at the end of it, to consolidate short-term debt into long-term financing. In certain situations, the government may commit to ensure the partner's financing if it encounters difficulties in obtaining financial resources. Such commitments by the government mitigate the risk for the partner and may result in the assets being classified as government assets.

3.2 Accounting treatment

Government needs to maintain centralized registers of financial commitments, including those in PPP contracts, to ensure accountability and fiscal transparency. Comprehensive reporting encourages scrutiny of the government's fiscal position and allows interested parties including lenders, rating agencies, and the public to assess public financial management performance. The accounting treatment depends on the definition of general government sector which may differ from the one used for financial management of government affairs like Eurostat, a statistical office based on GFS that uses the risks and rewards criterion for classification purposes of PPP, while the international standard for public sector accounts, IPSAS, uses the control criterion. So, the variation in definitions and criteria used for statistical purposes and financial management can lead to differences in the accounting treatment of PPP contracts. It is essential for government to consider these variations and ensure coherence and consistency in reporting practices to maintain transparency and facilitate accurate assessments of their financial commitments related to PPPs.

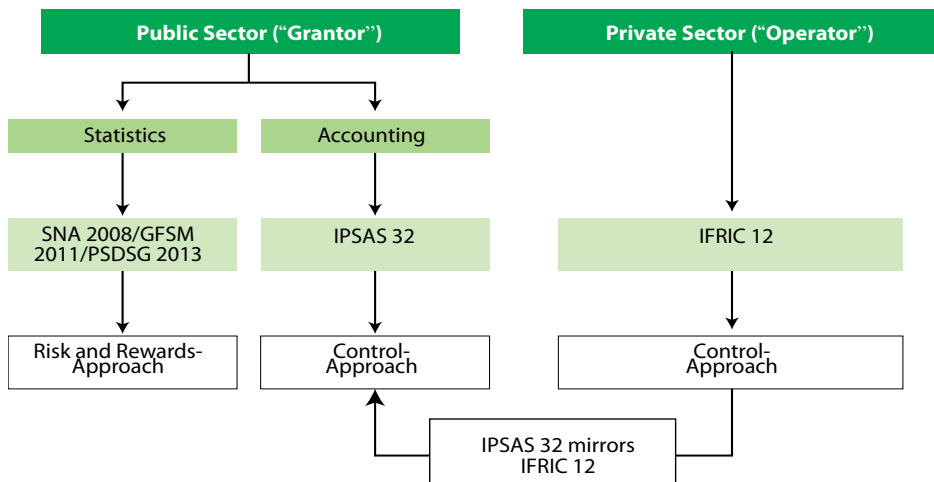
Box-1: Types of Government Financial Reporting

Most governments capture and report financial information in three related frameworks:

- Government finance statistics—these are summary statistics on the state of a government’s finances, which are intended to be internationally comparable. These statistics may follow regional or international standards, such as those set by the Eurostat for European Union countries, or the IMF’s Government Finance Statistics Manual (GFSM) (IMF 2014b).
- Government financial statements—most governments also publish audited financial statements. There are internationally recognized standards on what should be in those financial statements, although in practice few governments meet those standards. The International Public Sector Accounting Standards (IPSAS) is a modified version of the International Financial Reporting Standards (IFRS). IPSAS is designed for use in the public sector, while IFRS applies to companies. Some governments adopt local accounting standards that are a simplified version of the IPSAS standards.
- Budget documentation and reporting—most governments prepare reports on financial performance as part of budget preparation and reporting. These are not subject to any international standards, although there are international guidance materials that promote transparency—for example, the IMF’s Update on the Fiscal Transparency Initiative (IMF 2014a) and the OECD’s Recommendation of the Council on Budgetary Governance (OECD 2015a).

The following diagram depicts how GFS and IPSAS address PPP-

Diagram 3: PPP Disclosure Under GFS and IPSAS



The accounting treatment also depends on the economic ownership of the asset(s). In macro-economic statistics, a distinction is made between legal ownership and economic ownership based on risks and benefits. But within a PPP, the legal and economic owner may be different parties. Determining economic ownership and recording PPP-related assets and liabilities is complex. While the private corporation acquires/constructs assets, the government often provides support. Government standards and control are specified in the contract, and assets have longer service lives. Consequently, it is unclear which party controls the assets or bears the risks and benefits. This may occur due to several factors. Firstly, government standards and control are often specified in the PPP contract. However, the interpretation and application of these standards may vary, leading to uncertainties about which party has control over the assets or decision-making authority. Different contractual provisions and regulatory frameworks can contribute to this ambiguity. Secondly, PPP projects typically involve infrastructure assets with long service lives that may span several decades, and the roles and responsibilities of both the public and private sectors can evolve over time. Changes in circumstances or unforeseen events can affect the allocation of control, risks, and benefits throughout the duration of the contract. Thirdly, PPP contracts aim to distribute risks and benefits between the public and private sectors in a mutually agreed manner. But due to the inherent complexity of PPP projects, identifying and allocating risks can be challenging. Risks associated with construction delays, demand fluctuations, or changes in regulatory environments can make it difficult to determine which party ultimately bears these risks and benefits. So, the lack of clarity regarding asset control and risk allocation can have implications for the accounting treatment of PPP contracts, as well as the statistical classification of these projects.

The economic owner of the assets related to a PPP is determined by assessing which unit bears the majority of the risks and which unit is expected to receive a majority of the rewards of the asset. The factors that need to be considered in assessing economic ownership of PPP-related assets include those associated with acquiring the asset and those associated with using the asset. Some of the risks associated with acquiring the asset are:

- Government control over design, quality, size, and maintenance of assets.
- Construction risk, including potential additional costs and compliance issues.

- Supply risk, covering government control over services, units, and pricing.
- Demand risk, considering fluctuating service demand.
- Residual value and obsolescence risk, involving potential differences in asset value at the contract's end.
- Availability risk, including additional costs or penalties due to non-compliance with specified standards.
- Each PPP arrangement must be evaluated individually, as there are no universally applicable rules.

In a PPP contract the final users do not pay directly (i.e., in a way proportional to the use of the asset and clearly identified only for this use), or only for a minor part (and generally for some specific uses of the assets for which a service will be provided). International Public Sector Accounting Standards Board (IPSASB) for the recognition and measurement of a service concession asset mainly address PPP. While it is not possible to prescribe rules applicable to every PPP type of arrangement, the considerations describe in the above paragraph should guide the decision on which party is the economic owner of the asset(s) during and at the end of the PPP contract period. The International Public Sector Accounting Standards (IPSASs) considerations of control of the asset include aspects of risks and rewards, and should, in principle, lead to the same conclusions on economic ownership. Here, IPSASs aim to provide guidance regarding Economic ownership which refers to the party that effectively enjoys the benefits and assumes the risks associated with the asset. By considering control, risks, and rewards, IPSASs seek to ensure that the accounting treatment aligns with the underlying economic substance of the PPP contract. It's important to note that while IPSASs provide principles for determining control and economic ownership, the application can still involve judgment and interpretation based on the specific circumstances of each PPP contract. The intent is to promote consistency in the accounting treatment of PPP assets and enhance transparency and comparability in financial reporting across the public sector. The following Box presents a brief discussion on how some countries apply, in practice, the concept of economic ownership related to PPPs.

Box-2: Practical applications of the economic ownership concept

To operationalize the criteria for economic ownership—that is, whether most risks and rewards accrue to government or to the private corporation—countries have followed different approaches. Under Eurostat’s guidelines to its member states, a sufficient condition for a PPP to be excluded from government’s accounts has been that the private corporation bears the construction risk in the project and either the availability or the demand risks in using the asset in production. In 2010, Eurostat clarified how other elements, in addition to these three principal risk categories, should be analyzed to determine the distribution of risks between the public and private sectors—notably: the existence and scope of grantor guarantees; majority financing by the grantor of capital cost during the construction phase; and financial aspects of termination clauses (see Manual on Government Deficit and Debt – Implementation of ESA 95, 2012 Edition, section VI.5). Some countries are following internationally accepted accounting standards (e.g., IPSAS) applicable to financial leases. If a PPP contract is deemed to be a financial lease, asset and liability are recorded on the public sector unit’s balance sheet, interest and depreciation are recorded as operating expenses, and amortization is recorded as a transaction in financial assets and liabilities. IPSASs treat a lease as a financial lease to the extent that the following criteria are met: (i) the contract period covers most of the useful life of the asset; (ii) the asset is transferred to the lessee (the public sector unit in this case) at the end of the contract; (iii) the lessee can purchase the asset at a bargain price at the end of the contract; (iv) the present value of payments.

Source: GFSM 2014

In government account, there may be two types of accounting treatment of PPP. Firstly, the government may consider a Public Private partnership (PPP) as an operating lease when the contract provisions indicate that the risks associated with the asset are not allocated to the government. In such cases, the PPP is treated as a lease arrangement, and the government classifies it as a purchase of services rather than recognizing it as an acquisition of assets. Secondly, the government may consider a Public Private partnership (PPP) as a financial lease when the contract provisions indicate that the risks and rewards associated with the asset are effectively transferred to the government. In such cases, the PPP is treated as a lease arrangement, and the government recognizes it as an acquisition of assets through an imputed financial lease. This means that the government records the PPP as if it has obtained ownership and recognizes the corresponding liability for the lease payments.

3.3 PPP and IPSAS

The term ‘PPP’ will be exclusively used to describe those long-term contracts in which government pays to a non-government partner all or a majority of the fees under a specific contractual arrangement, thus covering most of the total cost of the service provided (including the amortization of the assets).

In national accounts, this feature distinguishes PPPs from concessions. In a concession contract, government makes no regular payments to the partner, or such payments, if they exist, do not constitute a majority of fees received by the partner.

In the absence of explicit payment at the beginning of a contract, a transaction must be imputed for the acquisition of the asset(s) when the government is considered the economic owner. These imputed transactions are recorded based on contract provisions and interpretations. Typically, they are recorded as the acquisition of the asset through an imputed financial lease, similar to actual financial leases. In some cases, a loan equal to the market value of the asset could be imputed, and government payments may be partitioned to represent loan repayment and expenses for goods/services. This partitioning distinguishes the portion of the payment that represents the repayment of the imputed loan from the portion that covers the ongoing costs associated with the goods/services provided by the private partner. The portion of the government payment allocated to loan repayment is treated as a reduction in the outstanding imputed loan balance. Over time, as the government makes payments, the loan balance decreases, reflecting the repayment of the initial borrowing equivalent to the market value of the asset. On the other hand, the remaining portion of the government payment represents expenses incurred for the goods/services delivered by the private partner under the PPP arrangement. These expenses cover operational costs, maintenance, and other services provided throughout the contract period. Under the application of IPSAS rules would place most existing Public Private partnerships (PPPs) on the government’s balance sheet, as control and asset allocation criteria would be considered. However, the European System of Accounts (ESA) 2010 emphasizes economic ownership rather than legal ownership. For assets to be classified on the partner’s balance sheet, they must incur risks and rewards from asset use. Government often retains some rewards and risks through various mechanisms, which complicates PPP classification and may contradict ESA 2010 principles. This increases the likelihood of classifying PPPs on the government’s balance sheet.

If the private corporation is deemed the economic owner of the asset(s) during the contract period, any associated debt should be attributed to the private corporation. The government typically obtains legal and economic ownership of the assets at the end of the contract with little or no payment. The following two possible approaches exist to account for the government's acquisition of the asset(s):

1. **Gradual Financial Claim:** The government gradually builds a financial claim while the private corporation accrues a corresponding liability. At the end of the contract period, the government records the asset acquisition and reduces the financial claim, while the private unit records the asset disposal and reduces the liability.
2. **Capital Transfer:** The change of ownership is recorded as a capital transfer at the end of the contract period. The government records revenue through a capital transfer, financing the asset acquisition, while the private unit records an expense in the form of a capital transfer payable to the government, financed by the asset disposal.

It appears from this feature, that the schedule of government payments must be considered. For instance, if the expenditure incurred by the partner for the construction of the asset (a substantial part or all of it), was repaid by government at the start of the exploitation phase, through a single or a small number of sizeable payments (lump sums), the contract could be considered as the provision of procurement services for an asset, to be included in government balance sheet, followed by a service contract for the remaining life time of the contract. In any case, such payments from government should always be considered as government expenditure (if the asset is recorded off government balance sheet) and not as the pre-payments of future availability fee².

3.4 Recognizing PPP liabilities in Government Accounts

Governments need to decide whether and when PPP commitments should be recognized—that is, formally recorded in financial statements as creating public assets, liabilities or expenses. This is important because limits or targets

² The availability fee in a Public Private Partnership (PPP) refers to the periodic payment made by the government to the private partner for ensuring the availability and use of the infrastructure or services provided under the PPP contract. When considering the accounting treatment of PPPs, it is important to recognize that government payments, including the availability fee, should be considered as government expenditure. This is particularly relevant when the asset is recorded off the government's balance sheet, which is often the case in certain types of PPP arrangements.

are often set on the government's liabilities and expenditures. Whether or not PPP commitments are recognized as expenses or liabilities can therefore influence a government's decision to pursue PPPs, or how to structure them, in a way that is not driven by the fundamental objective of achieving value for money. Insufficient Funds³ describes how some governments have used PPPs to circumvent limits on liabilities.

The financial standards mentioned in Types of Government Financial Reporting vary in their treatment of PPP fiscal commitments. A few standards specifically address when and how direct liabilities and assets of PPP projects should be recognized by the contracting governments:

- IPSAS-32: PPP assets and liabilities are recognized on the government's balance sheet if the government controls or regulates services, and holds a significant residual interest in the asset at the end of the contract. Applies to accrual accounting standards.
- IMF Government Finance Statistics Manual: PPP assets and liabilities are reported on the government's balance sheet if the government bears most project risks and rewards, considering factors like design control, maintenance, and allocation of demand and availability risks. Applies to statistical reporting purposes.

Accounting and reporting standards typically do not require the immediate recognition of contingent liabilities arising from Public Private Partnership (PPP) contracts. This means that such liabilities are not recorded on the financial statements until certain conditions or events occur.

However, IPSAS standards for governments implementing accrual accounting require contingent liabilities to be recognized if it is likely⁴ and measurable. In such cases, the net present value of the expected cost of the contingent liability should be recorded as a liability upon contract signing.

3 In the context of PPPs, the concept of insufficient funds can arise when a government seeks alternative financing mechanisms to bypass or work around the constraints on its liabilities. Governments often have borrowing limits or debt ceilings imposed by fiscal rules, legislation, or international agreements. These limits are in place to ensure responsible financial management and prevent excessive debt accumulation, which can have adverse consequences for the economy. In some cases, governments may turn to PPPs as a way to secure financing for infrastructure projects without directly incurring debt or exceeding their borrowing limits.

4 "Likely" refers to the probability or likelihood of an event occurring. In the context of contingent liabilities, it signifies that there is a significant chance or a more probable than not chance that the liability will materialize based on available information.

3.5 Disclosure of PPP liabilities

Most international reporting and statistical standards agree that even when PPP commitments are not recognized as liabilities, they should be disclosed in notes to the accounts and reports. For example, an IMF booklet on Public Investment and PPPs (Schwartz et al. 2008, 14–17) describes what information should be disclosed for PPPs in general, and specific disclosure requirements for guarantees. A World Bank report on Disclosure of Project and Contract Information in PPPs (WB 2013) reviews practices in several jurisdictions and presents best practices in the field.

Disclosing contingent liabilities, including those related to PPP projects, can be challenging due to the difficulty in estimating their value. “Appraising Potential PPP Projects” provides guidance on estimating the value of contingent liabilities. Cebotari’s paper on Government Contingent Liabilities describes international guidelines for disclosure, including examples from countries like New Zealand, Australia, and Chile. These countries disclose contingent liabilities, including those related to PPPs, in their notes to the financial statements or separate reports.

3.6 Key issues and related treatment in national accounts

Long-term contracts like Public Private Partnerships (PPPs) raise the question of whether related assets should be included in the government’s balance sheet or the partner’s balance sheet. This decision has significant implications for the government’s financial reports, including net lending/borrowing and government debt. According to IPSAS Standards, if the assets are considered government assets, their capital expenditure is recorded on an accrual basis as the construction progresses. Phased payments received may indicate the appropriate time for recording. The recording of flows between the government and the partner during the contract’s duration also affects net lending/borrowing. The classification of assets should consider multiple criteria and an additive approach, taking into account factors such as equity share, rewards, rights, and risks. In complex cases, a thorough analysis is required to determine if there is a sufficient transfer of economic ownership to the partner.

3.6.1 Sector classification of the partner

The partners involved in long-term contracts with government belong either to the public or to the private sector. If it is a public unit, it means that, government or another public unit need to determine the general corporate policy of this unit. Such public partner should be classified as a

non-financial corporation as long as it acts as a market unit (meeting the 50 % criterion), fulfils the qualitative criteria and if payments are made by government may be considered as sales (as a counterpart for the provision of services). Here, the payments represent the counterpart for the services rendered by the public partner, further indicating the commercial nature of the entity's activities. When the public partner fulfills these criteria, it is classified as a non-financial corporation rather than a government entity. This classification is important for accounting and reporting purposes as it determines the applicable standards and frameworks that govern the financial statements and disclosures of the public partner.

However, specific attention should be given to cases where a public corporation meets the criteria for market production but government has a significant influence in contract negotiations and decisions. Because, the presence of significant government influence warrants special attention and careful consideration. It requires an assessment of the extent to which the government's involvement impacts the commercial nature and behavior of the entity. This evaluation ensures that the classification and accounting treatment align with the economic reality and reflect the entity's actual operating characteristics. If government payments constitute a predominant part of the partner's revenue and are not considered as sales according to GFSM 2014 rules, the corporation could be reclassified as a government unit. Determining the appropriate classification and accounting treatment in such cases requires a thorough understanding of the specific circumstances and a comprehensive analysis of the entity's relationship with the government. It is essential to exercise professional judgment and consider relevant guidance and standards to arrive at a fair and accurate representation of the entity's financial reporting, considering both market-oriented activities and government influence.

In some contracts, the execution of the contract takes place under the legal umbrella of a special purpose entity (SPE). Normally, such a legal entity has a pre-defined life limited to the length of the PPP contract, or just to the construction period. It is expected to have been created solely for legal purposes. When one or several partners that are the operational contracting parties⁵ collectively control this unit, it should be classified as a non-

⁵ In the context of PPPs, the operational contracting parties are typically the public sector entity (government) and the private sector entity (private company or consortium). These operational contracting parties are responsible for executing the contractual obligations, managing the day-to-day operations, and delivering the goods or services outlined in the PPP agreement. They collaborate and work together to ensure the successful implementation and operation of the project.

government unit. This may be observed in the case of the construction of innovative and complex assets that need the close cooperation of firms specialized in different technical areas. The SPE would be the organization created to represent them as a consortium. The SPE may also take the form of a pooling of banks where the financing requirements are quite significant. Therefore, an SPE generally does not play an operational part in the execution of the contract, neither as a project manager, nor as the builder or operator of the PPP asset. But complications arise when government or a public corporation creates the SPE, requiring careful assessment for independent unit status and market producer classification. Reclassification within the government sector may be necessary in such cases. Moreover, for PPP contracts involving a special unit or special purpose entity (SPE), the extent of government control is crucial. Even with a minor stake, if government has predominant influence in contract negotiation and important decisions, the assets should be reclassified in the government's balance sheet. The presence of government in an SPE and the partner being a public unit also impact the sharing of rewards between government and the partner.

Government support provided to a partner outside the government sector, unless considered 'force majeure', should be recorded as a transfer impacting government net lending/borrowing. This support can also affect risk allocation. Reclassification of assets in the government's balance sheet may occur if recurrent support leads to a shift from a market entity to a non-market entity or for other reasons.

3.6.2 Assessment of the risks and rewards borne by each contracting party

For long-term contracts between government and non-government partners, the assets may be considered non-government assets only if the partner bears most of the risks and receives most of the benefits. Usually, PPP contracts typically involve risk sharing between government and the partner. While some risks may be taken by government under exceptional circumstances, normal risks should be borne by the partner for the asset to be classified in their balance sheet.

It is also to be noted that these arrangements deal with a single asset or with a set of assets that are not contractually divisible. Because of the features of the contracts, PPP assets should not be split in government accounts. The assets should be recorded in the balance sheet of just one of the parties involved (the economic owner), for their total value.

In addition, some contracts may be designed linking government payments to the effective use of assets, regardless of the user's initiative. This means that the government payments are contingent upon the proper and efficient use of the assets by the user, regardless of whether the user actively initiates the utilization. This arrangement encourages responsible asset management, ensuring that the assets are effectively utilized for the intended purpose. The volume of use may be closely correlated with the partner's performance and availability and quality of the asset.

Some contracts may combine payments for asset availability and actual use. If neither type of payment exceeds two-thirds of the total government payments, both availability and demand risks must be assessed separately for asset classification. If one type of payment is predominant, the corresponding risk should be analyzed, but the other component should not be neglected.

In all cases risks borne by each party should be assessed to determine the majority risk bearer, considering the conditions mentioned above and other contractual features. However, risks not closely related to the asset or separable from the main contract, such as periodic renegotiations or performance penalties, are not considered in the risk assessment for asset classification.

Assets involved in PPPs are recorded in the partner's balance sheet if the partner bears the construction risk and at least one of the availability or demand risk⁶, as designed in the contract. Therefore, if government bears the construction risk or if the partner bears only the construction risk without other risks, the assets are recorded in the government's balance sheet.

The possibility of government applying penalties for partner's default on service obligations is a key criterion. Penalties should be automatic, have a significant effect on the partner's revenue/profit, and follow the principle of 'zero availability - zero payment' for non-negligible periods of asset unavailability meaning if the asset covered by a Public Private Partnership (PPP) contract is not available for use during a non-negligible period of time, government payments to the partner should decrease to zero for that period. In other words, if the asset is not accessible or usable by the government or intended users, the partner should not receive any payment

6 Availability Risk: Availability risk refers to the risk associated with ensuring that the infrastructure or services provided under the PPP contract are available and accessible to users as required.

Demand Risk: Demand risk refers to the uncertainty or variability in the demand for the infrastructure or services provided under the PPP contract.

from the government during that time. However, lump sum payments by the partner, independent of penalty systems, may occur for specific events and should not be brought back to zero. If the partner exceeds expected performance, they should retain the resulting higher profit.

Furthermore, another mechanism that shifts the majority of risks back to government, such as termination clauses or government guarantees, result in asset classification on the government's balance sheet.

As far as the rewards derived from the project are concerned, if the PPP contract allows government to take any part of the partner's profit at a certain level of profitability, the assets should be considered government assets. Government may still indirectly be entitled to a share of profit through dividends if they hold a minor stake. However, government can receive additional previously unforeseen profits resulting from deliberate government actions impacting asset use and availability costs. General measures with a broad impact on the economy are excluded from this provision.

3.6.3 Government guarantees

Government may directly provide explicit guarantees that partially or fully cover the project-related borrowing of the partner, regardless of the creditors involved. These guarantees can help the partner secure funds at lower costs and enhance its credit rating. If legal provisions exist that transfer all or a portion of the debt service to the government, the partner's debt would be classified as government debt.

When evaluating the risk distribution between government and the partner in PPP contracts, it is important to consider both majority financing and guarantees related to the project's capital expenditure. Even if government only contributes a minor share of the total capital expenditure, guarantees a significant portion of the remaining project finance (including partner loan liabilities or guaranteed availability payments), and the combined effect of government support exceeds a majority of the capital expenditure, it indicates that the majority of risks are borne by the government. Additionally, in cases where a PPP project is primarily financed by equity, a separate analysis is required to assess the impact of contract provisions on the distribution of risks between government and the partner.

When a guarantee is invoked, it can result in a change in the economic ownership of the assets and their reclassification at their remaining value. This

reclassification occurs if it alters the share of risks borne by the parties involved. For example, if government takes control of the partner or shifts from payment based on asset availability and demand to primarily covering operating costs, it may trigger a reclassification of the assets.

3.6.4 Termination clauses and change in the nature of the contract

PPP contracts include termination clauses that allow for contract termination if either the government or the partner fails to fulfil their obligations. Government may also exercise its exceptional sovereign rights. Termination may occur for various reasons, including partner's default or withdrawal from the contract. In the event of partner default, the assets are typically transferred to the government, unless a new partner is immediately engaged. A new analysis is required for any subsequent contract.

Termination due to partner default may require government to acquire the asset, assume PPP-related debt, and provide compensation. Refunds or market value compensation may be specified depending on the construction or operating phase. Amendments or renegotiations are considered new contracts if they significantly change risk distribution. Payments by final users may lead to reclassification of assets as government assets if they exceed 50% of total cost. Progressive changes in payment ratios may trigger asset transfer.

3.6.5 Force majeure

Different events impacting PPP arrangements may be categorized as partner responsibility, government decision impacts, or external⁷ force majeure events. During the implementation of a PPP contract, it is important to distinguish between events or trends that are the partner's responsibility and those resulting from government decisions. The partner should face consequences for performance-related issues, while compensation should be provided for deviations from contractual clauses due to government decisions, excluding general policy decisions unrelated to the specific PPP contract.

A third category of events in PPP contracts is 'force majeure' or exceptional external events. These events, which are beyond the control of either party, may impact service availability and demand. If clearly defined and unavoidable, the financial consequences may be exempted for the partner. However,

⁷ Force majeure is a legal term that refers to unforeseen and uncontrollable events or circumstances that prevent one or both parties in a contract from fulfilling their obligations. It is derived from French law, and its literal translation means 'superior force.'

macroeconomic risks and events that can be insured against should be the partner's responsibility. In the cases of events impossible to insure against (e.g., wars, natural disasters), government may assume the risk without necessarily classifying the assets on its balance sheet, but a reassessment of risk allocation is necessary if such events occur.

3.6.6 Allocation of the assets at the end of the contract

An analysis of the clauses relating to the disposal of the PPP assets described at the end of the contract should be used as a supplementary criterion for determining the overall risk transfer, notably where the risk analysis mentioned above, should not give unequivocal conclusions. The conditions in which the final allocation of the assets would be carried out might give, additional important insight into risks among the contract partners as such clauses might help to assess whether a significant risk remains with the partner.

If the assets remain the property of the partner at the end of the project, whatever their economic value at that time might be (although frequently their future economic life remains quite significant, notably in cases of infrastructure that only slightly depreciates over time), then recording the assets in the partner's balance sheet would have an additional strong justification.

In some contracts, government has the firm obligation to acquire the assets at the end of the contract at a pre-determined price, usually set where the contract is signed. If predetermined prices exceed market value, or if partner is absorbed⁸ by government, assets enter into government balance sheet.

3.6.7 Classification of some transactions between a corporation and government

When government makes regular payments to the partner, the treatment of these transactions would depend on whether the asset is recorded in the balance sheet of government or of the partner. If the asset is included in the partner's balance sheet, it means that the partner corporation owns or controls the asset and also responsible for the operation, maintenance, and provision of services related to that asset as per the terms of the PPP agreement, the corporation provides a service to government that

⁸ 'absorbed' by the government, it refers to a situation where the government takes over or assumes control of the partner entity. This can happen for various reasons, such as the partner facing financial difficulties, bankruptcy, or the government's decision to bring the operations or assets of the partner entity under its direct control.

constitutes government intermediate consumption expenditure⁹, valued by the payments¹⁰ made to the corporation.

If the asset is included in the government balance sheet, the service to the community is provided using government asset. The acquisition of the asset by government is recorded as in a 'standard' financial leasing contract. Government

payments to the partner over the whole life of the contract are split between redemption of principal, payment of interest and, possibly, purchase of services for the tasks performed by the corporation and purchased by government.

4.0 Recommendations

4.1 Value for money assessments

A forward-looking value-for-money assessment need to be utilized by a contracting authority to guide public sector decision-making and ensure that decisions are made in a logical and methodical manner. In certain jurisdictions, conducting a value-for-money assessment is mandatory for PPP projects as it aligns with the objective of optimizing value-for-money, which is a primary goal when choosing the PPP project delivery approach. To ensure the value for money assessments, proper accounting records and recognition of asset and liability are vital.

4.2 The shortcomings of scrutinizing risk premiums in government projects by introducing risk management framework

To the government, however, some risk premia look like unnecessary costs (for example, the additional premium charged by a general contractor for absorbing the interface risk between subcontractors and offering a lump-sum, turnkey solution). This type of scrutiny is crucial for financial control. However, this approach can be considered shortsighted because it focuses solely on budgetary and accounting elements without considering the broader risk implications throughout the project's life cycle. The risk involved the project life cycle, including construction, operation, and maintenance, a comprehensive evaluation recognizes the value of these risk

⁹ This refers to the spending by the government on goods and services that are used up within the production process but do not result in the creation of new assets.

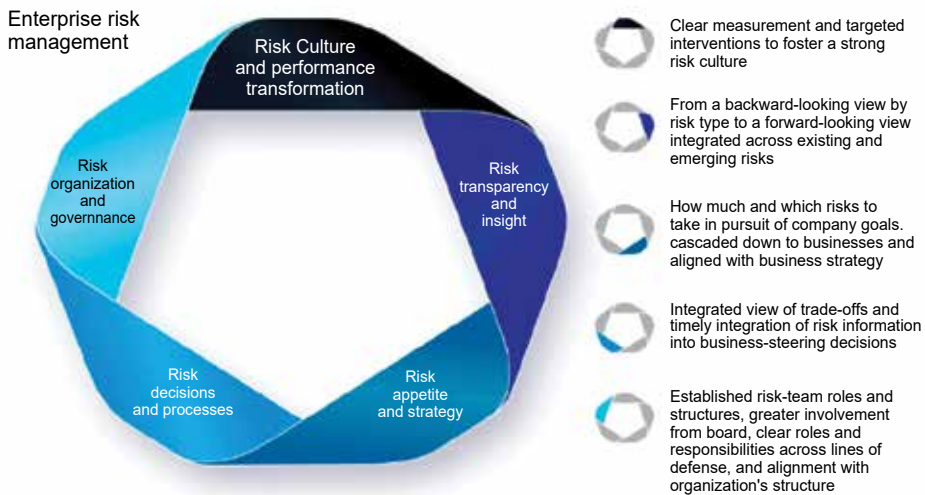
¹⁰ The payments made by the government to the partner corporation represent the value assigned to the service provided. These payments are typically determined through the terms outlined in the PPP contract, considering factors such as performance indicators, quality standards, and other agreed-upon metrics.

premiums in ensuring project success and minimizing potential disruptions or delays. A more holistic approach that evaluates risk premiums in relation to the project’s overall risk profile, value creation, and long-term benefits can provide a better understanding of the trade-offs involved and support informed decision-making in PPP project implementation.

The assumption, therefore, is that these risks should be managed for free. So, when scrutinizing risk premia in government projects seem like a prudent financial control measure, it can overlook the importance of managing risks across the project life cycle. A myopic focus on minimizing costs alone may lead to fragmented responsibility, coordination challenges, and suboptimal project outcomes. Governments should adopt a comprehensive risk management framework approach that recognizes the significance of risk management and appropriately compensates for assumed risks through risk premia. This balanced perspective ensures that projects are executed efficiently, contingencies are mitigated, and the long-term value of public investments is maximized.

Diagram 4- Risk Management Framework

The enterprise-risk-management framework illustrates an integral cycle of best risk practices in public—private partnerships.



5.0 Conclusion

PPP encourages: ‘Buy now, pay (MORE) later which is equal to transfer of costs from current generation to future generations.’

It means when a government enters into a PPP, it typically benefits from the immediate delivery of a project without bearing the full financial burden

upfront. Instead, the costs are spread out over an extended period, often ranging from several years to several decades. While this can provide short-term relief to the government's budget, it implies that the costs will be borne by future generations. One aspect contributing to the 'pay more later' phenomenon is the inclusion of private financing in PPPs. Private investors or lenders provide the upfront capital required for project development, and their return on investment is recovered over time through user fees, tolls, or other revenue-generating mechanisms. These revenue streams are often collected from the public in the form of charges or taxes, which are expected to cover the project costs and generate profits for the private partner.

It is important to note that the 'buy now, pay (more) later' scenario is not inherent in all PPPs. The potential for cost transfer depends on the specific terms and conditions of each agreement, including the allocation of risks, revenue-sharing mechanisms, and contract renegotiation provisions. Well-designed PPP contracts should aim to strike a balance between upfront costs and long-term affordability, ensuring that future generations do not bear an excessive financial burden. To mitigate the impact on future generations, it is crucial for governments to carefully assess the financial implications of PPP projects, conduct rigorous cost-benefit analyses, and prioritize transparency and accountability in the procurement and implementation processes. Additionally, robust monitoring and oversight mechanisms can help ensure that PPP contracts deliver value for money and effectively manage risks throughout the project lifecycle.

So, Public Private Partnerships (PPPs) offer the advantage of spreading the cost of a project over a longer period, which can help alleviate the financial burden on the public sector. By doing so, PPPs allow governments to allocate their limited public funds towards sectors where private investment is not feasible or deemed unsuitable. It is crucial to understand that PPPs should not be regarded as a solution to address budget constraints or fill financing gaps faced by the public sector. Instead, they should be viewed as a mechanism to efficiently deliver projects and related services in a cost-effective manner.

PPPs provide a strategic approach to leverage the expertise and resources of both public and private sectors. By partnering with private entities, governments can tap into their specialized knowledge, innovation, and efficiency, leading to improved project outcomes. Additionally, the extended timeline of PPP projects allows for careful planning, effective risk management, and long-term sustainability.

It is essential to note that PPPs are not a substitute for adequate public-sector funding or responsible fiscal management. They should be implemented with prudence, focusing on projects where private sector involvement can genuinely enhance efficiency, value for money, and service quality. While PPPs offer advantages in terms of cost distribution and unlocking private investment, it is crucial to maintain a balanced approach that safeguards the public interest and ensures transparency, accountability, and fair risk allocation between the public and private partners.

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Agile Approach in Compliance Auditing in SAI Bangladesh

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Abstract

Auditing practice across the world in public sector have been reshaping itself through numerous reforms and developments. The public sector audit and the financial audits in private sector are periodical audits that completes a risk assessment once each year with only minimal revisions. In public sector the audit plan is set, and the auditors responsibility is to accomplish the tasks as planned without going extensively in risk assessment during the conduct of audit. Therefore, the audit is too slow, too historical, and too rigid. In the dynamic business environment auditors have to be more proactive and agile. The audit is not mere a compliance function. Auditors should apply agile auditing approach which is a risk-centric approach to developing and executing audits, based on a shorter audit lifecycle. It also focuses on gaining and sharing insights with the responsible parties in timely manner. It is often known as real-time audits which is gaining traction in recent audit literature. For Public sector audit, Agile represents a new frontier and a departure from conventional methods. There are copious benefits of implementing agile auditing; predicting risks in advance is one of the major advantages. Agile approach in one hand, presents different ways of working and on the other hand, come across distinct challenges for audit. most importantly, it rewards experimentation in practice by setting a minimal barrier to entry. For successful implementation, an agile approach may require some degree of organizational transformation, which are often found to be challenging. The benefit also includes its compatibility with audit context and also it can be adapted to meet particular objectives and needs of the auditors.

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1.0. Introduction

The auditing practices across the world have been transiting through numerous reforms and developments. Particularly, the public sector auditing practices which are far more complicated compared to that of private sector auditing, experience continual reforms initiated by the Supreme Audit Institutions (SAIs) and their umbrella organization, the International Organization of Supreme Audit Institutions (INTOSAI). The private sector audit which is also known as financial audit is a periodical audit. Similarly, the SAIs got used to traditional auditing that starts after the completion of an accounting period.

In the context of SAI, Bangladesh, it has separated three streams of auditing namely: financial, compliance and performance auditing. Apart from the financial audit functions performance and compliance audits need not to follow the conventional auditing time period. Even though practices of many decades have made it customary to start compliance audits after the fiscal year ends.

Traditionally, audit completes a risk assessment once a year with only minor updates when needed. The audit plan is set, and the focus is on plan completion – not on gathering risk insights. Traditional auditing is a broken model that is too slow, too historical, and too rigid. In today's dynamic business environment auditors have to be more proactive and agile, otherwise they risk it being seen as just another compliance function.

In contrast to the traditional process, agile auditing is a risk-centric approach to developing and executing audits, based on a shorter audit lifecycle from assessment to reporting, which focuses on gaining and sharing insights with the responsible parties related to the most urgent risks in an entity or organization. It is often known as real-time audit in some other literature of public sector auditing.

In his maiden speech in 2018, the CAG of Bangladesh in the Public Accounts Committee meeting has envisioned and outlined a form of real-time audit for efficient and effective decision making of the parliament. A way forward to the real-time audit envisioned by the head of SAI, Bangladesh is to adopt agile approach of auditing in the streams of compliance and performance audits. In this article, we describe the agile approach of auditing that can be implemented in the compliance audit streams conducted in accordance with the GASBs and relevant guidelines until specific standards on agile audit is promulgated by the OCAg.

The article is organized in eight sections. The following section describes the basic concepts necessary to understand agile approach. The third section details the processes and procedures of conducting an agile approach to audit. The need for a stipulated quality framework is delineated in section four. Section five specifies the pros and cons of agile auditing. Two case studies from home and abroad are given in section six. Section seven highlights the challenges and way-forwards, which is followed by a conclusion in section eight.

2.0. Basic Concepts

2.1. What it is

Real-time audits involve a series of short and iterative compliance audits (ISSAI 400), that is, an assessment of whether a subject matter is (in all material respects) in compliance with relevant laws, rules, and accepted principles (Sebastian Pompe, 2022). They may also possess some qualities of performance audits stipulated in the international standards. In other words, its primary focus rests on whether a particular subject matter is in compliance with authorities identified as criteria. The approach is quite different from pre-audit or ex-ante audits, where the auditor is engaged in the expenditure approval and / or payment process (Sebastian Pompe, 2022). These audits are absolutely ex-post audits the process in which the auditors review expenditures after they have been incurred, ensuring the auditor is independent from the spending department. In reference to international audit standards, particularly for internal audit, the term agile compliance audit appears to be more accurate. While in the context of our country, the Government Auditing Standards of Bangladesh adopts the phrasing of real-time audits (Government Auditing Standards of Bangladesh, 2021).

Real-time audits are neither defined in international auditing standards, per se, nor widespread across the majority of SAIs worldwide but have evolved into modern-day practice. Specially, the drastic shifts in daily life and routine activities in addition to significant health, economic, financial, and social consequences caused by the outbreak of coronavirus 2019 (COVID-19) pandemic have resulted in feeling the necessity of conducting rapid, compact real-time audits of high risk areas in order to stay relevant in the eco-system of public financial management even in the crisis period.

2.2. Features

- Real-time audit is a series of short, focused audits with shorter-than-normal timelines and streamlined processes (as opposed to a single, larger audit) enabling the examination of specific risk areas.
- Real-time audits need to be rapid and agile.
- It should be conducted outside typical time frames and audit cycles to make them relevant and informative for corrective action.
- It should focus on high-risk systems and expenditures associated with the emergency period.
- Audit findings can then be shared with the responsible party on an ongoing basis to enable rapid adjustments.
- SAIs should then finalize each individual audit, submit it to the appropriate authorities, publicize it as soon as possible, and build learning points.

2.3. The Mandate to conduct agile audit

The constitution and the primary legislation enacted by the parliament are the sources of the mandate of conducting audit. Statutorily, a person authorized by the Comptroller and Auditor General (CAG), on his behalf, shall have access to all records, books, vouchers, documents, cash, stamps, securities, stores, or other government property in the possession of any person in the service of the Republic. The Constitution of Bangladesh (articles 127-132) has entrusted the CAG of Bangladesh with audit responsibilities of public accounts of the republic. By virtue of the constitutional mandate, CAG independently audits the accounts of the government including all expenditures from the consolidated fund, all revenues credited to the consolidated fund, all receipts, and payments in relation to the public account of the republic, and all balances, and submits audit report to the President for laying it before Parliament. The Auditor General has got unfettered independence in selecting the type of audit that he will conduct.

In order to guide the auditors to excel in technical knowledge, Auditor General has set auditing standards (Government Auditing Standards of Bangladesh, 2021) where the provision for conducting real-time audits has been made explicit. Para 1.31 of GASB states the following-

Nothing debars CAG to carry out audits or any other engagements on

any subject relating to the appropriate use of public resources. These engagements may include reporting on the quantitative outputs and outcomes of the entity's service delivery activities, sustainability reports, future resource requirements, adherence to internal control standards, real-time audits of projects or other matters (Government Auditing Standards of Bangladesh, 2021).

2.4. Agile practices in audit

There are mainly two types of approaches to apply in agile audits: Scrum and Kanban. Scrum primarily focuses on efficiency and higher-quality outputs, while Kanban primarily enables communication, collaboration, and accountability (Gartner Audit Leadership Council, 2019). Kanban requires the use of sophisticated software which is quite difficult to be implemented in the existing organizational and human resource infrastructure. It is recommended that the auditors use scrum approach for efficient and higher quality outputs.

2.4.1. Scrum in audit

Scrum approach involves iterative and incremental development. Its aim is to improve the output of their work, through quicker insight generation or higher-quality findings. Teams working in scrum communicate openly and regularly as a group and with stakeholders, regularly assessing deliverables and adapting continually until achieving the desired output.

A typical scrum process might follow these steps:

1. Firstly, the audit team prepares a draft audit scope, specifying relevant systems and datasets. The scope is divided sequentially into pieces — business units, processes, or groups of controls.
2. Next, the audit team communicates the draft scope with the responsible party and modifies the scope, on the basis of their feedback, in order to draft preliminary plans for each sprint.
3. 'The audit team has to perform in a fixed amount of time — a sprint — to complete the first stage of audit fieldwork and testing. Sprint length varies from two to five days based on team needs.
4. The audit team joins in daily meetings at a scrum to review progress and coordinate efforts. The team also identifies problems it has encountered in its work. The Scrum Master helps remove them and leads the team to achieve continuous improvement in audit output.

5. At the end of the sprint, the team reviews the completed sprint with the auditee. The team considers auditee feedback from the meeting with them and makes any subsequent adjustments to the plans for the next sprint, such as updating the test plan.
6. The cycle restarts with the next sprint, and the process repeats until all key findings have been sorted out.

Audit departments using scrum should keep in mind several considerations

1. Scrum approach encourages the use of data analytics which enables audit departments to prepare well in advance of sprints in which they intend to use data. In order to get the benefits of it, we have to use small, manageable datasets and narrowly scope sprints satisfying a given sprint's testing objectives.
2. It is the decision of the auditors regarding the level of communication with the responsible party. On the whole, the increased communication in Scrum signifies the point of difference between agile audit and conventional waterfall audit, enabling audit teams to understand issues more quickly and effectively and rapidly address obstacles that arise during the engagement.
3. Scrum enables more frequent reporting. It often provides auditees with brief reports at the end of each sprint, noting findings from that portion of the engagement. At the end of the audit, teams prepare a full engagement report that captures findings from each sprint, which they submit to the head of Supreme Audit Institution (SAI) for further actions.
4. The length and number of sprints in an engagement vary based on the needs of the team and the engagement. Audit scope can be divided into sprints by considering the risk level, geography, system organization, and business unit structure.
5. Scrum encourages less bureaucratic structure. Agile team members are selected based on competency rather than seniority. There still may be differences between the contributions of senior auditors compared with those of their junior counterparts — e.g., senior auditors might advise on overcoming obstacles that arise during the engagement. However, no task is assigned to any auditor based solely on their designation in the department.

3.0. Detailed process

3.1. Objective setting

The primary objective of the agile audit is to deliver value early without affecting the audit process's quality and results. The secondary objective is to promote improvements in the management of the auditees and generate public value to the stakeholders (INTOSAI Development Initiative, 2020).

3.2. Scoping

The scope of the agile audit depends on the SAI level decision on whether to conduct it through performance audit or compliance audit solely or a combination of both. It is important to note that agile audit cannot be applied to financial audit.

3.3. Agile values

The importance of stakeholder interaction	Openness to change	Agile Values	Focus on the simple and essential	Self-managed teams
The work supported by information technologies	Early and continuous delivery of value products		Effective face to face communication	Teams focused on continuous improvement based on feedback and hindsight
Collaboration with the audited entity	Empathic approach with the responsible party	Synergic work for product construction	Motivated individuals	Continuous attention to technical excellence

Collaboration with the responsible party - An agile approach calls for collaboration with multiple stakeholders including staff from across the SAI, responsible party and SAI leadership.

Openness to change - SAIs would need to be flexible in its plans and be prepared to change as uncertainty and change are a given constant by relating them to the audit objectives, availability of audit criteria or access to audit evidence.

Early and continuous delivery of value products - In an agile approach, instead of planning to deliver one comprehensive report at the end of the year, SAIs could plan to deliver a series of such reports at regular intervals

by having a number of tightly scoped audits.

Empathic approach with the responsible party - SAIs need to adopt an empathetic approach to their audited entities now more than ever before making any recommendation for greater transparency, accountability and inclusiveness. This principle by no means implies that the SAIs will not point out non-compliance.

Focus on the simple and essential - In the context of real time audit, this means keeping the audit scope manageable and focusing on high priority, high risk areas.

Effective face to face communication - While effective communication is key in any audit process, it becomes even more important in an agile process where things change constantly, and the SAI team needs to respond with agility to deliver a product in a tight timeline.

Motivated individuals - An agile approach is possible only if the SAI team has proactive auditors who can work together to deliver a high-quality product within tight timelines.

Teams focused on continuous improvement based on feedback and hindsight - SAIs can set up iterative processes and build feedback loops, so the SAI team learns lessons from the previous iteration and finds ways to address those in the next one. Review or lessons learned sessions may help to reflect on what things could continue to be done, what things could cease, and what they could begin to execute.

Continuous attention to technical excellence - Agility does not mean that SAI teams ignores quality. An agile approach continues to emphasize technical improvement.

The importance of stakeholder interaction - Stakeholder interaction is a process that audit team can follow in order to listen to, collaborate with, or inform (or a combination of all three) their existing stakeholders. This process entails identifying, mapping and prioritizing stakeholders to determine the best tactics for effective communication while using available resources.

3.4. Audit principles

- Fundamental Principles of Public-Sector Auditing established in ISSAI 100
- Compliance Audit Principles instituted in ISSAI 400
- Compliance Audit Standard set in ISSAI 4000

- Government Auditing Standards of Bangladesh, 2021
- Quality Control System
- Code of Ethics
- Compliance Audit Guidelines
- Performance Audit Guidelines

3.5. Roles and responsibilities

The agile audit is a combined effort of people including audit team, audit managers, logistic team, head of SAI, responsible parties and press. All of them have specific duties in order to make the combined effort a successful one.

3.5.1. Audit team

- Audit team understands the objectives, scope and criteria of an audit.
- Plans adequately before the audit.
- Prepares an audit checklist using audit criteria.
- Expects to conduct an audit professionally.
- Records all audit findings throughout the audits.
- Complies with SAI audit rules and guidance.

3.5.2. Logistic team

- The logistics team gives operational support to team members,
- It adheres to internal protocols and procedures.
- It is responsible for procurement, transport, customs, warehousing, distribution and commodity tracking management
- It also plays the role of the management and maintenance, financial planning and needs forecasting of logistics items.

3.5.3. Audit manager

- Audit manager prepares an audit plan.
- Before the audit, he selects audit team members.
- He leads his team members.
- He sets the requirement for the audit's success, for example, the qualification of the team members.
- He complies with all other requirements of an audit.
- He determines all non-conformance.
- After the audit, he submits audit reports to the head of SAI.
- If there are other follow up, he coordinates them effectively.

3.5.4. Head of SAI

- OCAG ensures that the audit engagement teams have the required knowledge, training, and experience to conduct the assigned audit engagement.

- OCAG assigns to any audit engagement, personnel who collectively possess the competence needed to perform the tasks in accordance with the standards.
- OCAG maintains relationships with audited entities in such a manner and avoids such situations so that any reasonable third party would conclude that OCAG is indeed independent and is capable of exercising objective and independent judgment on all issues associated with conducting any audit engagement and reporting on the work.
- While INTOSAI principle P12 encourages SAIs that they should without compromising their independence, provide advice on how their audit findings and opinions might be used to greatest effect, OCAG shall ensure that such advice shall always be written or when provided in a meeting, recorded in minutes. OCAG provides advisory or non-audit services to an audited entity where such services would not include assuming management responsibilities.
- OCAG separately prepares a protocol for communication between OCAG and audited entities for wide dissemination.
- OCAG manualizes the documentation procedures in respect of each type of audit for wider dissemination among the employees.
- OCAG encourages the determination of materiality in all audit planning and performance.
- OCAG gives adequate emphasis on the determination of materiality in all guidelines, manuals, and audit procedures.
- OCAG follows the principles of risk-based auditing in audit planning and performance.
- OCAG emphasizes due importance of Professional Judgment, Due Care, and Professional Skepticism in its entire audit process.
- OCAG publishes for the benefit of employees, policy, and guidance relating to the confidentiality of the information gathered during audit.
- OCAG makes arrangements for the safe custody of documents and data that may be received during the audit.
- OCAG emphasizes, demonstrates, supports, and promotes integrity.

3.5.5. Responsible party

- He supports and coordinates with audit team members.
- He provides the required information in a transparent manner.
- He communicates the final audit scope within the organization.
- He sticks to professionalism and moral ethics.
- He attends opening and closing meeting with auditors.
- He ensures the privacy of the audit team in case required.
- He provides the authorization to access areas comes under scope of audit.
- He receives final audit report and provides adequate response.

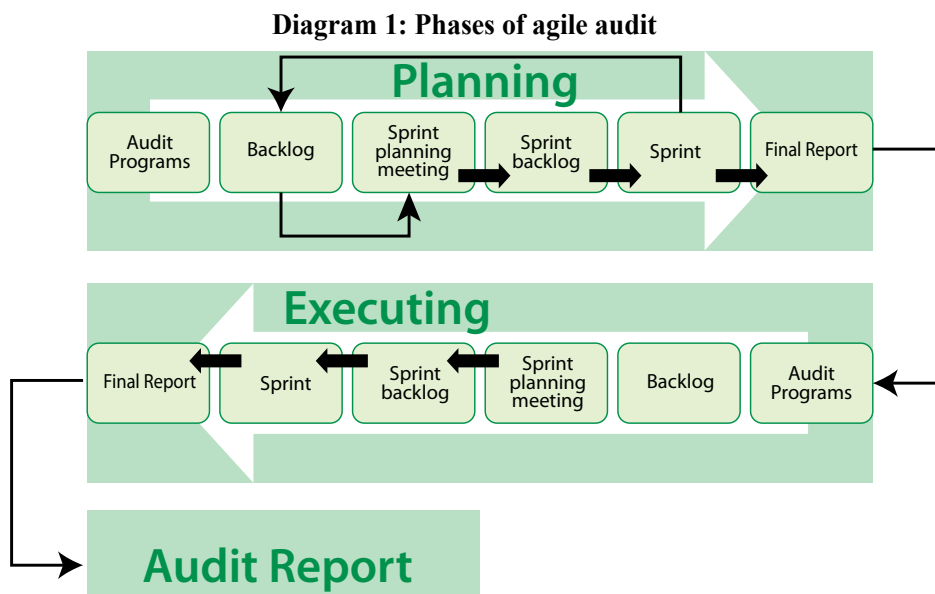
- In case of non-conformances, he takes necessary corrective and preventive action.

3.5.6. Press

- The media are particularly relevant for identifying corruption, which is by nature a hidden transaction.
- The media can also contribute to institutional empowerment.
- They are significant supporters of effective accountability in PFM systems.
- They typically advocate for giving SAIs more powers.
- Press conferences and extensive media exposure help ensure that the audit reports translate into effective accountability.

3.6. Phases

The agile audit does not overstep the universal audit phases like planning, conducting and reporting. The difference lies in all three steps consist of a number of sprints which again include the sub-phases of planning, execution, revision, validation, communication of results. The following graph depicts the full agile audit process capturing the familiar phases of traditional audit and translating each into six main parts of the agile audit approach -

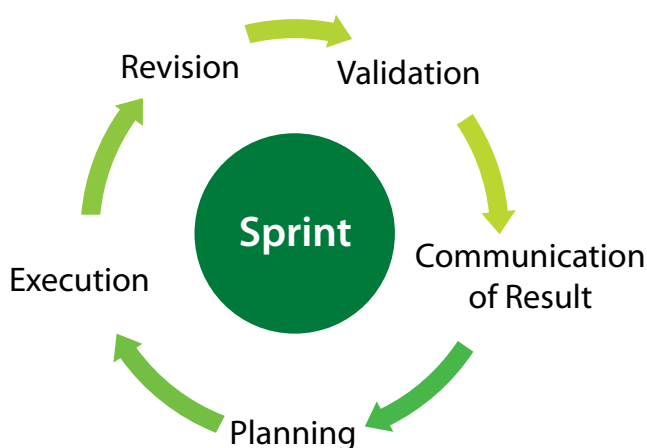


- **Audit Programs** - These comprise all tests, ordered by priority, being the full list of audit tests needed to complete the audit.
- **Backlog** - It is the collection of audit tests that have yet to be completed.

- **Sprint Planning Meeting**- In this step, the whole team estimates the work required to complete each audit test and determines which one will be included in each iteration.
- **Sprint Backlog** - Items that will be tested in the next iteration based on what was determined in the last sprint planning meeting are identified.
- **Sprint or micro audit** - Sprint refers to full burst of audit activity in a given timeframe before the team regroups for the Sprint Retrospective and plans next steps.
- **Final Report** - When each iteration has had a go and the sprint backlog has been fully executed, the end product is the final audit report which has been created and vetted along the way.

The larger loop portrays the ‘sprint’ or ‘iteration’, after which the outcome of the audit team is revisited to ensure timely feedback. A sprint retrospective approach considers what went well and what could be improved to continuously enhance future iterations providing audit team value in checking in, vetting thoughts, and preventing them from the wrong path and wasting any time.

Diagram 2 : Iterative process of agile audit



3.7. Reports

In the agile audit, a number of preliminary reports are issued before the final report encompassing a much shorter time than that of any conventional audit report. It is to be noted that the auditors have to follow the reporting standards of GASB and Compliance Audit Guidelines.

As the preliminary or sprint reports should not be a huge report, it contains mainly 3 parts-

- Objective,
- Subject matter and
- Findings.

The objective of the audit includes the general objective of the micro audit process (sprint) and the objective of the report itself. There is also a summary of the subject matter and the relevance it has. For the findings, we have to prepare a grid on the standards to include the attributes of conditions and criteria. The total length of the report should be on average five pages including the findings.

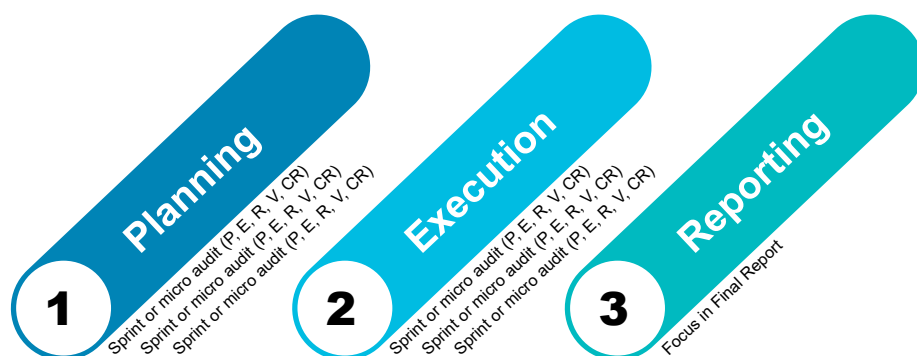
When the auditees don't take any action regarding the issues that have been reported, the findings and complements are taken with the attributes of cause and effects and are included in the final report along with a recommendation. So, the reports of sprints or micro audits are supposed to be an opportunity for the auditee to figure out how they would solve the situation. Again, we start with the next sprint or go the micro audit process.

4.0. Quality Framework

As agile audit is to a large extent compliance audit, the quality of compliance audit shall be maintained in terms of the Quality Control System of OCAg and Part I of the Government Auditing Standards of Bangladesh (Government Auditing Standards of Bangladesh, 2021). Besides, relevant performance audit standards are to be followed in necessary.

A compliance audit quality framework applicable to SAIs would be in line with the principles outlined in ISSAI 400, covering multiple elements:

Diagram 3 : Stages of audit



- Elements relating to audit performance at the stages of audit planning, conduct and reporting.

- Other overarching elements include leadership and direction at the top, human resources management, ethical requirements, stakeholder relations and communication.

The audit quality framework for Agile audits would comprise of both process-centric and report-centric aspects:

- **Process centricity** to demonstrate compliance with the entire audit processes framework (Auditing Standards, Audit Guidance, Audit Design for the assignment etc.).
- **Report centricity** to demonstrate that the audit findings are supported by sufficient and appropriate audit evidence, and the audit conclusions enable the SAI to derive assurance with regard to the subject matter and scope of the audit engagement.

The quality framework will also require sufficiently detailed documentation, in accordance with ISSAI 100 and ISSAI 400, to enable an experienced auditor with no prior knowledge of audit to understand:

- The nature, timing, scope and results of the procedures performed
- The evidence obtained in support of the audit conclusions and recommendations
- The reasoning behind all significant matters that required the exercise of professional judgment and
- The related conclusions (TAI Audit-Practical Guide).

4.1. Roles and responsibilities for ensuring the quality of agile audits

- Audit Team Members are responsible for carrying out the planned audit procedures in accordance with specified standards and procedures, gathering and documenting audit evidence arising out of the audit procedures and comparing with specified compliance criteria.
- Supervisor of the Audit Team is responsible for audit planning and design, supervision and review of the conduct of audit procedures by audit team members, and drafting and finalization of audit report supported by sufficient and appropriate evidence.
- The managerial hierarchy for audit performance and staff functions (HR etc.) have operational responsibility for the process and product compliance and development and continuous updating of standards, guidance, policies, procedures etc. to meet the intended user's requirements.
- Head of SAI and Senior management has overall responsibility for

ensuring that audit processes comply with the SAI audit standards and guidance and specific responsibility for the Agile audit report submitted to the stakeholders.

4.2. Suggestive checklists for ensuring quality throughout the agile audit

Quality checklist for *selection of Audit topic and planning* of the Agile audit:

- Was the subject matter for Agile audit selected in accordance with the SAI's mandate?
- Were the SAI's stipulated risk assessment procedures for the selection of subject matter(s) followed?
- Did the SAI team conduct an analysis of key areas and critical interventions that received significant emergency funding to address the impact of the crisis/irregularity?
- Did the SAI team identify highest risk to transparency and accountability in the national context?
- Was the availability of relevant skills and competencies within the SAI (internal) or available to the SAI (external) considered while selecting the subject matter?
- Did the team communicate with the relevant stakeholders while selecting the subject matter for Agile audit of emergency funding to tackle the event's fallout?
- Was the audit scoped appropriately, considering timelines that are practicable yet appropriate to meet stakeholders' needs?
- Did the SAI team document a risk assessment matrix relating to internal controls (and changes to the internal controls due to the entity's emergency procurement/funding) of the selected audit topic?
- Was the risk of fraud duly considered while conducting the risk assessment?
- Were the audit procedures designed based on the risks identified?
- Did the SAI team identify sources (rules and regulations) while formulating audit criteria and did they communicate these criteria to the relevant responsible parties?
- Was the sampling approach adopted for the selection of transactions etc. and the materiality thresholds for the audit determined?
- Did the SAI team identify the audit evidence to be collected and the procedures to be performed?

- Was the level of assurance to be provided determined?
- Was the selection of the subject matter, scoping and designing of the agile audit reviewed and approved at appropriate levels within the SAI as per the stipulated procedures?
- Were professional judgment and professional skepticism exercised while selecting the subject matter, scoping the audit and designing the agile audit?
- Was the audit plan involving the selection of the subject matter and scope and design of the audit appropriately documented (TAI Audit-Practical Guide)?

Quality checklist for conducting Agile Audit:

- ✓ Was the team supervised adequately during the conduct of the Agile audit?
- Did the SAI team find a flexible and agile approach to respond to changes and get necessary approvals for the changes made?
- Was sufficient and appropriate evidence collected, covering the entire agile audit scope?
- Was effective communication with the responsible parties maintained throughout the conduct of the audit?
- Were audit conclusions drawn after evaluating whether sufficient and appropriate evidence had been collected?
- Did the SAI team have sufficient documentation for evidence gathered and conclusions reached?
- Did the team comply with the SAI's code of ethics and independence requirements in the Agile audit conduct?
- Were professional judgment and an attitude of professional skepticism adopted during the conduct of the agile audit?

Quality checklist for reporting and follow up on Agile Audits:

- Was the audit report complete, objective, timely? Did it include audited entity's responses and SAI's replies to those?
- Was the report reviewed and approved at the appropriate level as per SAI procedures and was such review and approval documented?
- Were professional judgment and an attitude of professional skepticism adopted while reporting the results of the Agile audit (TAI Audit-Practical Guide)?
- The auditor shall decide follow-up on opinions/conclusions/recommendations of instances of non-compliance in the audit report when appropriate (TAI Audit-Practical Guide).

5.0. Pros and Cons of Agile Auditing

Making the shift to Agile auditing from a more traditional process can be a tough transition for the professionals of SAI, Bangladesh. However, there are notable benefits of Agile auditing to keep in mind, including:

Higher-quality insights: Iterative incorporation of feedback and retrospective meetings such as those seen in Scrum often lead to higher-quality audit insights. Increased communication with auditees, whether in Scrum or Kanban, can also improve the quality of findings by facilitating the flow of information between auditors and the auditee.

Faster insight generation: Rapid iterations result in early insight generation and management action. Both in Scrum and Kanban, auditors who have completed a task are able to proceed quickly to another important task. Regular meetings in Scrum enable rapid identification and solution of challenges that would otherwise stifle progress.

Increased customer satisfaction: Auditees are engaged more thoroughly and consistently throughout audit. Audits conducted in Scrum often entail relatively brief, yet intensive, interaction between auditors and auditees upfront, limiting total interaction and information requests over the duration of the engagement, which leads to improved auditee satisfaction.

Faster response time: If an issue within a business process is detected or if a control needs to be adjusted, the agile approach to auditing allows teams to respond quickly.

Real-time assurance: Because you're working with accelerated delivery cycles, you can reassess your work every two to five days. This means that results and insights are realized more quickly, feedback is faster, and teams can immediately incorporate their findings into ongoing development phases.

Better understanding of organizational risks and controls: Because agile auditing focuses on the highest risk business processes and controls in an organization, it forces the entire entity to fully analyze their risks and prioritize them. This leads to greater organization-wide understanding of what requires the most attention and how accompanying controls are performing in real time (or close to it).

Easily presentable findings for leadership: The agile auditing process documents are readily available, with these comprehensive results compliance teams can easily deliver current key findings and status reports to their leadership teams.

Open communication and collaboration: As mentioned previously, a major piece of the agile methodology is the belief that the audit team and business process/control owners should be constantly communicating and collaborating (GLC, n.d.).

Despite the benefits that agile audit can offer, it's not for everyone to reap the benefits. It's important to be aware of the disadvantages of agile methodology. With that in mind, here are key disadvantages of agile auditing.

Complexity: Whilst the agile mindset is simple enough to understand, the specific frameworks that have been designed to implement the agile approach are not always that simple. For example, the most popular agile framework, scrum, often requires significant training. Either way, agile methodologies tend to come a lot less naturally to people.

Ephemeral planning: The agile ethos is in many ways more reactive than proactive. It's about responding to issues and feedback in real-time. For many, this means that proper planning gets left behind in the rush to react, adapt, and improve. You need a strong core vision so that your overarching plan doesn't get lost in the ongoing process.

Poor resource planning: Because agile is based on the idea that teams won't know what their end result (or even a few cycles of delivery down the line) will look like from day one, it's challenging to predict efforts like cost, time and resources required at the beginning of an audit.

Limited documentation: In agile, documentation happens throughout an audit, and often *just in time* for building the output, not at the beginning. As a result, it becomes less detailed and often falls to the back burner.

Fragmented output: Incremental development may help provide faster report, but it's also a big disadvantage of agile methodology. That's because when teams work on each component in different sprints, the complete output often becomes very fragmented rather than one cohesive unit.

No finite end: The fact that agile requires minimal planning at the beginning makes it easy to get sidetracked delivering new, unexpected functionality. Additionally, it means that engagement has no finite end, as there is never a clear vision of what the *final report* looks like.

Difficult measurement: Since agile delivers in increments, tracking progress requires you to look across sprints. And the *see-as-you-go* nature

means you can't set many Key Performance Indicators at the start of the audit. That long game makes measuring progress difficult (Lynn, n.d.).

6.0. Case Studies

6.1. Case study (home context)

Context

The government of Bangladesh rolled out more than 25 Covid-19 bailout packages. 'Salary Support to Export Oriented Manufacturing Industry Workers' is one of those key support programs. On March 25, 2020, Prime Minister announced that the government would provide an incentive package of Taka 50 billion (equivalent to approximately US \$586 Million) for export-oriented industries. The fund to be disbursed to export oriented businesses through commercial banks as interest-free loan and earmarked to pay salaries for workers.

Inspired by other SAIs that have conducted agile audit during emergencies, Bangladesh's SAI conducted a TAI audit in co-operation with the INTOSAI Development Initiative (IDI) on a stimulus package named 'Special Fund for Salary Support to Export Oriented Manufacturing Industry Workers'.

Description of the subject matter and the scope

The Subject Matter chosen for TAI Audit under 'Socio-economic Package' is 'Special Fund for Salary Support to Export Oriented Manufacturing Industry Workers'. The subject matter information is the financial information and reports related to the disbursement of special fund during emergency. The two key audit objectives were:

- to ascertain the extent to which compliance frameworks for subject matter provide for Transparency, Accountability and Inclusiveness (TAI) requirements
- to ascertain the extent to which government and related entities have complied with applicable laws, rules, regulations and policy decisions in terms of TAI in the use of Special Fund for Salary Support to Export Oriented Manufacturing Industry Workers.

The government initiative of salary support was implemented through 43 banks under supervision and monitoring of Central Bank of Bangladesh (Bangladesh Bank). TAI audit has covered fund disbursement of selected 11 banks out of 43 participating banks. The expected impact of this audit would be to help minimizing the gap in designing and implementing future

government schemes (socio-economic packages) in more transparent, accountable and inclusive manner.

Audit team developed a set of questionnaires in TAI respects and collected audit evidence accordingly. Collected audit evidence shows that the selection of eligible export-oriented industry workers, the disbursement of fund to the workers' accounts and the reporting from the disbursing banks to the central banks were transparent, accountable and inclusive. The internal control mechanism of the scheme is also very strong. The disbursing banks transferred salary directly to the eligible workers by Mobile Financial Services (MFS) or to their own bank accounts. No payment is made to the industry owners. Therefore, there was no scope to use the fund to other purposes by the industry owners.

Audit team mainly focused on transparency, accountability and inclusiveness of selected subject matter, i.e. whether the Salary Support to Export Oriented Manufacturing Industry Workers package was transparent, accountable, and inclusive. To answer the audit questions in respect of those matters, audit team performed the test of control, and detail testing employing the techniques such as interview, fund related documents review, focus group discussion and factory visit. Audit team also interviewed bank officials, industry owners and workers (the ultimate beneficiaries) to collect audit evidence.

Auditing standards

This audit was conducted in accordance with Government Auditing Standards of Bangladesh. IDI's TAI Audit Guide also used in conducting this audit.

Auditee response

The disbursing banks were solely responsible for sending money to the appropriate beneficiary's account. During audit, the bank officials expressed their views that they had to face difficulties to disburse the fund in pandemic situation with limited work force.

One of the important conditions of the criteria was to send money mainly through MFS. To comply this bank had to open a large number of MFS account for all eligible workers in very short time. This created hurdle in some cases, though overcome later. Loan receiving industry helped in this regard.

The government policy change regarding grace period for repayment of the loan was another concern for the banks. This might create a wrong

conception among industry owners that the loan might be non-repayable. However, they were pleased for being the part of government initiative.

Recommendation

- Ministry of Finance could arrange stakeholder consultation before fixing service charge and repayment policy.
- The government could make positive discrimination in selecting beneficiary industries to include all categories (small, medium and large) and all types of export-oriented industries.
- Before modification of existing policy, it is better to analyze impact properly. Otherwise, it might hinder achieving purposes of any initiatives (TAI Audit Report on Special Fund for Salary Support to Export Oriented Manufacturing Industry Workers).

6.2. Case study (foreign context)

The lessons from a good-practice real-time audit undertaken by the Audit Service Sierra Leone (ASSL) on the management of funds during the early phase of the Ebola health crisis is depicted herewith.

Context

The Ebola health crisis hit Guinea, Liberia, and Sierra Leone during 2014– 2016. Sierra Leone reported its first case in May 2014, and case numbers rose to 14,000 people in the country throughout the crisis. Sierra Leone was declared Ebola-free in March 2016. The severity of the shock to the country’s health systems, paired with a substantial commodity price shock, triggered substantial financial disbursements by the international community and private individuals. An emerging discussion on the need for transparent and accountable use of funds motivated ASSL to conduct its first real-time audit, covering the management of Ebola funds from May to October 2014.

Main lessons

ASSL identified several lessons from conducting the real-time audit that apply to the broader context of real-time audits in emergency contexts:

- **Focus of the audit:** Given the timing of the audit, a focus on decision-making and management processes, rather than an assessment of the final spending results, is appropriate. This focus on structures and processes (for example, which emergency procedures for procurement are in place, and how have they been followed?) allows the making

of recommendations to influence the way funding is used in the remainder of the emergency response. At the same time, the provision for fast feedback in the early stages of the crisis allows for corrective action that may not be possible through a sole ex-post audit that would serve different purposes. In Sierra Leone, the September 2014 audit discovered a range of major weaknesses in the use of emergency funds. A second, subsequent, audit report, covering November 2014 to April 2015, found that many issues had been addressed, highlighting the benefits of a real-time engagement in shaping the emergency response when the need is most urgent.

- **Legal backing:** Experiences during the real-time audit revealed significant resistance to the audit, including ASSL's legal mandate to do so. Although, as in many countries, the country's constitution empowered ASSL to audit the use of public funds, an amendment to the Audit Service Act 2014 was necessary to expand its role in carrying value-for-money and real-time audits.
- **Staff capacity:** Staff performing the audit should have experience in a combination of compliance, financial, and performance auditing. In Sierra Leone, limited staff size and training highlighted the need to scale up capacity for future audits.
- **Adequate IT and other communication infrastructure:** Communication infrastructure systems are also critical, in particular in the context of a health crisis when auditors need to work remotely. In Sierra Leone, obstacles due to documentation that was often paper-based highlighted the benefits of automating and digitalizing the spending process.
- **Communication:** During the audit, it is also critical to have constant engagement of stakeholders in order to obtain buy-in and allow for follow-up, including conveying goals and procedures of the audit. Prompt reporting to the legislature on the findings from the audit is also important to enable speedy reaction and follow-up. Finally, publication of the audit will increase accountability regarding the findings and inform the public.
- **Visibility of the SAI:** SAIs have the responsibility to inform citizens through the legislature on how well public funds have been managed on their behalf. Real-time audits that bring out issues for prompt action in a timely manner, lend credence to the work of the SAI and ultimately improve the relevance and visibility of the SAI

(Sebastian Pompe, 2022).

7.0. Challenges and Way-forward

7.1. Challenges

Despite the tangible benefits of adopting agile methods in audit, SAI also contends with challenges as they begin to work in new, unfamiliar ways. These challenges may accompany either Scrum or Kanban methods.

Scalability: It can be difficult to scale an agile approach to large, complex projects. There are some models for doing that (Scrum, Kanban) but none of those is a cookbook solution that are easy to implement.

Training and skill required: An agile approach requires a considerable amount of training and skill to implement successfully. Many audit teams don't fully understand the need for training and skill or don't want to put the effort into it. They attempt to do agile mechanically without fully understanding the principles behind it and that is typically not very effective.

Changing auditor mindset: Auditors typically prepare detailed engagement plans and expect to follow these plans during fieldwork and testing. Clearly defined engagement phases and team roles limit the day-to-day uncertainty of audit engagements. Since auditors are accustomed to this structure, they sometime face difficulty adjusting to agile, which requires them to work more iteratively and adapt plans based on new information that arises in the course of the engagement.

Varied modes of implementation: The benefits of agile lie in its flexibility and adaptability. Audit teams interested in adopting agile methods should focus on applying them based on the particular needs of the SAI. This would involve integrating the methods and tools that present the most potential value to the team and embracing a trial-and-error, continuous learning approach to piloting these methods. Discovering what works best requires experimentation.

Unpredictable scheduling implications: Agile engagements sometimes end earlier or later than initially planned, affecting subsequent engagements on the audit plan. If an audit ends early, the team typically directs its attention to the next item on the plan. If department leadership permits an audit to extend longer than expected, then it will displace lower-priority activities, which the team can address when resources are available.

Securing business buy-in: Auditees may be reluctant to engage with auditors differently than they have in the past. To contend with potential resistance, audit teams inform auditees of the new process before the engagement starts, agreeing with management how closely auditors will interact with auditees and how frequently and in what form the audit team will communicate with management. Audit teams also emphasize that agile methods entail more intensive interaction during a briefer period of time, rather than intermittent interaction over a longer period, enabling more efficient use of auditee time and yielding better insights more quickly (Sprinting ahead with Agile Auditing, 2020).

7.2. Way-forward

Agile audit is a buzzword in the arena of internal audit in private sector though it is not widely used in public sector auditing. During the Corona outbreak and emergencies, several SAIs in different regions of the world have gradually begun to practice agile audits. Because agile auditing terms and practices are yet to become popular, INTOSAI has not developed any standards or guidelines on the subject till now. Therefore, it is not fair to imagine that one can pass the agile test the first time without much effort. The empirical results of various agile audits should be used to create a useful set of rules for performing future agile audits. Also, to get a good report from agile auditing, the audit team (cross-functional team) must consist of people with expertise in different fields. To manage this challenge, audit departments trying agile methods for the first time select auditors with strong creative and critical thinking ability to staff pilot teams and train auditors on basic agile concepts. Once auditors begin to see the benefits of agile methods, they become more open to integrating them in their work.

In our domestic context, the agile auditing is completely a novel approach in auditing. Though in his maiden speech in 2018, the CAG of Bangladesh in the Public Accounts Committee meeting has envisioned and outlined a form of real-time audit for efficient and effective decision making of the parliament, SAI, Bangladesh could not make the real-time audit practicable. On the wake of COVID – 19 pandemics, the emergency spending by the governments across the countries of the world require a quick and effective audit which bring forth the opportunity of introducing real-time audit in the global arena of state auditors. The real-time audits can be made practicable by adopting the agile approach of auditing which is an

iterative process of several micro audits and also breaks the conventional time period of auditing into very short epochs.

8.0. Conclusion

For Public sector audit, Agile represents a new frontier and a departure from conventional methods. There are numerous benefits of implementing agile auditing, including the ability to predict risks proactively. While Agile presents different ways of working and distinct challenges for audit, it rewards experimentation in practice, setting a low barrier to entry. An agile approach may also require some level of organizational transformation to make it successful. Audit teams that have yet to adopt agile methods can use the successful examples presented here as inspiration. They demonstrate that agile is not only compatible with the audit context, but also able to be tailored by teams to meet their particular objectives and needs.

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An Analysis of the Constitution, its Structure, Scheme and Institutions - Bangladesh Perspective

Md Firoz Khan*

Abstract

A Constitution is the “Supreme law of the land” that delineates the basic structure of the state and envisions the aspirations and wills of the people in any democratic country. It also provisions the fundamental principles of state policies and fundamental rights of the citizens. Any act or part of any act made, not consistent with the provisions of the constitution, stands automatically null and void. As the constitution is held in paramount importance so are the creatures of the constitutions. They are held in utmost importance since the establishment of, appointment to, functions, terms of office and removal from the office of these institutions are specifically enshrined in the constitution unlike the extra-constitutional bodies or statutory public authorities (SPAs) created by the statutes or the acts of the Parliament. In the existing academic works and other literature, the constitution is often referred to as a rule book full of sporadic and isolated provisions without visualizing any scheme within it. Moreover, the features, fabrics, functions and accountability framework of these constitutional creatures - the Executives, the Parliament, the Judiciary, the Election Commission, the Comptroller and Auditor General and the Public Service Commission and their inter relationship are not widely understood. In addition, some characteristic similarities between the constitutional bodies and the SPAs tend to create confusion, even to the learned. There is also a dearth of literatures covering all these aspects. This article aims to present an overview on framework of the constitution together with the features of the constitutional creatures and how they differ from the SPAs.

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1. Introduction

Bangladesh follows the Westminster style of parliamentary system in which “the right to rule the country rests with the people’s representatives” (Husain S. , 2018), who-are expected to establish a welfare state in turn. In such a democratic polity, a constitution, “as an essential part of statehood, guides the nation – both ideologically and institutionally” (Riaz, 2022). Therefore, it should be considered as the sacred document for every citizen, in general, and for the politicians, the policymakers, the bureaucrats, the civil society, the academicians, the students, and the media, in particular, to be more aware of the structure, the ideals, the scheme, the institutions and their inter-play provisioned in the constitution. In the developed world, or even in India, there are plenty of academic works covering these aspects. But in Bangladesh, such works are unavailable and insufficient. The constitution of Bangladesh contains 165 Articles in 12 Parts. But these Provisions and Parts are neither scattered nor disjointed. Rather they are designed so with a noble purpose of attaining some sublime objectives. The first three parts introduces the ideologies of the state while the next six parts build the institutions required to translate those ideologies into reality and the remaining Parts address miscellaneous aspects of the state. Similarly, all the institutions referred to in the constitution cannot be called the creatures of the constitution since some criteria attributed to in the constitution are not met by all of them. Finally, there are some SPAs like the Anti-Corruption Commission (ACC), National Human Rights Commission (NHRC) and Information Commission (IC) created by the acts of Parliament ‘cloning the contour and contents of the constitutional bodies;’ thus, they are erroneously being used interchangeably, even by the enlightened ones. This paper tries to shed lights on these aspects. The paper is divided into seven parts. The next part provides the definition and purposes of the constitution; the third part delineates the characteristics of constitution; the fourth part sketches the scheme envisioned in the constitution; the fifth part describes the general features of the constitutional organs together with comparative notes, the sixth part contains contrast between constitutional and parliamentary creatures while the final part presents a summary.

2. Definition and Purpose

2.1 What is a constitution?

The term *constitution* comes from the Latin word *constitutio*, used for regulations and orders, such as the imperial enactments (*constitutiones*

principis: edicta, mandata, decreta, rescripta). Later, the term was widely used in canon law for an important determination, especially a decree issued by the Pope, now referred to as an *apostolic constitution* (Wikipedia, 2023).

In fact, there is no universally agreed upon definition of constitution. Aristotle defines, “Constitution is the way by which all citizens or constituent parts of the state are organized in relation to each other.” George Cornwell Lewis says, “Constitution is the system and distribution of sovereign power as community or government” while Austin is of the view that, “Constitution fixes the structure of supreme government.” Based on this understanding, it can be summed up that the constitution is the “written or unwritten fundamental law of the land that must be followed and deals with the structure and power of the state, the rights of the citizen and the relationship between the state and its people” (PaathShala, 2021).

2.2 Purpose of constitution

The American Revolution in 1776 and the French Revolution in 1789, nurtured the idea of a constitution as an essential and important document and since then countries around the world have accepted it as the supreme law. Today the constitution has become the foundation of democracy. But the document carries no significance unless the normative statements are translated into reality and the institutions perform their functions. The combination of these two – the sets of norms that create the institutions and limit the power as laid out in the guiding principles – can broadly be described as the constitutionalism (Riaz, 2022) or the purpose of the constitution. Based on this context, ‘the political scientists and the legal experts have identified few purposes of a constitution’ such as “to protect the rights of the individuals; the establishment of the principle of ‘rule of law’; to save the state from anarchy; to define the operation of sovereign power of the state, to limit the vagaries of present and future generation and to curb the powers of government by fundamental law” (PaathShala, 2021). The purpose of the constitution of Bangladesh is similar. One of the 34 members of the drafting committee of Bangladesh Constitution, Mr. Asaduzzaman Khan, the then Member of Provincial Assembly (MPA), (Jessore-10) in the Constituent Assembly debate, explicitly stated the purpose of Bangladesh constitution, “The fundamental principles of the people have been ensured in the Constitution that we have framed, people will be able to throw the incumbent government, that fails to implement these principles, out of the power and elect the other people to rule them.

If the government is unwilling to handover the power, we have made remedy for that as well. People will be able to demonstrate, organize gatherings and rallies and make procession. It will be impossible to remain in power for the incumbent government incapable of implementing these principles.” This very purpose of constitution procreates the doctrine of “Basic Structure” of Bangladesh Constitution - “Sovereignty belongs to the people and it is the basic structure of the constitution” (Ahmed, 1989).

3. Features of Constitution

3.1 Codification

Constitution being considered as the backbone in a democratic process, most of the countries of the world have written or codified constitution. Wikipedia shows that some of the highly democratic countries like Canada, New Zealand and the birthplace of democracy, the United Kingdom have unwritten constitutions. Here “Unwritten should not be misunderstood as though the constitution does not exist at all. Actually, the constitution does exist and it is based on different legal documents and acts and decrees but there are no single documents that defines all the laws together (Shastri, 2022).” For example, the UK draw its governing principles from four sources including states laws, common laws, political conventions and works of authority. Similarly, Canada draws its authority from unwritten convention and written acts like Canada Act 1982 and Constitution Act 1867. New Zealand also relies on several documents of authority called Constitution Act of 1986, Acts of Parliament and court decision (Muli, 2022). ‘Magna Carta’ is considered to be the first unwritten constitution while ‘the CONSTITUTION of the United States’ is considered the first written constitution of the world (Wikipedia, 2023).

3.2 Flexibility and rigidity

Constitution can further be classified on the criteria of ease to amend it. One is flexible constitution and the other is rigid constitution. A flexible constitution can be amended with the same ease as the general laws only difference being the general laws require simple majority whereas constitution amendment laws require two-third majority of the parliament. To the contrary, the rigid constitution cannot be easily amended. It has very complex modification procedures. Rigid constitution is mostly suitable to the federal structure of state. Consequently, to amend the federal constitution, two-third majority of both the houses may be

required. Even two-third majority of each of the state legislature may also require to amend the constitution of the country, thus, making it rigid. The constitution of India and the constitution of the USA can be termed as rigid constitution whereas the constitution of the unitary system of government structure with unicameral parliament can be termed as flexible constitution. It is also important to note that unlike a rigid constitution, “a flexible constitution grows, expands and reflects changing needs of citizen and society (PaathShala, 2021)” whereas “people consider a rigid constitution a sacred document and ready to work according to its provisions (PaathShala, 2021).”

The constitution of the People’s Republic of Bangladesh may be termed as a flexible constitution before the 15th amendment of it in 2011. By the said amendment, through “the provision of the article 7B, the Preamble, all the articles of Part-I and Part-II, subject to the provision of Part IXA, all the articles of Part-III and the provision of articles relating to the basic structure of the constitution including article 150 of Part-XI” have been made unamendable, thus, making these parts of the constitution rigid. Consequently, the constitution of Bangladesh now possesses both characteristics of flexibility and rigidity when it comes to the question of amendment.

3.3 Autochthony

A striking feature of Bangladesh constitution is that the nature of the constitution is autochthonous - ‘homegrown’ or “rooted in native soil” (Chowdhury J. B., 1989). “The word autochthony is rarely found in everyday English but is significantly used in constitutional law. The word ‘autochthony’ is a Greek word and combination of two words - ‘Autos’ means ‘self’ and ‘Chthon’ means ‘earth.’ It means this constitution does not have any sort of foreign link” (Rahman M. M., 2022)

A constitution can be called autochthonous when it fulfils three major criteria as set by KC Wheare in *The Constitutional Structure of Commonwealth*. The first criterion is whether all legal continuity with the earlier regime had been broken while adopting a new constitution. The second is if all processes for operating constitutional changes were operated locally. The third is whether the people and the court regard the constitution as authoritative because of their own acceptance of it (Wheare, 1960). The unilateral Proclamation of Independence severing all the ties with the former regime fulfils the first criterion. The constituent

assembly's formation of 34-member constitution drafting committee and the committee's report to the assembly with a Bill of Draft Constitution symbolizes the fulfilment of 2nd criterion while for the passing the test of the third criterion the court clearly stated, in the eighth amendment case that ours is an autochthonous constitution. In addition, in 2010, in Siddique Ahmed vs Bangladesh case, the court gave a very important observation "... so our constitution, an autochthonous one representing the sovereign will of the people." (Shohag, 2021)

3.4 Homogeneity

Despite having the major attributes of autochthony, many provisions of the constitution of Bangladesh carry the essence and spirit of the provisions made in constitutions of other countries. Apart from the similarity with the parallel provisions of the Government of India Act, 1935, the concept of 'Republic' and the ideals of Freedom (liberty), Equality and the full contribution towards international peace and co-operation (fraternity) in the Preamble of Bangladesh Constitution are influenced by the French Constitution. The Fundamental Principles of State Policy of Part-II is rooted at Part-IV of the Indian constitution which has borrowed them from the Irish constitution. Both Ireland and India have coined it as Directive Principles of State Policy whereas the framers of Bangladesh constitution have replaced the word "Directive" with the word "Fundamental". The ideals of rule of law in the Preamble, the parliamentary form of government - the President is the head of state [Article 48 (2)] and the Prime Minister is the head of government [Article 55(2)]; the cabinet system of government [Article 55 (1), 56] and the legislative procedure in Article 80 of Bangladesh constitution are provisioned from the British system. In addition, the provision of separation of judiciary in Article 22, impeachment of the President in Article 52, the President is the supreme commander of the Forces in Article 61, the legislative power in Article 65(1), and the provision of writ in Article 102 of Bangladesh constitution are taken respectively from the provisions of Section. 1, Article. III; Section. 4, Article. II; Section. 2, Article. II; Section. 1, Article. I; and Section. 9, Article. I of the constitution of the US. Finally, the concept of creation of constitutional institutions like Election Commission, Public Service Commission, Comptroller and Auditor General, Ombudsman and Attorney General are borrowed from the Indian constitution. In fact, all the provisions and systems of the different countries referred to have also taken root in Indian constitution. For this reason, the constitution of India

is often criticized as the borrowed constitution.

In Justifying this constitutional homogeneity, the chairman of the Drafting Committee of Indian Constitution and the first Law Minister of independent India Dr. B R Ambedkar said, “One likes to ask whether there can be anything new Constitution framed at this hour in the history of the world. More than three hundred years have rolled when the first written constitution was drafted. It has been followed by many other countries reducing their Constitution to writing. ...Given these facts, all Constitutions in their main provisions must look similar. The only new things, if there be any in a constitution framed so late in the day are the variations made to remove the faults and to accommodate it to the needs of the country” (Talukder, 1993). Similarly, any criticism on Bangladesh Constitution in regards to the resemblances with the provision of other Constitutions should be refuted on the same rationale though the cardinal sources of Bangladesh Constitution is the sacred Proclamation of Independence of Bangladesh.

4. Schematic Sketch of Bangladesh Constitution

In Bangladesh constitution, there are 165 Articles in 12 Parts together with 7 Schedules while an ordinary reader of the constitution may apparently find these Parts and Provisions isolated and sporadic. But the constitutional experts view the constitution as a ‘Scheme’ - “a large-scale systematic plan or arrangement for attaining noble purpose or putting a particular idea into effect (Oxford Dictionary)” - sketched by the framers of the constitution (Chowdhury M. M., 2020).

4.1 Ideals of the State

4.1.1 Principal-agent relationship

Part-I of the constitution with its 11 (eleven) Articles recognizes the Principal - the owner of all powers of the state, the ‘People’ - and the ‘Republic’ - the abode of the owner. This part declares the state as the Republic and the people as the source of all sovereign powers. It finally defines the boundary, capital, language, religion, national anthem, flag and emblem, of the nation, portrait of the father of the nation and the supremacy of the constitution. The people are made here the dominant entity and the state is the dominated entity. Thus, the relationship between the People and the State is established in Part-I (Chowdhury M. M., 2020).

4.1.2 Fundamental principles of state policy

Part-II of the Constitution consists of 20 Articles (from Article 8 to Article 25) that constitute the dynamic but judicially unenforceable Fundamental Principles of State Policy. These principles symbolize the ‘vision’ of the state and represents the ‘wills of the people.’ There are some remarkably striking features in this Part. The word ‘Fundamental’ in the title of the Part does not make it mandatory for the state to implement these policies with immediate effect. Rather the word ‘Fundamental’ means that these are fundamental to the good governance. In addition, any failure to, on the part of the state, to deliver any of these principles are unenforceable to the court since the implementation will require sufficient resource and time. Moreover, these principles are dynamic - meaning with the enhancement of state ability and with the needs and demands of the people and time, novel principles can be added to the existing principles. Similarly, when the state will be economically strong and sound enough to deliver, any of the Fundamental Principle can be shifted to the Fundamental Right in Part - III. These State Policies are implemented through compulsory or persuasive laws, rules, and regulation.

A careful analysis of these 20 Articles can easily classify all the state polices into political, economic, social and cultural policies of the state (Chowdhury M. M., 2020). Political parties form a view about achieving these Principles of State Policies. In addition, the election manifesto of political parties also commits to achieving these principles for the people. In fact, these Principles of State Policy represent the public services to be delivered by the State to the People following the relationship between the two established in Part-I.

4.1.3 Fundamental rights

Part-III of the constitution deals with the Fundamental Rights of the citizens. According to Article 26 to Article 47, the state is bound to ensure certain equalities (Articles 27, 29), certain prohibitions and protections (Articles 30, 32, 34, 35, 43), rights (Articles 31, 42) indiscrimination (Article 28), safeguards (Article 33) and freedoms of movement, assembly, association, thought, conscience and speech, profession and religion (Article 36-41) to the People of the State. These rights are judicially enforceable – the aggrieved can take resort to the court. Some of these Fundamental Rights are unfettered while some Rights are fettered in Articles 36, 37, 38, 39 (2), 40, 41 (1), 42 (1), 43 with some reasonable restrictions and some Rights in Articles 28 (4), 29(3), 33(3), 34(2), 35(6) with some lawful variations.

The most important aspect of this part is that in its endeavor to implement any Principle provisioned in part-II, the State shall not be able to make any law, inconsistent with any provision of this part and if the existing law is inconsistent with any provision of this Part, shall be void. The definition of ‘reasonableness’ will be dependent on the discretionary power of the incumbent subject to the demand of the circumstances (Chowdhury M. M., 2020).

4.2 Institutions of the state

The framers of Bangladesh constitution have so far identified the Principal and the State in Part-I, envisioned the wills and aspirations of the Principal in Part-II and provisioned the Fundamental Rights of the Principal in Part-III. A person with ordinary prudence would now ponder who and how to implement and ensure these Principles and Rights. This leads to the creations of the agents for the principal. Consequently, the framers have made provisions for ‘Institutions’ in the succeeding Parts.

4.2.1 The Executive

Part IV, ranging from Article 48 to Article 64, deals with the first Institution - the executive - the most influential of all appointed agents. It is the executives who are the direct implementing agents of the Fundamental Principles of State Policy and the front-line deliverers of public service. The caveats that they counter while performing their tasks are that they must follow the legal framework set by the Parliament and ensure the fundamental rights Provisioned in Part-III are not denied. The President is the number one Executive of the State and is the Head of the State [Article 48(2)]. This is an ornamental position since the President, without the advice of the Prime Minister, can appoint only the Prime Minister and the Chief Justice [Article 48 (3)]. “All executive actions of the Government shall be expressed to be taken in the name of the President” [Article 54 (4)] and he is vested with the “supreme command of the defence services” (Article 61). As Executive Head, without his recommendation, “no money Bill or any other Bill which involves expenditure from public moneys shall be introduced into the parliament” (Article 82). The President is also the Titular head since s/he has the power to pardon the convict or the sentence (Article 49)’.

Different levels of executive government are provisioned in this Part. The top most layer of the Executive is the Political Executive - the Cabinet headed by the Prime Minister [Article 55(1)] - the highest level of policy making body which aims at achieving the principles stated at Part-II. The next level of executive is the bureaucratic executive - headed by

the cabinet secretary. They aid their political masters in framing policy. One of the features of the cabinet is that it follows the corporate style of management where the Prime Minister is the first among the equals and “the Cabinet shall be collectively responsible to the Parliament [Article 55 (3)]. The third layer Executives are called the implementing executives known as Department/Directorate/Office either under the direct control of second layer or with greater administrative, functional and financial autonomy known as Statutory Public Authority (SPA). The Executive have no powers to make Act. Rather they formulate the Bill to be passed by the parliament (Chowdhury M. M., 2020).

Unlike SPA, the second and third layers of Executives have hierarchical or vertical style of management and “the allocation and transaction of the business” for all three layers with the exception to SPA are guided by the ‘Rules of Business’ made by the President [Article 55(6)]. All executives are horizontally accountable to the parliament and diagonally accountable to the media and civil society whereas vertical accountability relationship exists within the executives (Rahman M. A., 2022). In this Part, there are also provision for Local Government, the Defence Services and the Attorney General. The total number of Articles is 17 from Article 48 to Article 64.

4.2.2 The Legislature

The next Institution that enters to the fray in Part-V, from Article 65 to Article 93, is called the Legislature or the elected Agent. They are directly elected by the Principal and is vested with the powers to legislate to regulate the implementation of the fundamental principles in Part-II. They are not the direct deliverer of public service rather they make the legal framework for the Executives to deliver public service. They can also “delegate, by Act of Parliament, power to any person or authority, make orders, rules regulation bye-laws or other instruments having legislative effect” [Article 65(1)] to facilitate the smooth implementation of State Policy. But in making any law, it cannot take away any fundamental rights ensured in Part-III; nor can they implement laws made by themselves. Corporate style of management is also present here where the Speaker can cast only the deciding vote otherwise the majority of the votes decides the matter [Article 75 (1) (b)]. The procedure or the business of the parliament is regulated by the Rules of Procedure made by itself [Article 75 (1) (a)]. The elected agents of the legislature are vertically accountable to the principal through voting process (Rahman M. A., 2022). The President

also plays his part as the Legislative Head in this Part. This is evident from the fact that no bill of the Parliament can be turned to the Act of Parliament unless assented by the President.

The framers of Bangladesh Constitution have ensured the sovereignty of the people or the people's power in this part by putting in place the mechanism to ensure both the 'Ex-Ante' and 'Ex-Post' accountability of public moneys. 'No taxation without representation' has been ensured in Article 83 that reads, "No tax shall be levied or collected except by or under the authority of an act of Parliament." In the same way, "Subject to the provisions at this Constitution no money shall be withdrawn from the Consolidated fund except under appropriation made by law passed in accordance with the provisions of" Article 90(3). These two Articles along with Article 89 has been provisioned to ensure the 'Ex-Ante' accountability of public money. The Standing committee on Public Accounts [Article 76 (1) (a)] holds all the Principal Accounting Officers (PAOs) to accounts for their financial performance using the reports of the Comptroller and Auditor General (CAG), an independent institution, created in a separate Part-VIII of this constitution. Thus, all the other agents and institutions come under the 'Ex-post' accountability ambit of the legislature. In addition, under Article 77 of the Constitution another institution called "Ombudsman" has been created to ensure the accountability of the Executives for their performance.

4.2.3 The Judiciary

Part-VI (Article 94 - 117) provides with the provision of Judiciary - the arbiter and the protector of Fundamental Rights enshrined in Part-III. Theoretically, the Judiciary has no part to play if neither the Executives nor the Legislature violate any fundamental rights in performing their respective functions. It can play the role of an arbiter when an aggrieved submits any writ petition to enforce any of the rights denied to him/her as provisioned in Part-III. The Judiciary is neither the promulgator nor the implementer of the laws, nor even the provider of public services provisioned in Part-II. The decision-making process in Judiciary is also corporate. The Chief Justice is the first among the equals and the verdict is delivered based on the opinion of the majority of the Judges (Chowdhury M. M., 2020).

They are the most powerful of all the institutions since they have the power to declare void and nullify any action found unconstitutional and in

violation of the Fundamental Rights including the Act of Parliament. The Judiciary is also empowered to make rules to 'Regulate' the practice and procedure of each division of Supreme Court and of any court subordinate to it [Article 107 (1)]. The Judges are only accountable to the constitution and to their conscience. Thus, three main organs of the state created respectively in Part-IV, Part-V and Part-VI are independent but inter-dependent as well. The Executive organ is independent and empowered to implement Acts of Parliament and to frame, rules and regulation, with a view to delivering public service. The Legislature is also independent and empowered to enact laws to regulate the framework of public service delivery but they themselves cannot implement the acts made by them while the Judiciary is also an independent organ and empowered to protect Fundamental Rights and nullify any action of the preceding two organs if they turn out to be unconstitutional.

In this way the full cycle of 'Montesquieu Trinity' is complete and the 'Doctrine of Separation of Power and Check and Balance' among the Organs of the State are ensured in the Scheme of Constitution. The first and third organs have horizontal accountability relationship with the second organ which has vertical accountability relationship with the people (Rahman M. A., 2022). According to some school of thoughts, out of the three organs, the Legislature is most sovereign and powerful subject to the provision of the constitution since they are the elected agent and have power to enact laws, while according to some other school of thoughts the Judiciary is the most powerful since they have the power to declare void and nullify any acts of Parliament on the ground of inconsistency with the constitutional provisions.

In the following three parts, the framers of the constitution have created three more Institutions of different Leagues in order to accomplish some specific tasks on behalf of the state. They are the Election Commission in Part-VII (Articles 118 - 126), the Comptroller and Auditor General in Part-VIII (Article 127 - 132) and Public Service Commissions in Part-IX (Article 137 - 141). It was felt necessary to establish these institutions to ensure highest quality of fair and impartial actions and to restrict the unfair and autocratic behaviors in the discharge of state functions (Husain D. S., 2014)). The proper discharge of the function or the attainment of the objectives of the first three major organs mostly depends on the quality and attribute of the agents elected or appointed to those institutions.

4.2.4 The Commissions

To make sure that the elected agents with appropriate attributes are in the Legislature, the constitution has provisioned a separate part, Part-VII. In this part an independent Election Commission has been established to conduct elections to the office of President and of the Members of Parliament since “Flawed national elections are likely to breed a meaningless and ineffective Parliament (Husain S. , 2018). In the same way, to appoint the efficient and competent Agents to the second and third the layers of the Executive organ, the framers provisioned an independent Public Service Commission (PSC) in Part-IX. But such constitutional institution is absent for the third organ to appoint the agents to the Subordinate Judiciary. It is not because that the framers have ignored the importance of this organ but because at the time of framing the constitution, the Judiciary was not separated from the Executives and the agents were appointed by the PSC till the judicial separation took place in 2007. Now the agents for the Subordinate Judiciary are appointed by the independent Judicial Service Commission (JSC), an extra- constitutional institution.

4.2.5 The Oversight Institution

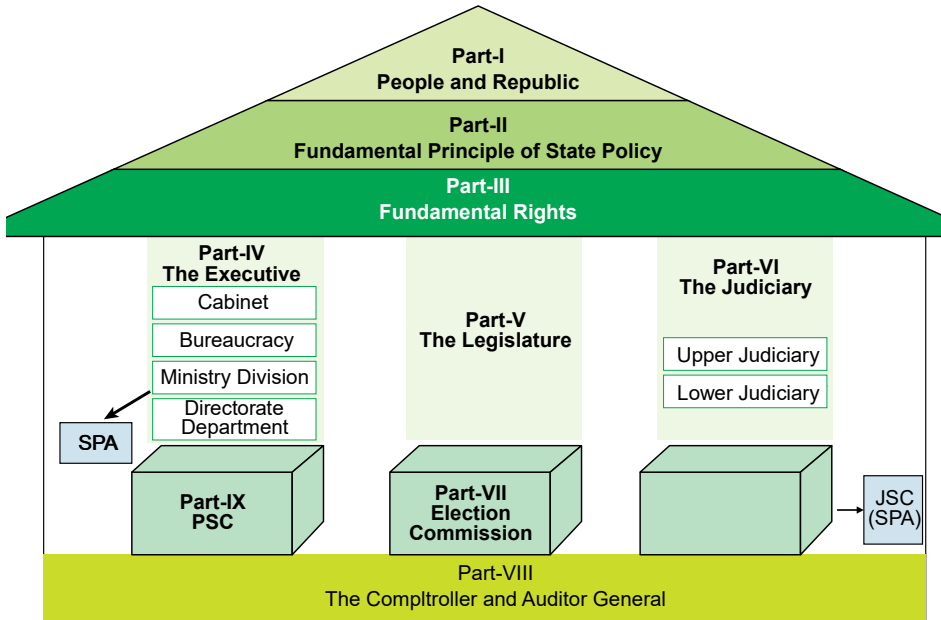
All these institutions referred to above are sufficiently resourced with public funds to achieve the purposes specified in the framework. The Parliament, on behalf of its principal - the People - needs independent, objective and reasonable assurance on whether the public funds have been used to the purpose specified therein; whether the expenditure has been accounted for accurately in the prescribed form and manner and if the applicable rules and regulations have been complied with at the time of transactions. Hence, the visionary framers of Bangladesh Constitution have established a dedicated accountability institution, separately in Part-VIII, known as the Comptroller and Auditor General (CAG).

4.3 Miscellaneous

Part IXA deals with emergency provisions in Article 141A, 141B and 141C while the penultimate part, Part-X, contains only one Article (Article 142) regarding the power to amend any provision of the constitution. The final part is Part-XI with 12 Articles which provide with miscellaneous affairs of the state like properties of the Republic, deeds, contracts and international treaties, remuneration of certain officers, oaths of offices, saving for existing law and repeals of certain orders of the President among other. Thus, the constitution is designed by the framers as a Scheme - the

Republic shall endeavor to achieve the Fundamental Principles of State Policy by protecting the Fundamental Rights through six Institutions for the People of the Republic. This scheme is presented below with a diagram:

Figure-1: The schematic view of Bangladesh Constitution



The Image is taken from Chowdhury, 2020

5. Creatures of the Constitution

5.1 Rationale

From the institutional arrangements in the Constitutional framework, six institutions emerge. But all these institutions are not characterized by the similar criteria set out in the Constitution. It is evident from the schematic structure sketched in the preceding part that the Executive and the Legislature are the agents appointed and elected respectively to attain the aspirations and the wills of the People. Subsequently, a leading question can be asked, even by the laity, that what are the purposes, then, of portraying the rest four players in the whole scheme? The rationale rests with attaining the purposes of reducing the ‘conflict of interest’ inherent in the democratic polity and election system of Westminster style of democracy. It is assumed that any elected executive has to oblige the campaign activists and party politics (Husain D. S., 2014). “Decision

of the elected executive are, therefore, prone to partisan and unfair. The ministers markedly deviate from the fair treatment owing to pressure of party-politics and supporters in the constituencies, their own preferences, likes and dislikes, not excluding their whims and idiosyncrasies. Nepotism, favoritism, partisan behavior and most importantly corruption, vengeance and autocratic attitudes stand against the interest of the people and the country. Such a trend cannot be supported in a democratic polity” (Husain D. S., 2014). The framers of Bangladesh constitution, like the British law makers, have tried to find out a solution to this problem in the constitutional framework through the creation of the other four institutions - the Judiciary, the Election Commission, the Comptroller and Auditor General and the Public Service Commission. These institutions, with their unique power, function and status, remain beyond the part or control of the government.

Highly reputed professionals of extraordinary integrity and stature are appointed to these posts by the President, hold the posts during the pleasure of the President and are basically accountable to the Constitution and their Conscience only. They are deemed to be employers of themselves. These bodies, in carrying out their functions, are independent and impartial. It is believed that their prime objective is to ensure fair and impartial treatment to all citizens with a view to doing away with, by and large, the political bias, nepotism and unfair dispensation of the first two institutions (Husain S. , 2018).

5.2 Fabric, feature, function and framework

The identification of Constitutional Bodies - as they are called - are not easy and straight forward. The name of any institution or any of the post in the constitution does not make it necessarily a constitutional creature. This is an essential condition. However, some additional conditions alluded to in the constitution have to be met for a constitutional body (Husain S. , 2018 and Chowdhury M. M., 2020).

Firstly, the expenditure, including the administrative costs of their officers and servants, of the constitutional bodies are charged upon the Consolidated Fund (CF) and are not subject to the voting of Parliament [Article 88 (a) (b) (c)]. This implies that the government is bound to defray these expenditures, if circumstances arise, by borrowing.

Secondly, “The remuneration, privileges and other terms and conditions” of these bodies, are determined by the Acts of Parliament and once done “shall not be varied to the disadvantage” of the incumbent [Article 147(2)].

Thirdly, “No person appointed to or acting in” these institutions “shall

hold any office, post or position of profit or emolument or take any part whatsoever in the management or conduct of any company, association or body having profit or gain as its object” [Article 147(3)].

Fourthly, “Any person appointed to” these posts “shall, before entering upon the office, make and subscribe an oath of affirmation” [148 (1)].

Fifthly, the term of the office for the holders of these bodies are protected by the Constitution and “Shall not be removed from” their offices “except in like manner and on the like ground as a Judge of a Supreme Court.”

Sixthly, the functions of these bodies are mainly specified in the constitution and subsequent laws and in discharge of their functions, they are fully independent and free from the interference of the government. Decisions taken by these bodies are to be treated as final and cannot be reversed even by the court unless the prescribed procedures or the constitutional provisions or the principles of natural justice have been violated (Hussain 2014).

Lastly, on the expiry of the tenure of their office, the holders of these position will not be eligible for any appointment in the service of the Republic.

Only following five institutions meet all the conditions as identified above. They are (i) the President of Bangladesh; (ii) the Supreme Court; (iii) the Election Commission; (iv) the Comptroller and Auditor General and (v) the Public Service Commission.

The Prime Minister and other Ministers do not meet the first, fifth, sixth and last conditions while Ombudsman and Attorney General meet neither of these criteria. The Speaker and the Deputy Speaker comply with only the first, second, third and fourth criteria. Consequently, they are eliminated from the alliance of Constitutional Clubs.

These constitutional bodies are the bulwarks of the democratic system of Government in Bangladesh. Hence, a dissected discussion, in a layman approach, on these institutions is presented in the next part.

5.2.1 The Supreme Court

The Supreme Court (SC) comprising the Appellate Division and High Court Division is established under Article 94 (1) and consist of the Chief Justice (CJ) and such number of other Judges as the President may deem it necessary for each Division [Art-94 (2)]. The Chief Justice is appointed by the President and the other Judges are appointed by the President in

consultations with the Chief Justice [Article 95 (1)] and all the judges hold the office until they attain the age of sixty-seven years [Article 96(1)]. The appointments of persons to the office of subordinate judicial service are made by the Judicial Service Commission (JSC). The control (including the power of posting, promotion and grant or leave) and the discipline of the members of judicial service of the subordinate court are exercised by the president in consultation with the SC [Article 116]. the Chief Justice is authorized in Article 113 to make rules with the prior approval in the President, for the appointments and other service conditions of members of SC staff.

The functional jurisdiction of Appellate Division is to “hear and determine appeals from the judgements, decrees, orders and sentences” of the (i) High Court Division [Article 103 (1)], (ii) Administrative Appellate Tribunal, (iii) International Crime Tribunals [Act 103 (4)] and to grant leave to Appeal [Article 103 (3)]. The Appellate Division has also the review and advisory jurisdiction respectively under Articles 105 and 106. The High Court Division has such original, appellate and other Jurisdictions and powers as are conferred on it by the Constitution or any other law [Art 101]. The High Court Division is also empowered to issue Writs in the nature of Habeas Corpus, Mandamus, Prohibition, Quo-warranto and Certiorari, with further authority to declare any law promulgated violating the provisions of the Constitution as void. Both the Upper Court and the Subordinate Court are made independent in discharge of their Judicial functions [Article 94(4) and 116A respectively].

The SC is empowered to make rules for regulating the business of the Upper and Subordinate Court as per the provision of Article 107(1). Consequently, the Judicial Business is regulated by the Supreme Court of Bangladesh (Appellate Division) Rules, 1988 and the Supreme Court of Bangladesh (High Court Division) Rules, 1973 respectively. The member of the Subordinate Court and the staff of the Supreme court are vertically accountable to the higher authority. As of now, the SC has no separate secretariat. Office of the Registrar General works as the secretariat to aid the SC in discharge of its Constitutional mandate.

5.2.2 The Election Commission

The Election Commission (EC) of Bangladesh has been established as per the provision of Article 118 (1) and consists of Chief Election Commission (CEC) and four other Election Commissioners (ECs) appointed by the President on the recommendation of the Search Committee formed

under provision of section 4 (1) of the Chief Election Commissioner and Other Election Commissioners Appointment Act, 2022 enacted under the provision of Article 118 (1) of the Constitution. The term of office of an EC is five years from the date of assuming the office [Article 118(3)] while they cannot be removed from the post except in like manner and on the like ground as a judge of supreme court [Article 118(5)]. The constitutional mandates of EC are to hold elections to the office of the President, of members of Parliament; to delimit the Constituencies and prepare electoral rolls [Act 119(1)]. It is also authorized to perform additional functions prescribed by the constitution or any other law [Art 119(2)] and this is why it conducts the elections of all the local government authorities as provisioned in the respective laws. The conduct of the election and matters connected therewith are regulated by the Representation of People Order (RPO), 1972, Delimitation of Constituencies Act, 2021. Electoral Roll Act 2009, and National Identification Registration Act 2010, respectively and the subsequent Rules made by the EC under the provisions of these and other Acts and Order. The EC is aided to discharge its mandate by a separate secretariat established by the Election Commission Secretariat (ECS) Act, 2009 under the Provision of Article 118 (4) of the Constitution. Overall control to the secretariat is vested with the CEC and Secretary is the administrative head of the secretariat [section 5(1)]. All the officers and staff of the secretariat are recruited through EC Servants Recruitment Rules 2023 made under Section 19 of the ECS Act 2009. The secretary of ECS is accountable to the EC while the EC servants are accountable to the secretary for their performance responsibility [Section 14(1) (12), ECS Act 2009].

5.2.3 The Comptroller and Auditor General

In a democratic polity, the very *raison d'être* of audit lies in the fact that it is the prerogative of the Executive to propose 'demands for grants and appropriation' and imposition or alteration of tax while the right of control over taxation and public expenditure vest in the Legislature. This Parliamentary power has the right to satisfy itself that the grants and appropriations has produced the intended purposes voted for (Ramayyar, 1967). To secure the independent and objective assurance over the compliance with the appropriations, the Constitution has established the CAG and Audit and Accounts Department of Bangladesh. Therefore, "audit as a function independent of the Executives is a *sine qua non* of a democratic form of Government" (Khosla 1967). The department is described as one of the four pillars of India's democratic constitution, the other three being the Executive, the Legislature and the Judiciary. It is one

of the four agencies of financial control along with the Legislature, the Administrative Ministries and the Finance Ministry” (Ramayyar, 1967).

The Comptroller and Auditor General (CAG) of Bangladesh has been established on 11 May 1973 under the Provision of Article 127(1), though it inherits its legacy from the establishment of the General Department Accounts by the Company Rulers on 04 December 1857. Being appointed by the President, the CAG holds the office for five years or until he attains the age of sixty-five years from the date on which he entered upon his office, whichever is earlier [Article 129 (1)]. Unlike the nomenclature of other constitutional bodies, the Comptroller and Auditor General implies both the institution and the post. Unlike his/her other Constitutional colleagues, CAG follows a ‘monocratic style of management.’ “The position of CAG is unique in many respects. Although he is a civil servant by training and though he works with the civil service and his subordinates are civil servants, yet he is not one of them. His constitutional status and duties isolate him – it is the Constitution which isolates him and he is, in the word of Sir Frank Tribe himself, ‘very much a lone wolf’ (Chubb, 1952)”. Realizing the supreme importance of this body, Dr. B R Ambedkar, one of the architects of Indian Constitution said in the Constitutional Assembly debate, “I am of the opinion that this dignitary or officer is probably the most important offices in the Constitution of Indiaand his duties, I submit, are far more important than the duties even of the Judiciary.”

The functions of CAG are to audit and report on the public accounts of the Republic and of all courts of law and all authorities and officers of the government and in doing so the CAG or his representative shall have access to all records, books, vouchers, documents, cash, stamp, securities, stores of other government property in the possession of any person in the service of the Republic [Article 128 (1)]. In exercise of his function, the CAG shall not be subject to the direction or control of any other person or authority [Article 128(4)]. It is also his duty to prescribe the “form and manner” of keeping the accounts of the Republic (Art-131) and submit the reports on the public accounts to the President who shall cause them to be laid before the Parliament [Article 132]. In addition, the CAG has been given additional functions of auditing and reporting on the accounts of the statutory public authorities including the public enterprise through section 5 (1) of the Comptroller and Auditor General (Additional Functions) Act, 1974. Section-11 of the same act has empowered the CAG to make rules in relation to the audit related matter. He is also entrusted with responsibility of preparing the commercial accounts and general financial statements





vide respectively section 6 and 7 of the same Act. Audit Code, Government Auditing Standard of Bangladesh, Code of Ethics, Quality Control System are some of the high-level instruments that regulate audit procedure. All these constitutional and other legal frameworks have placed the CAG in both *de jure* and *de facto* positions in regards to the function of CAG (Ramayyar, 1967).





CAG has no separate secretariat rather the Office of the Comptroller and Auditor General (OCAG) of Bangladesh works as the secretariat - administratively headed by the Deputy CAG (senior) of Grade-1 rank. The managerial level officers at the disposal of CAG are recruited by the Finance Division through BCS examination based on proposal of OCAG while non-cadre workforce is recruited under the relevant Non-cadre Officers and Staff Recruitment rules, 2023 framed by Finance Division under the Provision of Section 59 of Sarkari Chakri Ain 2018. For functional matters, all Deputy CAGs and other Heads of Department are accountable to CAG while the administrative matters are dealt with by the Finance Division upon the recommendation of CAG.

5.2.4 Public Service Commission

Bangladesh Public Service Commission (BPSC) has been established under the provision of Article 137 and consists of the Chairman and not more than 20 members appointed by the President (Article 138). The term of office is like that of CAG. This body is created to independently “Conduct the test and examinations for the selection of suitable persons for the appointment to the service of the Republic [Act 140 (1)(a)] particularly to the Executives. In addition, the commission advises the President on the matter that influence the service conditions and recommend the appointments to the service of the Republic [Act 140 (1)(b)]. It is also the duty of the Commission to submit reports to the president who shall cause them to be laid the before the parliament (Act 141). The business of the Commission is regulated by BPSC Act, 2023. In the discharge of function, the Commission is aided by a separate secretariat established in 1989 and headed by a secretary to the government of Bangladesh. The commission is authorized to frame rules, under section 7 and 19 of the said Act, to respectively recruit its staff and discharge its function. The supporting personnel of the commission is accountable to the Secretary who is accountable to the Commission.

Set out below is a table that captures a comparative position of the features of the constitutional creatures:

Criteria	 Election Commission	 Election Commission	 Election Commission	 বাংলাদেশ সরকারী কর্ম কমিশন BANGLADESH PUBLIC SERVICE COMMISSION
Establishment	Established directly under the provision of Constitution			Under Constitutional provision, established by BPSC Ordinance 1977 (Ordinance No VII and VIII) repealed by BPSC Act, 2023.
Appointment	Appointed by the President directly under the provision of Constitution	Appointed by the President on recommendation of the Search Committee made under the CEC and other CEs Appointment Act, 2022.	Like the SC	
Qualification and conditions for appointment	At least ten years of experience in advocacy in Supreme Court or in judicial office [Article 95(2)].	-Must be a citizen of Bangladesh; - at least 50 years of age -20 years' service experience [Section-5 of the above Act]	No qualification provisioned and no conditions attached as of now	Half of the members must be experienced in government service in Bangladesh territory for at least 20 years [Article 138 (1)]
Re-appointment	Additional Judges, appointed for two years to the SC, can be re-appointed as a Judge or for a further term as Additional Judge [Article 98]	Any EC is eligible for appointment as CEC on completing the term of EC [Article 118(3) (b)]	No provision for re-appointment as of today	Subject to the provision of original term of office, a member is eligible for re-appointment as member or as chairman for one further term on completing original term [Article 139 (4)(b)]

Criteria		 Election Commission		 বাংলাদেশ সরকারী কর্ম কমিশন BANGLADESH PUBLIC SERVICE COMMISSION
Term of office	Until Judges attain sixty-seven years of age [Article 96 (1)]	Five years upon entering the office [Article 118 (3)]	Until attains the age of sixty-five years or five years upon entering the office, whichever is earlier [Article 129 (1) and 139(1) respectively]	
Functions	<p>-Mainly to hear and determine appeal issue directions, orders, decrees or writs;</p> <p>- to review judgement and advise the president on legal matters [Article 103-106]</p>	<p>-Mainly to hold elections to the office to the Presidents and of the MPs;</p> <p>- to delimit the constitutions and to prepare electoral rolls;</p> <p>- other functions as prescribed by Laws [Article 119]</p>	<p>-Mainly to audit and report on the accounts of the Republic of the SPAs and SOEs;</p> <p>-to prescribe the form and manner of keeping public accounts;</p> <p>-to submit reports to the President [Article 128 (1), 131, 132 and Section 5 of the CAG (Additional Function) Act, 1974]</p>	<p>-Mainly to select suitable person for the service of the Republic especially for the executives;</p> <p>- to advise the President on matters related to conditions of the service</p> <p>-to submit reports to the President [Article 141 and 142]</p>
Legal Powers	Constitutionally empowered to make rules	Subsequent Acts empower to make rules		
Purpose	<p>-To promote and protect the Fundamental Rights in Part-III;</p> <p>-to arbiter between Executive and Legislature</p>	-To establish democratic polity by “ensuring a foolproof arrangement for holding free, fair and impartial election” (Husain S. , 2018).	-To ensure accountability and transparency in Public Financial Management and thus, fostering good governance in the country	-To “ensure fair and impartial treatment to all applicants irrespective of their caste, creed, color and political inclination (Husain S. , 2018)” while selecting for appointment to the public service





Criteria		 Election Commission		 বাংলাদেশ সরকারী কর্ম কমিশন BANGLADESH PUBLIC SERVICE COMMISSION
Management style	Corporate; CJ is the 1 st among the equals; decisions taken on majority basis	Corporate; CEC is the 1 st among the equals; decisions taken on majority basis	Monocratic; CAG is the “lone Wolf;” decision taken unilaterally	Corporate; Chairman is the 1 st among the equals; decisions taken on majority basis
Secretariat support to discharge functions	No separate secretariat; office of the Registrar General works as secretariat	Separate EC secretariat established by EC Secretarial Act, 2009 and headed by a secretary to government	No separate secretariat; Office of CAG works as the secretariat headed by DCAG (senior) (Grade-1)	Same as EC
Supportive personnel management	<p>-Member of subordinate judicial service is appointed by JSC while their control and discipline regulated by Ministry of Law in consultation with the SC;</p> <p>-staff to the SC are appointed by the CJ and their service conditions are regulated by the Court Rules</p>	Other than the appointment by deputation, the power to appoint and control the service conditions are vested with EC secretariat [The EC Servants Recruitment Rules, 2023]	<p>-Entry level cadre personnel appointed through BCS examination;</p> <p>-non-cadre personnel are recruited by relevant recruitment rules framed by the Finance Division;</p> <p>-Promotion and discipline from grade-VI and above rest with Finance Division while transfer of all levels is made by OCAG</p>	Like EC
Pay and allowances for supportive personnel	Pay and allowances determined by the separate Pay Scale for the Bangladesh Judicial Service	Pay and allowances are determined by the Pay Scale for Civil Service		

Table-1: Comparative features of Constitutional Creatures

6. Creatures of Constitution versus Creatures of Parliament

6.1 Creatures of Parliament (CoP)

There are some other institutions created by the Acts of Parliament with some of the features of Constitutional bodies such as the appointment by the President, protection of their term of office as well as the functional independence of the government. Consequently, there is a misperception that these institutions are constitutional bodies. These bodies are National Human Rights Commission (NHRC), Information Commission (IC) and Anti-Corruption Commission (ACC). Though they are “the clone of the content and contour of the Constitutional bodies”, they are actually the creatures of Parliament vested with enormous power to ensure the overall good governance of the country (Hussain, 2014). In fact, there are nearly as many as 170 institutions created by the Acts of Parliament either to regulate public service like University Grant Commission (UGC), Bangladesh Energy Regulatory Commission (BERC) and Bangladesh Telecommunication Regulatory Commission (BTRC) or to directly deliver public service like the Universities, Education Boards, Universal Pension Authority etc. These institutions are called Statutory Public Authority (SPA). The purpose of the SPA is to facilitate and deliver smooth public services with greater functional, financial and administrative autonomy and is kept beyond the direct control of bureaucracy.

6.2 Salient features of CoP

There are some salient features of the SPA that distinct them from the Constitutional bodies. The features include among others the SPA (i) is a separate legal entity; (ii) perpetual in succession; (iii) can acquire, own and dispose of property - movable or immovable and incur liability (iv) can sue or be sued (v) has a common seal with power; (vi) has its own fund (vii) has separate accounting and auditing arrangements and (viii) has separate accountability framework (Chowdhury M. M., 2020). However, it may be difficult to conceptualize and recollect these features to differentiate between the Constitutional and Extra-constitutional institutions.

The nomenclature of the institution can, in most of cases, be one way to easily identify the SPA with very few exceptions. If any of these words – ‘authority,’ ‘bureau,’ ‘board’ (excluding National Board of Revenue), ‘council,’ ‘center,’ ‘commission’ (except EC, BPSC and ACC), ‘foundation,’ ‘institute’

and ‘university’ are found in the title of any organization it can be identified as an SPA. A comparative note is produced below to further clarify the Creatures of Constitution (CoC) and the Creatures of Parliament (CoP).

Criteria	Creatures of Constitution	Creatures of Parliament
Legal framework	Separate entity but created by the same supreme law – the Constitution	Separate legal entity created by the separate Acts of Parliaments
Appointment and oath making	Appointed by the President and make oath to the Chief Justice	By the Government [exception to NHRC, IC, ACC]. No oath making required
Service conditions	Determined by the Acts of Parliament.	Determined by the Government [exception to NHRC, IC, ACC]
Protection of service	Constitutional protection	By the Government [exception to NHRC, IC, ACC]
Purpose	To ensure people’s sovereignty; to achieve principles of state policy; to protect fundamental rights and to strengthen rule of law, transparency, and accountability in democratic polity	To regulate or deliver public service [exception to NHRC, IC, ACC]
Functional independence	Functional independence guaranteed in the Constitution	Functional autonomy ensured in respective Act
Legal authority	Rule-making powers given either in Constitution or in subsequent Acts	Regulation-making power given. Rule-making power vested with the government [exception to NHRC, IC, ACC]
Source of fund	Charged on the CF and National Budget	Own fund supported by grants-in-aid [exception to ACC]
Form and manner of keeping accounts	By CAG	By Financial Reporting Council (FRC)
Basis of Accounts	Cash	Mixed

Criteria	Creatures of Constitution	Creatures of Parliament
Auditor	CAG as the state Auditor	CAG as statutory Auditor and Private Auditor in some cases.
Accountability Framework	Accountable only to the Constitution to their conscience. CAG and BPSC submit reports to the President while respective PAO is accountable to the Parliament for fund management of their respective Grants and Appropriations.	Accountable to the controlling ministry, to the Parliament both at PAC and at standing committee on respective ministry.

Table-2: Features of Constitutional and Parliamentary Institutions Compared

7. Conclusion

It can be deduced from the above analysis that the Constitution of the People’s Republic of Bangladesh is not merely a law-book full of sporadic and isolated articles. Rather the framers have designed it in such a scheme that reflects the wills and aspirations of the people and also creates the institutions to collectively achieve these wills and aspirations. The first three parts deals with the relationship between the People and the Republic, the fundamental principles of state policy and the fundamental rights respectively while the next six parts provision the fabric, features, functions and the framework of the constitutional creatures. All the institutions mentioned in the constitutions cannot be termed as creatures of constitution as they do not meet some additional attributes referred to in the constitution. Finally, though a very few high-level SPAs reflect some of the contour and contents of constitutional bodies, they are essentially the creatures of the parliament with the purposes of either regulating or delivering public services unlike the constitutional creatures.

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Emerging Digital Age Currencies and Payment Systems: Are We Ready?

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Abstract

This paper examines the fast payment systems and centralized and decentralized digital age currencies identifying their nature, and the positive and negative consequences of their adoption and use with some case studies and examples worldwide. Readers will get an idea about the technological, regulatory, and economic challenges, dilemmas, and implications posed by fast payment systems and all forms of digital currencies. Besides, the motivational factors for some countries behind their adoption provide the importance of country context. To provide more contextuality, the current statistics and situation in Bangladesh in terms of the growth of fast payment systems like Mobile Financial Service (MFS) and the adoption status of cryptos and CBDC is also discussed. From a strategic point of view, it will be clear to readers what are strategies followed by some other countries and provide some food for thought in the context of Bangladesh to make us fully prepared.

Introduction

The financial landscape is going through tectonic changes not only in terms of faster transaction and payment settlement but also in terms of currency. We are gradually shifting towards a cashless world where digital currency will supposedly take the upper hand. But for a country to go cashless is not an easy decision to make. It has many macroeconomic implications, especially affecting the monetary and financial sectors. Broadly speaking, there are implications for a country's monetary policy, financial intermediation, stability, inclusion, and integrity.

In this era of fintech and payment innovations, new employment set-ups, a growing decentralized service economy, the emergence of real-time or near real-time payment platforms and the evolution of social attitudes towards money are affecting socio-economic behavior around payment and

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money. These changes are contributing to more interest in decentralized forms of money offering peer-to-peer transactions, micropayments, and user-friendly interfaces integrated with social networks. Privately run solutions are coming in forms like cryptocurrencies (e.g., Bitcoin, Ripple, and Ethereum) and non-cryptocurrency & private payment systems (e.g., M-Pesa, Alipay, Paypal) tied to banks. Publicly run solutions include the development of fast payment tech infrastructure & systems and central bank digital currencies (CBDC).

In a fast payment system, a strong network around the country highly increases the benefits. But the benefit reaping of newly adopted payment technology will depend on the competitiveness of the underlying payment system framework and data governance set-ups. There can be two possible outcomes – a virtuous circle of equal access, greater competition and innovation, and a vicious circle of entrenched market power and data concentration. Therefore, the number of Payment Service Providers (PSPs) and Payment Service Operators (PSOs) may lead either to concentration and monopolies or fragmentation. Monopolies and concentration lead to high costs and create barriers to entry into the market for others, reducing competitiveness and quality of service. Fragmentation increases the costs and complexity of interoperability among payment platforms because each payment platform is generally a closed-loop system. Here Central Bank Digital Currency (CBDC) can create value transfer among fragmented closed-loop systems. A fast payment system can also achieve this by enhancing interoperability with proper cooperation and coordination among payment platforms.

CBDC is gaining momentum as a digital currency around the world. Many Central Banks (CB) around the world are currently looking into the prospect of CBDC as a digital form of fiat money representing the government's legal tender. So, gradual shift from metal-based money to metal-backed banknotes, to physical fiat money, and finally to CBDC is becoming the reality for many countries around the world. But in the case of CBDC adoption, existing data governance and security in the country and suitable design dimensions of CBDC are very important as these two aspects have social, political, and macroeconomic implications.

In Bangladesh, CBDC adoption is currently undergoing a feasibility study by the central bank (CB), the result of which is yet to come by. Cryptos are at present banned in our country both in terms of mining and trading. But we see various forms of fast payment systems like Bangladesh Bank's RTGS, Mobile Financial Services (MFS e.g., BKash, Nagad, Rocket, etc.), online banking solutions, and public EFT platforms like iBAS++. Recently,

interoperability has been created among these MFSs through the web-based platform “Binimoy” which is an interoperable digital transaction platform (IDTP) that is integrated into the apps of banks, Payment Service Providers (PSPs), and MFSs. This will create comfort and save time and cost in transactions between consumers, merchants, e-wallets, banks, financial institutions, government agencies, and private organizations. Binimoy can bring about ground-breaking changes in various public and private services, such as tax submission, admission and various fees submission, bus-train-air ticket purchase, road and bridge toll collection, e-commerce operations, and more. Nowadays, the government also has its homegrown Integrated Budgeting and Accounting System (iBAS++) through which it can transmit EFTs. Improvement of iBAS++ means improvement of the public payment system and broader financial service delivery.

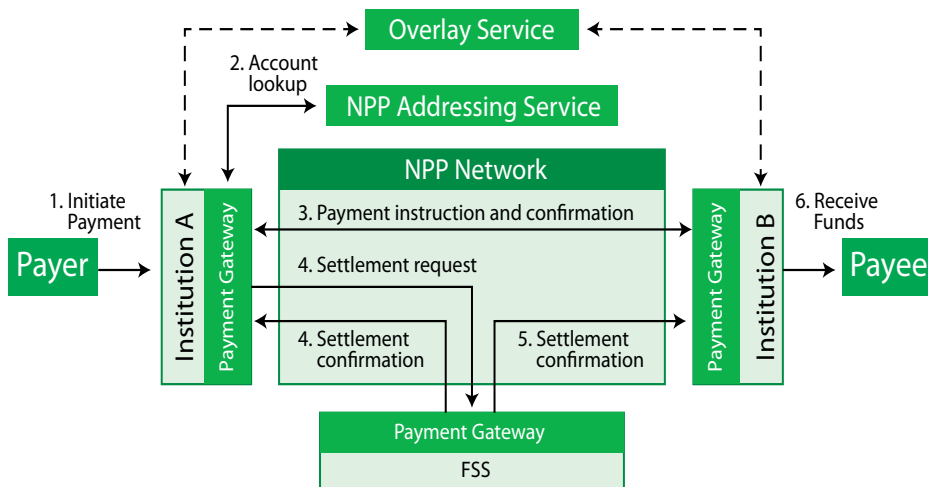
Any digital form of money and payment platform has the potential to cater to cheaper and real-time or near real-time payment services, broaden financial inclusiveness, strengthen resilience and competition, and also facilitate cross-border payments and value transfers. This article explores various forms of digital currencies and prompt payment platforms together with their pros and cons and looks at our readiness to introduce digital currencies and use fast payment platforms.

Fast Payment Systems

This type of payment system is also known as an instant payment system facilitating the transmission of messages and fund transfers from the payer’s to the payee’s account in real-time at any time. These characteristics draw the distinctions between fast payment systems from other standard clearing and settlement systems. For example, the stock purchase is commonly settled on a “T+2” basis, not in real-time. Whereas RTGS (Real-Time Gross Settlement) is offered by many central banks and private clearing houses for many large-value transfers, it has limited operating hours in many cases and most RTGS systems operated by central banks limit access to commercial banks or a defined set of financial intermediaries, therefore they are not generally open for other companies or individuals, though it has some demand at the retail level (BIS Report, 2021). Definitely, fast payment systems offer some benefits like instant transfers to individuals and businesses, more certainty about the availability of funds contributing to speedy budgeting and avoiding costly overdrafts, and more security than cash or cheque.

The very first instance of a retail fast payment system can be found in the Republic of Korea in 2001. Bank of International Settlement (BIS) published a survey in 2021 that says fast payment systems have been implemented by 60 jurisdictions around the world and this growth is mainly due to the increased use of smartphones. The fast payment system can work in two ways: by the public sector (usually the central bank) and by a combination of the public and private sectors. Australia’s New Payment Platform (NPP) is a glaring example of the government-owned retail fast payment system that started in 2018. The wholesale payment system is called the Fast Settlement System (FSS) in Australia. So, Australia’s fast payment system works as a result of interactions and interoperability between the NPP and the FSS both of which are owned and controlled by the central bank (Rush, Alexandra, and Riaan Louw, 2018). The diagram below gives a good overview of NPP functionalities as well as a good model for understanding how all fast payment systems work:

Diagram 1: Fast Payment System in Australia



Source: RBA

The role played by NPP in Australia’s fast payment system can also be played by private clearing houses. In many jurisdictions, in fact, the fast payment system is owned by one or more private companies. Sweden’s Betalningar i Realtid (BiR) system is one such successful example, meaning “Payments in Real-time” which was introduced in 2012. BiR, which is basically an outgrowth of Sweden’s giro transfer system, is owned by a consortium of Swedish banks commonly known as Bankgirot. BiR transmits and verifies payment messages and actual fund transfers are

conducted through RIX, which is the wholesale payment system of the Swedish central bank. BiR has played a foundational role in the growth of cashless payments in Sweden (Bankgirot website and Riksbank studies, 2020).

The dotted part in the above diagram indicates overlay services. These services played a significant role in the popularity and growth of the instant payment system in Sweden. Where BiR is the retail fast payment system, overlay service (Swish which is mostly used in Sweden) is the customer interface that can be used with BiR. Any financial institution or private vendor may create an overlay service that can be used with BiR. The popularity of the Swish overlay service shows that the power of network externalities, a well-designed, user-friendly overlay service is very important for making a fast payment system a success (Riksbank studies, 2013 and Swish website).

Pros and Cons of a fast payment system

Fast payment system usually gives access to the banked population of the country due to the involvement of the banking system or other financial intermediaries. Thus, there is an issue of full accessibility of instant payment to all citizens. A possible solution to this may be an electronic wallet or stored-payment devices offered by non-bank financial institutions. But in this case, this wallet will not be treated as a deposit account and will not necessarily be subject to AML/CFT/KYC (Anti-Money Laundering/Countering the Financing of Terrorism/Know Your Customer) regulations and requirements.

Moreover, fast payment services are value-added services, and their costs need to be funded. Private fast payment system operators also want to earn profit to survive in the market and they price their services likewise. The same is the case for government service providers also. For instance, “Fed Now” which is the fast payment system for the US Federal Reserve is compelled by law to charge users of Fed Now for their services, so no barriers to entry in the market and fair competition is ensured for private fast payment service providers. Thus, ultimately the burden of costs falls upon the end users. Sometimes they tend to show aversion towards using the fast payment system due to costs, though mostly the costs of using cash or other payment methods are higher. In addition, banks may charge customary account fees for fast payment services which may also keep many unbanked people away from the bank account.

A good thing about a fast payment system is that it is generally user-friendly. Because without the ease of use, it cannot enhance its coverage and thus financial inclusion. People may choose publicly or privately designed interfaces based on their ease of use. In cases where privately run interfaces are more popular, the issue of “open banking” comes when banks are required to open their computer system to third-party service providers which can then render financial services to banks’ account holders.

Another important issue is instant payments in an “offline” mode. Due to communication structure failure, or damage to the local electric grid when instant payment becomes unavailable to people in need, enabling the offline mode purchase can be a solution. Here, offline mode purchases will be allowed for postponing the clearing and settlement system. But in this case, also the regulatory issues of AML/CFT/KYC and the issue of transaction ceiling arise.

Any kind of fast payment system always adds to the capabilities of the existing payment system which is mainly conducted through banking channels. So here the “inside money” in the form of bank deposits is used to make payments which are basically liabilities and are subject to default risks. Although there is deposit insurance nowadays in many jurisdictions, systemic risks still remain. Besides, public trust in the banking system is also necessary so that there is no contagious bank run. High dependency on fast payment systems may encourage CBs to economize on the provision of physical cash, which has the potential to worsen the bank run situation even more (Riksbank Economic Review, 2020 and BIS Report, 2021).

Central Bank Digital Currency (CBDC)

It is a form of digital banknote which has the benefit of public access to risk-free central bank money pertinent for deepening public trust in a currency. It improves operational resilience for the central bank’s monetary operation and enhances financial inclusion. There are general purpose or retail CBDC and wholesale CBDC. Retail CBDCs are designed in such a way as to be used widely in the economy by households and businesses. Whereas wholesale CBDC is used by regulated financial institutions (FI) to settle interbank transfers and payments, for example, reserves can be construed as a wholesale form of CBDC utilized only for interbank payments.

CBDCs face challenges like balancing between users’ anonymity and due diligence or KYC requirements, gaining legal status properly outlining

its role and responsibility within the economy and establishing its interoperability. But if properly designed and implemented backed by a robust network and macro-prudential & AML/CFT regulations, CBDCs will have the advantages of settlement finality, liquidity, and integrity.

Design dimensions of CBDC

The CBDC design must touch 3 dimensions or levels, that is, instrument level, system level, and institutional level. CBDC should not be designed in such a way as to create any hindrance for CBs to implement their mandate. In short, it needs to be user-friendly, cost-effective, convertible, resilient, safe and secure, acceptable and available, flexible and adaptable, and needs to be capable of instantaneous settlement (BIS Executive Paper, 2020). To elaborate on acceptability and availability, we may say that as an instrument it needs to be usable 24/7/365 in many forms of the same type of transactions, that is, point of sale (PoS) and person-to-person, etc. It should even be usable in offline transactions, though in such cases there may be time limits and predetermined thresholds. Canada, China, and Sweden are doing their own research and development (R&D) works for CBDC with offline capability (IMF SDN 2018). The system of CBDC should feature scalability to accommodate the potential for large future volumes and throughput to process a very high number of transactions. System resilience to operational failure and disruptions and interoperability are highly valued features of CBDC. Interoperability can be created through the standardization of systems to enhance compatibility and reduce friction between user and merchant adoption. The institutions dealing with CBDC must have a robust legal framework and standards and the authority of CB in this regard should be clear (BIS Executive Paper, 2020).

CBs around the world always try to ensure CBDC design meets three social criteria and functions of money, that is, a unit of account, means of payment, and store of value. At the same time, the design should support three public policy goals of financial integrity, financial stability, and monetary policy effectiveness. Account-based CBDC and Token based CBDC (both with decentralized and centralized settlement technology) are other systemic design features for CBDCs around the world. Account-based CBDCs involve mainly the claim transfer on an account while token-based CBDCs involve the token transfer between wallets. Token-based CBDC has the cash-like feature of anonymity but may create risks in terms of financial integrity, it can also provide instant settlement. Account-based CBDC may enhance financial intermediation-related risks

and funding costs for authorized deposit-taking institutions (ADI) and create the possibility for bank runs in distressful times. CBs can offer both account and token-based CBDC with accounts managed by commercial banks and licensed financial institutions (FI). Both CBDC systems use various identity-verifying means, that is, in either approach, payments can be anonymous, pseudonymous, or fully identifiable. But these two approaches are technology-agnostic, meaning they can be implemented based on traditional technology or Distributed Ledger Technology (DLT) (BIS Report no. 2, 2021).

Convenience is another technological consideration for CBDC design. It may be usable with smartphones using Near Field Communication (NFC) and QR codes. At the same time, it may be usable without smartphones with the stored value cards offered by CBs or interactive display devices designed for PoS terminals, online, offline, and device-to-device transactions. Moreover, specially-abled people with cognitive, motor, or sensory impairments should be able to use this digital currency (WE Forum white papers 2021).

Within a CBDC system, payment is basically a CB liability that is transferred and recorded on a ledger. Five key factors are deemed to impact how a CBDC system meets its core features. They are structure (centralized or decentralized or a combination of both), payment authentication (e.g. identity-based authentication, token-based authentication, or multifactor), functionality (e.g. the ability to synchronize payments), access requirements (to read and write on the ledger), governance (clear cut rules and regulations identifying roles and describing responsibilities of the operators, participants and other service providers and stakeholders) (BIS Executive Paper, 2020).

Distributed ledger technology (DLT), which is used in blockchain, has floated on the surface as a promising alternative to centralized ledger technology. But DLT is being used around the world basically on a pilot and proof of concept basis. For example, China has tested DLT on a pilot basis and has identified that DLT's ability to store data and transaction processing does not meet its requirement. So, the Peoples Bank of China (PBOC) has been using a hybrid architecture for e-CNY (Ananya Kumar, 2022). Riksbank is currently exploring a DLT-based proof of concept, but it does not deem DLT as a necessity. Whereas, the Bahamas and the Eastern Caribbean Central Bank (ECCB) have DLT-based systems and they felt it was secure and valuable for their needs (Soderberg et al, 2022 and Tedesco et al, 2022).

There can be cash-like and deposit-like CBDCs. Cash-like CBDCs are unremunerated or zero-remunerated and deposit-like CBDCs are remunerated CBDCs that pay positive or even negative interest. In theory, remunerated CBDC can pass policy rate changes by CBs immediately to CBDC holders and thus strengthening monetary transmission. Remunerated CBDC provides more incentive in comparison with unremunerated CBDC for end users to shift their focus from bank deposits. CBDCs can be used like helicopter drops to stimulate aggregate demand via direct transfers to the public possibly with the aid of programmable monetary policy conditioning expiry date and types of goods. A CBDC, in case of fiscal transfers, can even possibly blur the differentiation between a monetary policy and a fiscal policy. There is also another possibility of the potential reduction in monetary policy independence which needs to be fully understood and dealt with according to the macroeconomic and political context of each country (BIS Executive Paper, 2020).

CBs consider a combination of quantity and price-based safeguards on a permanent or transitional basis to reduce the attractiveness of CBDC to maintain financial stability and lessen the risk of financial disintermediation. There should be adequate and robust macroprudential regulations and management for the appropriate adjustment of liquidity requirements like liquidity coverage ratio (LCR) as well as to encourage competitiveness in the financial sector. Moreover, there should be well-formulated AML/CFT (Anti-Money Laundering/Countering the Financing of Terrorism) regulations to implement end users' due diligence procedures (e.g., KYC or Know Your Customer arrangements) and at the same time support their privacy in a CBDC ecosystem ensuring financial integrity.

Strategies for CBDC preparation and adoption

CBs around the world, especially of advanced economies (AE), have different motivations and reasons for preparing a central bank currency rather than adopting CBDC (BIS working papers no. 976, 2021). For example, Nigeria cites the following reasons for choosing to implement the eNaira: encouragement of financial inclusion, facilitating diaspora remittances, cost reduction and efficiency improvement of cross-border transactions, increase in revenue and tax collection, cost reduction of cash processing, improvement of availability and usability of money and underpinning a resilient payment system, activating direct welfare disbursements to citizens, etc (Bank of Nigeria design paper and Jack Ree, 2021).

The Peoples Bank of China (PBOC) cites several motivational factors for its initiative toward digital currency. They are – diversification of the forms of cash received by the public through the central bank, satisfying the public’s demand for digital cash, improvement of availability and usability of central bank money, betterment of financial inclusion, improvement of competition, efficiency and safety in retail payments, the rise of cryptocurrencies, etc. (Peoples Bank of China report, 2021).

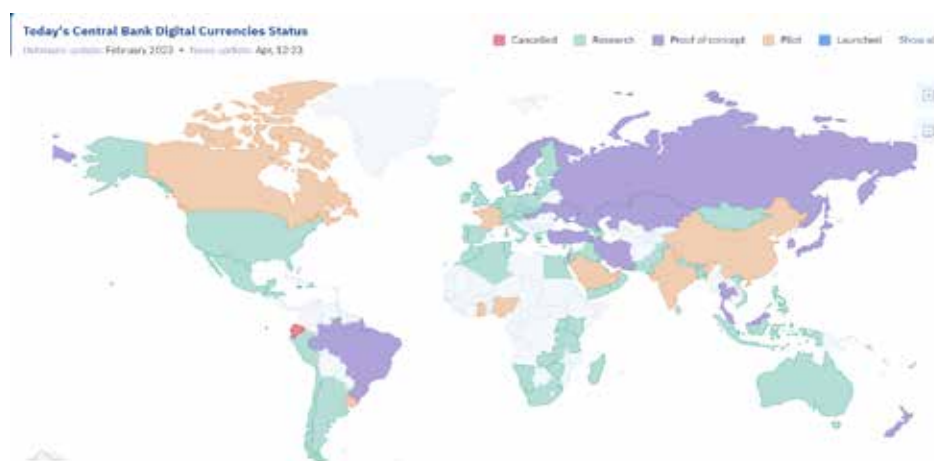
The Bank of Canada also has the following reasons for preparing a central bank digital currency: declining use of Canadian bank notes, improvement of availability and usability of central bank money, availability of one or more alternative private sector digital currencies, and promotion of a competitive payment system. It is important to note that Canada has recently seen the rise of cryptocurrencies and stablecoins as valid stores of value rather than speculative assets to be held for shorter periods. This rise of cryptocurrencies is further pushed by Canada’s policy shift from slow, costly, and not eco-friendly “proof of work” model of maintaining distributed ledger toward a faster, cheaper, and more environment-friendly “proof of stake” model. Regarding Canada’s interest in building up a competitive payment system, it can be said that from a public welfare perspective, the payments processing business should be low-margin and high-volume. Therefore, there is a natural tendency for private electronic payment systems to become monopolies resulting in lower-quality service and high-cost transactions. In such a situation, the CBDC-based payment system may establish competitive discipline to a highly concentrated private system (Bank of Canada background materials, 2020).

A CBDC preparation and adoption strategy should be tailor-made for diversified economic structures and payment landscapes to fulfill unmet user needs, to achieve network effects. The strategy can be implemented using existing, accessible technology and infrastructures, keeping in mind the pace of change in the payment landscape. Analysis of relevant market segments should be conducted to identify user needs and to design informative and fruitful consultations with prospective end-users. There should be motivational factors in the strategy to attract the unbanked population into CBDC use by providing low-cost, dedicated, and universal access devices with readily accessible end-point solutions which can be supported by both bank and non-bank financial institutions.

CBDC has a high prospect of becoming the next milestone in the evolution of money. Throughout history, we see that the basic functions of money may not change, but the form of money has evolved depending upon

the need of its users. Digitization of human activities has encouraged many CBs around the world to consider the issuance of CBDCs for the betterment of financial inclusion and speed of financial service delivery. But side by side, countries need to assess the domestic demand for cash use and the tech-friendliness of the population. Competitors to CBDCs are cash, commercial bank deposits (e.g., wrapper technology or CB-provided fast-payment solutions), narrow finance (e.g., stored value facilities and narrow banks), and cryptocurrencies. Therefore, countries need to design a contextual, appropriate, and competitive landscape taking into consideration the existing and evolving forms of money ensuring their own public policy goals in alignment with the public interest. For that to happen, systemic designs around the CBDC should improve financial integrity, support users justified right to privacy, facilitate fiscal transfers and cross-border payments, ensure coexistence with the payments systems already in place, support innovation and interoperability among systems and flexibility within systems, ensure operational resilience, security and public trust in the CBDC as a public good.

Diagram 2: CBDC adoption status throughout the world



Source: <https://cbdctracker.org/>

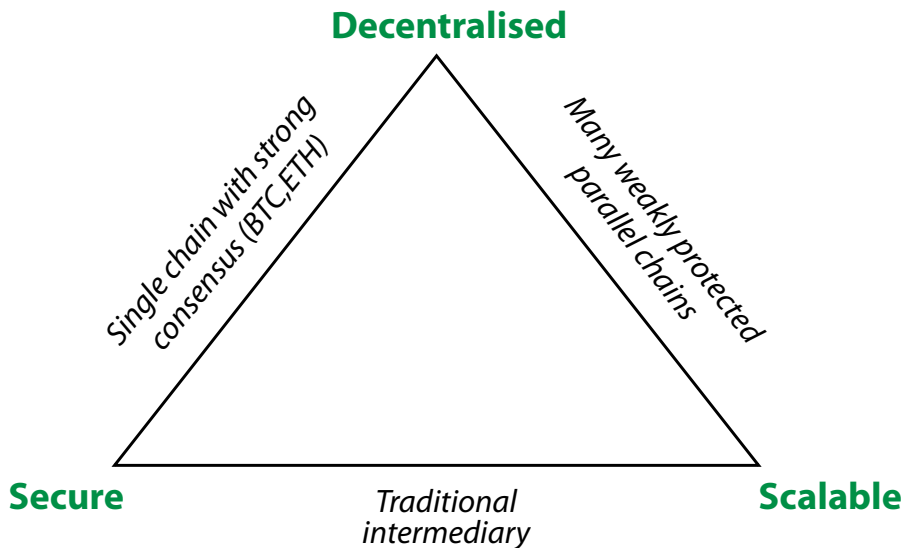
Cryptos

The crypto story begins with the emergence of Bitcoin in 2008 by an originator pseudonymized Satoshi Nakamoto. It is a type of unregulated, digital money, which is issued and usually controlled by its developers, and used and accepted among the members of a specific virtual community (ECB 2012) e.g., Bitcoin, Ethereum, and Ripple. These cryptos are different from each other in many dimensions. These

currencies are not the liability of any institution, and they are not backed by assets. Due to rigid issuance rules their value is usually very volatile.

A tendency towards fragmentation with many incompatible settlement layers due to the limited scalability (capacity for transaction processing) of blockchains is a structural flaw of cryptos. When a blockchain system has a high number of users, the congestion worsens, increasing transaction fees and such potential new users economize on security in favor of higher capacity. So, there is a scalability trilemma in the blockchain which basically claims that blockchain systems can only at most have two of the following three properties: decentralization (decentralized trust), scalability, and security (Auer et al, 2021; Buterin, 2021 and BIS Annual Report, 2022). This fragmentation and scalability trilemma questions the suitability of crypto as money.

Diagram 3: Scalability trillema



Sources : Auer et al (2021); Buterin (2021), BIS annual report (2022)

A very significant innovation in the crypto landscape since the bitcoin's rise is "smart contract platforms" which permit the execution of general financial contracts between users named as "smart contracts". They are mainly computer programs that execute the conditions of the contracts without having any intermediary to authenticate whether the conditions are really met. Therefore, trust is placed in the computer program that executes the contract. For example, Ethereum and its native cryptocurrency named Ether. Ethereum also uses blockchain technology and proof of

work consensus mechanism. Though currently, it is planning to shift towards a proof of stake consensus mechanism. Ethereum network allows for both the trading of Ether and “Tokens” (representation of any asset on the Ethereum network through “tokenization”). Tokenization is the vision of the Ethereum network which will be materialized when all assets can be represented through this process creating “crypto assets”. Crypto assets can be constructed through computer code without any centralized party anywhere in the transaction. Ethereum vision will thus ultimately create a world of “decentralized finance”, abbreviated to, “DeFi”. Because of this DeFi world “Decentralized Applications (DApps)” is gaining popularity, sometimes facilitating “Decentralized Exchanges” which function through “Automatic Market Making” algorithms without any broker in the middle. The most important type of token that exists today is stablecoins. Stablecoins are cryptocurrencies that are not issued by any CB and are pegged to a reserve asset (e.g., gold or the US dollar). Sometimes they can be fully backed by sovereign fiat currencies (e.g., mostly the US dollar). There may be on-chain stablecoins, off-chain stablecoins, and algorithmic stablecoins. These tokens are redeemable one-to-one with fiat currency through the original issuer (Board of Governors of The Federal Reserve System. 2022; Kosse et al, 2021 and Prasad, E., 2021).

Strategies for Crypto adoption

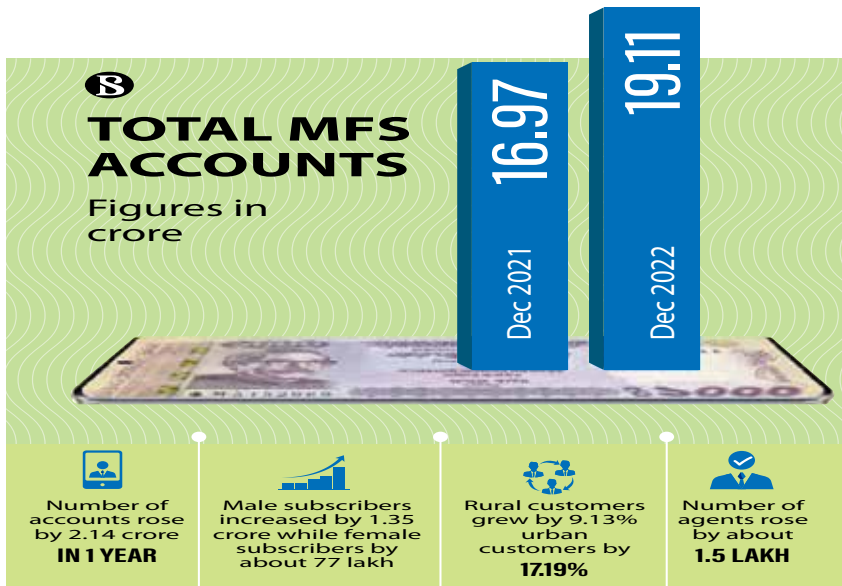
The game-changing rise of cryptocurrencies and related technologies comes with numerous policy questions. These questions relate to the integrity of markets and payment systems, risks of financial disintermediation, safeguards for the consumers and investors, loss of monetary sovereignty and efficacy of capital flows, monitoring of cross-border payments and enforcement of existing capital controls, financial stability, fighting illicit use of funds (AML/CFT-related concerns), and incentivization of innovative practices and efficiency in public services in the long run. Countries around the world have different approaches to crypto and its regulation. For example, El Salvador and the Central African Republic recently decided to adopt Bitcoin as legal tender, though research data shows the acceptance level of Bitcoin among the El Salvador population is very low. Whereas there is a ban on the mining and trading of cryptocurrencies in China and Bangladesh. Though China has implemented this ban phase by phase. Jurisdictions like the US, the EU, and Japan are legislating regulatory frameworks for cryptocurrencies. For a better articulation of these regulatory frameworks,

some fundamental questions arise: What should be the status of cryptos – Currencies, securities, or commodities? What are the usable criteria to determine what set of rules apply to them? Depending upon answers to these questions treatment of crypto-assets will differ across several dimensions and the issue of identification of appropriate authority to deal with a certain type of crypto-assets will be resolved. Regarding the mitigation of AML/CFT concerns, many jurisdictions (e.g., the US) have applied bank secrecy laws and KYC rules on crypto-exchanges. Nowadays from the viewpoint of the potential financial stability effects of cryptocurrencies, stablecoins seem to be the main talking point for policymakers. Even though it has some potential complications, it has some benefits also including financial inclusion and payment efficiency, especially in the case of cross-border payments. Most importantly still there is a legal vacuum in the arena for the regulation of stablecoins which should be quickly filled up clearly articulating usable areas, justified restraint, and any size cap if required. Some experts say stablecoins should be regulated like ADIs (Authorized Deposit-taking Institutions) or MMFs (Money Market Funds) (Schar, F., 2021).

Bangladesh perspective

In Bangladesh demand for cash still persists and a significant portion of the population is not still reasonably tech-savvy. Bangladesh has 95% coverage of 4G but there is only around 50% smartphone penetration which will continue to rise steeply (GSMA Report, March 2021). So, there is a high prospect that more people will get used to cashless transactions. Currently, in Bangladesh, there are more than 65 lac internet banking users and more than 19 crore subscribers of MFS (up to February 2023) according to Bangladesh Bank data. Therefore, a study should be conducted at the national level to assess the demand for cash and people's changing perceptions about cash use in society. Without this sort of assessment or survey, going cashless will probably be the wrong approach to adopt. Cryptos are still banned in Bangladesh due to their high instability in value, AML/CFT concerns, high power consumption, some negative monetary and financial sector implications, and so on. But worldwide popularity of cryptos is on the rise, so Bangladesh needs to adjust and adopt suitable policies accordingly. Finally, the introduction of CBDC is still on the probability horizon and further serious studies and piloting need to be conducted in this regard.

Diagram 4: Comparison of MFS accounts user status in Bangladesh between December 2021 and December 2022



Source: tbsnews.net

Moreover, the cost-benefit analysis of going cashless, socio-economic behavioral study for a cashless society, national digital infrastructural capacity, network connectivity, banking coverage, cyber security, currency competitiveness, fiscal and monetary policy implications, implications for the cross-border transactions, prudential regulatory effects, AML/CFT related regulatory and policy effects, spillover effects on the economy, etc. are some of the issues that need to be taken into consideration while introducing digital currencies and instant payment systems all over the country as well as creating a cashless Bangladesh.

Concluding remarks

Both CBDC and cryptocurrencies are competitors to each other. As I said earlier, one of the motivations behind the introduction of CBDC is the proliferation of cryptocurrencies and especially stablecoins in recent years. They in some way cancel out each other's demands if they can function in a secure way and at a low cost. Notwithstanding that, it is still not obvious to what extent CBDCs will diminish the appeal of cryptocurrencies and crypto-assets to the public. Moreover, the growth of instant payment systems and digital, branchless, and open banking can also be a viable alternative to CBDCs and cryptocurrencies. Although, all of them along

with a very limited use of cash can even coexist together. Research frontiers, feasibility studies, and pilot experiments pivoting around all forms of digital currencies need significantly indicative outcomes for any government to take any well-informed decisions for finally adopting or not adopting any design and form of digital currencies. So, policymakers should take a very cautious, holistic, and phased approach in assessing the demand, utility, need, and cost-benefit of these currencies and payment systems clearly understanding the transformational phases and interactions between macroeconomic sectors. Finally, robust coordination between monetary and fiscal policies maximizing the public welfare and the possibility of any domestic and cross-border socio-political and macroeconomic repercussions also need to be considered.

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Understanding the Fiscal Policy of Bangladesh

Md Abul Kashem*

Abstract

Fiscal policy is the fundamental plan of the income and expenditure of a government. To conduct government functions and increase productivity, the government collects money from taxes and includes tax services. It is an important tool for managing the economy because of its ability to affect the total amount of output produced that is the gross domestic product. Fiscal policy and monetary policy are often used together to influence the economy. A well-balanced fiscal policy can maintain economic stability and accelerate economic growth through poverty alleviation. Proper fiscal policy preparation and implementation is the constitutional responsibility of the government. In fiscal policy, the government balances total resources and expenditures to ensure an economy's overall development of a country.

Keywords

Fiscal Policy, Receipt, Payment, Revenue, Expenditure, and Debt

Introduction

The fiscal policy of Bangladesh refers to the government's actions and measures concerning taxation, spending, and borrowing to achieve economic stability and promote sustainable economic growth. The main objectives of Bangladesh's fiscal policy include mobilizing revenue, allocating resources efficiently, ensuring macroeconomic stability, and promoting social welfare (Daniel et al., 2006). The main tools to achieve these objectives are public revenue, public expenditure, and management of public debt (Bangladesh Economic Review, 2023). However, the government aims to generate revenue through taxes, customs duties, and other sources. It focuses on broadening the tax base, improving tax administration, and reducing tax evasion to increase revenue collection.

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Besides, the government allocates public resources for different sectors, such as education, healthcare, infrastructure development, and social protection programs. It prioritizes investment in key areas to foster economic growth and reduce poverty. The government carefully manages its borrowing and debt repayment obligations to avoid excessive debt burdens. It strives to maintain a sustainable debt-to-GDP ratio and ensures that debt servicing does not become a burden on future generations. This article aims to provide an overview of the fiscal policy framework of Bangladesh, highlighting its objectives, key components, challenges, and strategies for the future.

Objectives of Fiscal Policy

The fiscal policy of Bangladesh is designed to achieve several key objectives that contribute to the country's economic stability, sustainable growth, and social welfare. These include:

Revenue mobilization

One of the main objectives is to mobilize sufficient revenue to finance government expenditures and public investments (Pragyandeepa, 2017). This involves broadening the tax base, improving tax administration, and reducing tax evasion to enhance revenue collection and reduce reliance on external financing.

Income redistribution

Fiscal policy reduces income inequality and promotes equitable wealth distribution (Pragyandeepa, 2017). Progressive taxation ensures that individuals with higher incomes contribute proportionally more to public funds. Additionally, targeted expenditure on social safety nets, education, healthcare, and poverty alleviation programs aims to uplift the most vulnerable segments of society and reduce income disparities.

Macroeconomic stability

Fiscal policy aims to maintain macroeconomic stability by promoting price stability, controlling inflation, and managing aggregate demand. It coordinates fiscal measures with monetary policy to ensure a stable macroeconomic environment.

Resource allocation

Fiscal policy aims to allocate resources efficiently and effectively to various sectors and prioritize public spending in critical areas such as education, healthcare, infrastructure, and social protection (Pragyandeepa, 2017).

The goal is to promote sustainable economic development and improve the overall quality of life for the citizens of Bangladesh.

Public debt management

Fiscal policy framework includes measures to ensure prudent management of public debt. It aims to maintain a sustainable level of public debt, avoid excessive borrowing, and manage debt servicing obligations effectively to prevent future fiscal risks (Boyce, 2023).

Poverty reduction and social welfare

Fiscal policy incorporates social safety net programs and targeted transfers to reduce poverty, address income disparities, and promote social welfare (Savita, 2014). These programs aim to provide support to vulnerable populations and ensure access to basic services such as healthcare, education, and social protection.

Sector-specific development

Fiscal policy includes sector-specific measures to promote growth and competitiveness in key sectors of the economy. It may involve providing tax incentives, subsidies, and investment promotion policies tailored to industries such as agriculture, manufacturing, and services.

Economic stability and resilience

Fiscal policy of Bangladesh seeks to enhance the resilience of the economy against external shocks and promote stability (Pragyandeepa, 2017). This involves building fiscal buffers, maintaining fiscal discipline, and implementing structural reforms to strengthen the overall economic framework.

Equity and social justice

Fiscal policy aims to promote equity and social justice by reducing income disparities, addressing regional imbalances, and ensuring fair distribution of public resources (Savita, 2014). It seeks to create an inclusive economy where all citizens have access to opportunities and benefits of economic growth.

Key Components of Fiscal Policy

The fiscal policy of Bangladesh comprises various components that work in synergy to achieve its objectives. The key components are revenue generation and grants, expenditure allocation, and public debt management (Savita, 2014). These are detailed below.

Revenue generation and grants

Bangladesh relies on revenue generation through both tax revenue and non-tax revenue (NTR). Tax revenues are generated through the National Board of Revenue (NBR) Tax and Non-NBR Tax. Direct and indirect taxes are collected by NBR. Direct taxes, such as income tax, corporate tax, and wealth tax, are levied on individuals and businesses based on their income and profits. Indirect taxes, including value-added tax (VAT), customs duties, and excise duties, are imposed on the consumption of goods and services (Jha, 2007). Various types of revenues are illustrated below.

Tax revenues

Tax revenues are the compulsory and unrequited receipts collected by the government for public purposes from individuals, businesses, and other entities through various taxation mechanisms. These revenues are essential for financing public expenditures and providing essential services and infrastructure (Savita, 2014). Tax revenues are classified into two groups, such as-NBR tax revenues, and non-NBR tax revenues.

NBR tax revenues

The taxes collected by the National Board of Revenue are known as NBR Taxes. NBR is the tax authority in Bangladesh, responsible for tax administration and collection of various taxes in the country (NBR, Bangladesh). It formulates tax policies, registers taxpayers, processes tax returns, conducts audits and investigations, and takes legal actions against tax evaders and offenders (NBR, Bangladesh). NBR administers different types of taxes, including income tax, property tax, value-added tax (VAT), customs duty, supplementary duty, excise duty, and other taxes and duties (NBR, Bangladesh).

Non-NBR tax revenues

Non-NBR tax revenues are taxes that are not administered or collected by the NBR. These taxes are usually imposed and managed by other government agencies or departments. Local government tax will not come under these taxes as it is not under Finance Act. Because, it has its own consolidated fund, and is not under the budgetary central government. Land development tax, motor vehicle/road tax, stamp (non-judicial) duty, narcotics duty, liquor duty etcetera fall under the purview of Non-NBR tax revenues (NBR, Bangladesh).

Non-tax revenues

Non-tax revenues are the income generated by the government that does not stem from the taxation system. These revenues are derived from various sources other than taxes. These revenues serve as an additional income stream for governments and can help diversify their revenue sources. The instances of non-tax revenues are dividends and profit, the interest of loans, administrative fees and charges, fines, penalties, and forfeiture, receipts for service rendered, rents, leases and recoveries, tolls, levies, non-commercial sales, other non-tax revenues, and capital revenue (Chowdhury, M. M. 2022).

Grants

Grants are unrequited receipts received from other governments or international institutions, such as the United Nations or the World Bank, with the intention of providing financial assistance or support for specific projects or programs (Jha, 2007). These funds are typically provided without the expectation of repayment, unlike loans which have to be paid back with interest (Chowdhury, M. M. 2022).

Government Expenditure

Effective allocation of government expenditure is crucial for promoting economic development and addressing societal challenges. In Bangladesh, public expenditure is directed toward critical sectors such as education, healthcare, infrastructure development, agriculture, and social safety nets. Investments in education and healthcare enhance human capital, while infrastructure development improves connectivity, trade facilitation, and overall economic productivity (Jha, 2007). Furthermore, targeted expenditure on social safety nets aims to provide support to vulnerable segments of society and reduce poverty. However, government expenditures are classified into two groups that are operational expenditure and development expenditure (Chowdhury, M. M. 2022).

Operational expenditure

Government operational expenditures are the funds allocated by a government to meet the day-to-day expenses and ongoing costs associated with running the government and delivering public services. Governments carefully allocate their operational expenditure through the budgeting process to ensure that public services are adequately funded while maintaining fiscal responsibility (Savita, 2014). It encompasses various areas such as administrative expenses, employee salaries and benefits,

public services, healthcare, education, infrastructure maintenance, social welfare programs, and many more (Jha, 2007). Operational expenditures are divided into two divisions which are known as recurrent expenditure and capital expenditure (Chowdhury, M. M. 2022).

Recurrent expenditure

Recurrent expenditures are the current or revenue expenditure of the government, through which the expenses related to the day-to-day operations of the government are mainly met. Expenditure on salaries and allowances of officers and employees, repairs and renovations, subsidies and transfers, interest payments, grants, and social benefits, use of products and services, administrative expenses, fees, charges and commissions, foreign training, internal training, internal travel and transfers, foreign travel and transfer, petrol, oil and lubricants, agricultural supplies, supply of medical and chiropractic equipment, supply of public order and security materials, food supply, printing, and stationery, etc. are included in the current expenditure (Finance Accounts, 2018-2019).

Capital expenditure

Capital expenditure refers to expenditure on investment that provides benefits and services for more than one year. Construction of infrastructure, such as the construction of roads or buildings and the purchase of technical goods, vehicles, or machinery with a useful life of more than one year are also included in capital expenditure (Finance Accounts, 2018-2019). In such cases, the procurement of non-financial assets and expenditure of capital nature on development projects are accounted for as capital expenditure.

Development expenditure

Development expenditures refer to the funds allocated by the government for investment in various sectors with the goal of promoting economic growth, infrastructure development, poverty reduction, and social progress (Finance Accounts, 2018-2019). It is typically aimed at improving the population's overall well-being and uplifting the country's socioeconomic conditions. Development expenditure is divided into recurrent expenditure and capital expenditure. Development expenditure is carried out through scheme, Annual Development Programme (ADP), Non-ADP project expenditure, and Non-ADP Development Expenditure (Finance Accounts, 2018-2019).

Public Debt Management

Bangladesh manages its public debt prudently to maintain fiscal discipline and ensure debt sustainability. The government borrows from domestic and external sources to finance development projects and meet budgetary requirements (Finance Accounts, 2018-2019). Total public debt is made up of domestic liabilities and external liabilities. Internal liabilities include Treasury Bills, Treasury Bonds, Ways and Means Advances under Consolidated Funds, and other sub-categories under Government Accounts of the Republic, such as Currency and Securities and Other Accounts Payable. On the other hand, the government's foreign liabilities include foreign debt and transactions with the IMF (Finance Accounts, 2018-2019).

Internal liabilities

Three types of internal debt instruments are Treasury Bills, Treasury Bonds, and Bangladesh Government Investment Sukuk which are included in domestic filings (Finance Accounts, 2018-2019).

Treasury Bills, Treasury Bonds, and Sukuk

Treasury Bill is a short-term debt instrument with a maturity of less than one year. Treasury Bills are issued by the Central Bank but its liability is backed by the Government of Bangladesh. Treasury Bonds are government debt securities issued by the Government of Bangladesh with tenure from 1 year to 25 years. Treasury bonds earn interest periodically until maturity, and at maturity, the buyer is paid an amount equal to the bond's principal amount (Finance Accounts, 2018-2019). Bangladesh government investment sukuk are governed by Islamic Shariah law, thereby paying dividends in proportion to the investor's share rather than paying interest on the contrary.

Ways and Means

In accordance with the agreement between the government of Bangladesh and Bangladesh Bank, the government is required to maintain a minimum cash balance of Tk. 50 lakh in the Treasury Single Account (TSA) maintained with Bangladesh Bank (Finance Accounts, 2018-2019). If the cash position falls below the minimum amount on any working day, the government can take short-term loans from Bangladesh Bank through Ways and Means Advance and Ordinary Overdraft Current (ODC) arrangements to meet the cash deficit. Later, if the cash position of the government money increases,

Bangladesh Bank automatically deducts and adjusts the loan provided with interest (Finance Accounts, 2018-2019).

External liabilities

The external liabilities of the government include external debt and transactions with the IMF. To meet budget deficits or to finance development projects, governments take loans from development aid countries and organizations, which are subject to repayment obligations. According to the Rules of Business, the responsibility of the Economic Relations Department is to collect and repay loans from foreign sources (Finance Accounts, 2018-2019). Annual Development Plan and Non-Annual Development Plan development projects and schemes are implemented through loans collected from development partner countries and organizations. On the other hand, instead of investing in development projects, the IMF usually directly provides loans to the Bangladesh government for budget support, reducing the balance of trade deficit, etc.

Challenges of Fiscal Policy and the coping strategies

Fiscal policy which shapes the government's approach to addressing economic and social issues is fraught with many challenges. Here are some of the key areas wherefrom the challenges emerge:

Revenue mobilization

Here are some of the key challenges faced by NBR while mobilizing revenues in Bangladesh.

Challenges

A. Low tax compliance: One of the major challenges in revenue mobilization is the low tax compliance rate. Many individuals and businesses operate in the informal sector, resulting in a narrow tax base. Tax evasion and avoidance practices further reduce the revenue collection potential (IMF, 2015).

B. Informal economy: A significant portion of economic activities in Bangladesh occurs in the informal sector, which makes it challenging to effectively capture and tax these transactions (Isak, 2018). Informal businesses and individuals often escape the tax net, leading to revenue leakage.

C. Weak tax administration: Weak tax administration hampers revenue mobilization efforts. Inefficient tax collection systems, outdated technology, and the limited capacity of tax officials contribute to lower

revenue collection (World Bank, 2015). Delays in tax assessment, auditing, and enforcement processes further hinder revenue generation.

D. Complex tax structure: The tax structure in Bangladesh is complex, with multiple tax rates, exemptions, and concessions. This complexity creates opportunities for tax planning and reduces the effectiveness of revenue mobilization (IMF, 2015). Simplifying the tax structure and reducing exemptions can enhance revenue collection.

E. Taxpayer awareness and education: Limited taxpayer awareness and understanding of tax obligations and procedures pose a challenge to revenue mobilization. Many taxpayers lack knowledge of their tax responsibilities, resulting in non-compliance and underreporting of income (IMF, 2015).

Strategies

A. Broadening the tax base: The government focuses on broadening the tax base by bringing more individuals and businesses into the formal tax net (Isak, 2018). This includes registering informal businesses, incentivizing voluntary compliance, and improving tax registration and identification processes.

B. Strengthening tax administration: Strategies are employed to strengthen tax administration by investing in modernizing tax systems, enhancing technology infrastructure, and improving the capacity and skills of tax officials (World Bank, 2015). Automation and digitization of tax processes can streamline tax collection and enforcement efforts.

C. Tax policy reforms: The government undertakes tax policy reforms to simplify the tax structure, reduce exemptions, and rationalize tax rates (World Bank, 2015). This simplification helps enhance revenue mobilization and reduces tax evasion and avoidance opportunities.

D. Enhancing tax compliance and enforcement: Measures are taken to enhance tax compliance through improved enforcement and auditing mechanisms. Strengthening tax enforcement units, conducting risk-based audits, and adopting a more proactive approach to detecting tax evasion contribute to higher revenue collection (IMF, 2015).

E. Taxpayer education and awareness: The government promotes taxpayer education and awareness campaigns to inform individuals and businesses about their tax obligations, rights, and benefits. Providing accessible information, conducting outreach programs, and improving taxpayer services can improve compliance and promote a culture of voluntary tax compliance.

F. International cooperation: Bangladesh engages in international cooperation to combat tax evasion and improve revenue mobilization. This includes exchanging tax-related information with other countries, participating in global initiatives against tax evasion, and strengthening cooperation with international organizations such as the OECD.

G. Anti-corruption measures: Tackling corruption in revenue administration is crucial for effective revenue mobilization. Implementing anti-corruption measures, ensuring transparency, and promoting accountability in tax administration can help reduce revenue leakage and enhance collection (World Bank, 2015).

H. Increasing tax-to-GDP ratio: Bangladesh faces a challenge of a low tax-to-GDP ratio, which limits the government's revenue mobilization capacity. To address this, the government has implemented strategies such as broadening the tax base, improving tax administration, and reducing tax evasion (World Bank, 2015). Efforts are made to bring more taxpayers into the formal tax system and enhance tax compliance through technological advancements and strengthening tax enforcement mechanisms.

I. Combating tax evasion: The government has taken steps to address tax evasion through stricter enforcement and penalties. Anti-corruption measures, including the establishment of specialized tax courts, have been implemented to expedite tax-related cases and deter tax evaders (World Bank, 2015). Collaboration with international organizations and the exchange of tax information with other countries have also been prioritized to combat cross-border tax evasion.

J. Enhancing institutional capacity: Weak institutional capacity poses a challenge to effective fiscal policy implementation in Bangladesh. The government focuses on enhancing institutional capacity through training and capacity-building programs for tax officials, budgetary officials, and public financial management personnel (World Bank, 2015). Strengthening institutions and improving governance contribute to better fiscal management.

Operational efficiency

Ensuring efficient utilization of public expenditure is crucial for maximizing the impact of fiscal policy interventions. Bangladesh faces challenges related to leakages, inefficiencies, and corruption in public expenditure. Here are some of the key challenges faced by public expenditure efficiency in Bangladesh, and to address these challenges, the government has adopted several strategies.

Challenges

A. Limited absorptive capacity: Bangladesh faces challenges related to the limited absorptive capacity of public agencies to effectively and efficiently utilize allocated funds (Curristine, 2007). This leads to delays in project implementation and underutilization of resources.

B. Weak project planning and management: Weak project planning and management processes hinder the efficient utilization of public funds. Inadequate project design, weak monitoring and evaluation systems, and insufficient coordination among implementing agencies contribute to delays, cost overruns, and low project performance (Curristine, 2007).

C. Corruption and leakages: Corruption and leakages in public expenditure significantly challenge efficiency. Embezzlement of funds, misappropriation, and inefficiencies in procurement processes result in the diversion of resources and suboptimal utilization of public funds.

D. Fragmented public expenditure: Fragmented and uncoordinated public expenditure across different ministries and agencies can lead to duplication, inefficiencies, and suboptimal allocation of resources. Lack of coordination and integration in budgetary processes and planning hinder the overall efficiency of public expenditure.

Strategies

A. Strengthening public financial management: Enhancing public financial management systems is vital for improving operational efficiency. The government has focused on strengthening budgetary processes, improving transparency and accountability, and implementing effective monitoring mechanisms (Curristine, 2007). Measures such as the introduction of performance-based budgeting and expenditure tracking systems have helped improve resource allocation and utilization.

B. Enhancing public procurement practices: Streamlining public procurement is essential to minimize leakages and corruption in expenditure. The government has implemented reforms to enhance transparency, competition, and efficiency in the procurement process. The digitization of procurement systems, the establishment of central procurement authorities, and capacity-building initiatives have contributed to more effective and accountable procurement practices.

C. Outcome-oriented expenditure: Shifting the focus towards outcome-oriented expenditure is crucial for ensuring the efficient utilization of

public funds. The government has emphasized results-based management and evaluation of public programs and projects (Curristine, 2007). This approach helps identify successful initiatives, allocate resources effectively, and improve the overall impact of public expenditure on socio-economic development.

D. Strengthening project management: The government focuses on improving project management practices, including project identification, feasibility studies, and project implementation monitoring. Capacity-building programs, training, and technical assistance are provided to enhance the project management skills of public officials.

E. Enhancing transparency and accountability: Measures to enhance transparency and accountability in public expenditure are crucial. The government implements strategies such as strengthening procurement processes, introducing e-procurement systems, and promoting open and competitive bidding processes (Curristine, 2007). This helps reduce corruption, increase efficiency, and ensure value for money in public spending.

F. Budgetary reforms: Budgetary process reforms enhance public expenditure efficiency. The government undertakes measures such as medium-term expenditure frameworks (MTEFs), performance-based budgeting, and outcome-oriented budgeting to improve resource allocation, prioritization, and monitoring of public expenditure.

G. Strengthening monitoring and evaluation systems: The government emphasizes the establishment of robust monitoring and evaluation systems to track project progress, identify bottlenecks, and ensure the efficient use of public funds. Regular monitoring and evaluation help identify inefficiencies, address implementation challenges, and improve the overall performance of public expenditure (Curristine, 2007).

H. Coordinated and integrated approaches: The government promotes coordinated and integrated approaches to public expenditure management. This involves improving coordination among different ministries and agencies, harmonizing budgetary processes, and enhancing inter-agency collaboration. Coordinated approaches help avoid duplication, streamline resource allocation, and maximize the impact of public expenditure.

I. Capacity development: Capacity-building programs and training initiatives are undertaken to enhance the skills and knowledge of public officials involved in expenditure management. Building capacity in project planning, financial management, procurement, and monitoring

and evaluation helps improve the efficiency and effectiveness of public expenditure (Curristine, 2007).

Public Debt Management

Public debt management is a critical aspect of the fiscal policy of Bangladesh as it ensures sustainable borrowing, minimizes fiscal risks, and maintains debt sustainability. Here are some key challenges faced by the government while managing public debt strategies.

Challenges

A. External debt vulnerability: Bangladesh relies on external borrowing to finance its development projects. However, external debt vulnerability poses a challenge due to exchange rate fluctuations, changes in global interest rates, and exposure to international financial market volatility (Fourie, 2022). These factors can impact debt sustainability and increase repayment risks.

B. Debt servicing capacity: The government needs to ensure it has the capacity to service its debt obligations without straining its fiscal resources (IMF & World Bank, 2001). Adequate revenue generation and efficient allocation of funds are crucial to meet debt servicing requirements and avoid default risks.

C. Liquidity management: Managing liquidity to meet debt obligations is a challenge for the government. It requires careful cash flow management to ensure timely payment of interest and principal without resorting to short-term borrowing, which may have higher interest costs (IMF & World Bank, 2001).

D. Contingent liabilities: Contingent liabilities, such as guarantees and Public Private partnerships (PPPs), pose potential risks to public debt management (IMF & World Bank, 2001). These liabilities may become due under certain circumstances, requiring the government to make payments. Managing and monitoring contingent liabilities is crucial to avoid unexpected debt burdens.

Strategies

A. Prudent borrowing strategy: The government adopts a prudent borrowing strategy to manage public debt. This includes careful assessment of borrowing needs, analyzing the cost and risk associated with different sources of borrowing (domestic and external), and selecting the most

favourable borrowing terms (IMF & World Bank, 2001).

B. Debt sustainability analysis: Regular debt sustainability analysis helps the government assess the long-term implications of its borrowing decisions (Fourie, 2022). It involves analyzing debt-to-GDP ratios, debt service-to-revenue ratios, and other indicators to ensure that debt remains within sustainable limits (IMF & World Bank, 2001).

C. Diversification of funding sources: To reduce dependency on a single source of funding, the government focuses on diversifying its funding sources (IMF & World Bank, 2001). This includes accessing international capital markets, seeking financing from multilateral institutions, and exploring alternative financing options such as Islamic bonds (sukuk) to expand the investor base and mitigate risks (Chowdhury, M. M., 2022).

D. Strengthening debt management capacity: The government works on strengthening its debt management capacity by improving debt recording, reporting, and monitoring systems (IMF & World Bank, 2001). This includes enhancing debt data management, adopting international best practices in debt management, and building the skills of debt management officials.

E. Debt restructuring and refinancing: The government may explore debt restructuring or refinancing options to manage debt repayment obligations (Fourie, 2022). This involves negotiating favourable terms with creditors, extending maturity periods, or refinancing debt at lower interest rates to reduce debt servicing costs (IMF & World Bank, 2001).

F. Building fiscal buffers: Creating fiscal buffers is essential to manage unexpected shocks and contingencies. The government aims to maintain reserves and contingency funds to address emergencies and mitigate the impact of adverse events on public debt management.

G. Strengthening debt transparency and governance: Promoting transparency and governance in debt management is crucial to mitigate risks and ensure accountability (IMF & World Bank, 2001). The government focuses on enhancing transparency in debt-related information, disclosure practices, and governance frameworks to build investor confidence and reduce uncertainties.

H. Debt management reforms: Continual reforms in debt management practices help improve efficiency and effectiveness (National Treasury, 2018). The government undertakes measures such as developing a comprehensive debt management strategy, streamlining debt issuance

procedures, and enhancing coordination among relevant agencies involved in debt management (IMF & World Bank, 2001).

I. Debt monitoring and risk management: The government has strengthened its debt monitoring and risk management frameworks to effectively assess and manage debt-related risks (IMF & World Bank, 2001). Regular debt sustainability analyses, monitoring of debt service obligations, and proactive measures to mitigate currency and interest rate risks have been implemented to ensure sustainable debt management (Fourie, 2022).

J. Economic diversification and revenue generation: Promoting economic diversification and enhancing revenue generation can help reduce debt risks (Fourie, 2022).

Conclusion

Fiscal policy plays a crucial role in promoting economic development, reducing poverty, and achieving sustainable growth. With a focus on revenue generation, expenditure allocation, and debt management, the government strives to strike a balance between fiscal consolidation and public investment. However, challenges persist in revenue mobilization, public expenditure efficiency, infrastructure development, and social safety nets. By implementing comprehensive reforms, strengthening institutions, and adopting innovative strategies, Bangladesh can face these challenges and create a conducive environment for inclusive and sustainable development.

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Artificial Intelligence: Preparedness of Audit and Accounts Professionals in Bangladesh

Jannatul Ferdous*

Abstract

The world of accounting and auditing is changing rapidly with the introduction of Artificial Intelligence (AI) and automation. As Bangladesh emerges as a growing economy, the role of AI in accounting and auditing is becoming increasingly important. Artificial intelligence (AI) is drastically transforming the audit and accounts profession everywhere including Bangladesh, with the use of AI-powered tools to automate tasks, identify risks, and provide insights that were previously unavailable. As a result, audit and accounts professionals are facing new challenges and opportunities. In Bangladesh, the accounting and auditing profession is lagging behind in adopting technological advancements. However, AI is slowly making inroads into the profession. With the increasing development of the IT sector in Bangladesh, the adoption of AI is becoming more widespread. In this article, we will explore the potential of AI in accounting and auditing in Bangladesh, its impact on the profession, its limitations and how the accounts and audit professionals are getting ready to face this upcoming revolution.

Keywords

Artificial Intelligence, Audit, Accounts, Datamining, Big Data, Prediction, Analytics, Sustainability, Ethics, Morality, Bias, Talent, Automation, Risk.

Introduction

Artificial intelligence (AI) has created a furor recently with its possibility to revolutionize how people approach and solve different tasks and complex problems. From healthcare to finance, AI and its associated machine-learning models have demonstrated their potential to streamline intricate

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processes, enhance decision-making patterns and uncover valuable insights. The very recent introduction of AI Chatbots has taken the internet by storm as these Chatbots have exhibited human like sentient thinking and learning capability.

The introduction of Artificial Intelligence (AI) in the field of auditing and accounting has transformed the tasks being performed in this industry globally both in public and private sector. In this transformation process, Bangladesh accounting and auditing industry must not stand in isolation. It should rather embrace AI, which has great potential to bring significant and positive changes. However, while ensuring the utilization of artificial intelligence its attendant limitation and challenges should also be borne in mind. As one of the latest additions to the information technology, AI poses a great risk along with its endless opportunities for the audit and accounts professionals of Bangladesh. Auditors and accountants need to invest their time and energy to gain AI related knowledge, expertise and skill to reap the benefit by mitigating the associated risk.

What is artificial intelligence?

As per Encyclopedia Britannica, artificial intelligence (AI) is the ability of a digital computer or computer-controlled robot to perform tasks commonly associated with intelligent beings. The term is frequently applied to the project of developing systems endowed with the intellectual processes, characteristic of humans, such as the ability to reason, discover meaning, generalize, or learn from past experience.

As per IBM, one of the tech giants of the world, artificial intelligence is a field, which combines computer science and robust datasets, to enable problem-solving. It also encompasses sub-fields of machine learning and deep learning, which are frequently mentioned in conjunction with artificial intelligence. These disciplines are comprised of AI algorithms which seek to create expert systems which make predictions or classifications based on input data.

So basically, artificial intelligence (AI) refers to the simulation of human intelligence by software-coded heuristics. Nowadays this code is prevalent in everything from cloud-based, enterprise applications to consumer apps and even embedded firmware.

The year 2022 brought AI into the mainstream through widespread familiarity with applications of Generative Pre-Training Transformer. The most popular application is OpenAI's ChatGPT. The widespread fascination with ChatGPT

made it synonymous with AI in the minds of most consumers. However, it represents only a small portion of the ways that AI technology is being used today.

The ideal characteristic of artificial intelligence is its ability to rationalize and take actions that have the best chance of achieving a specific goal. A subset of artificial intelligence is machine learning (ML), which refers to the concept that computer programs can automatically learn from and adapt to new data without being assisted by humans. Deep learning techniques enable this automatic learning through the absorption of huge amounts of unstructured data such as text, images, or video.

AI in accounting and auditing profession

AI has already started revolutionizing the accounting and auditing profession globally. In recent times, AI and automation have given accountants and auditors the ability to predict trends, optimize workflows, and identify anomalies more accurately and efficiently than ever before.

With AI, accounting and auditing work that once took hours or even days to complete can now be done in minutes or seconds. For instance, AI-based accounting software can detect duplicate payments, analyze historical trends, and identify patterns in data that were previously difficult to detect. AI-powered auditing software can also identify financial discrepancies and fraud by analyzing data, providing an added layer of financial security.

AI in government auditing and accounting

Government audit and accounts possess some unique attributes compared to the private sector; hence AI has different set of implications for the government audit and accounts. Government auditing and accounting is the process of recording, analyzing, and reporting financial information for government organizations. It plays an essential role in ensuring that public sector organizations are accountable and transparent, and public funds are expended efficiently and effectively. Due to the vastness of the government activities and complexities, government sector normally takes longer time to adopt any new advancement in IT world. But once it is implemented, it can multiply the benefits manifold and reach the benefits to every layer of the society.

AI has the potential to revolutionize the government auditing and accounting industry too by automating repetitive tasks, reducing errors, and providing valuable insights. AI can be used to create more accurate

financial reports, and automate tasks such as data entry, accounts payable, and receipt reconciliation. It can also provide predictive analysis, identifying areas where budget cuts or increased funding may be needed. Thus, AI can become an indispensable tool for good governance for any nation of the world.

How AI can revolutionize accounting and auditing in Bangladesh

A critical aspect of AI in accounting and auditing is its ability to provide predictive analysis. AI can predict trends in financial data and provide insight that can be used to inform decision-making. This reduces the risk of financial loss and provides a competitive edge in the market.

Since bots never get bored and perform their tasks flawlessly and quickly, AI is especially useful for the repetitive, error-prone manual processes that have defined the work of accountants and auditors for centuries. Now, thanks to new technologies being implemented by forward-thinking accountancy firms and accounting professionals in industry, accountants will have the time and energy to provide the higher-valued consultative work that helps organizations achieve their goals.

Beyond simply following user-provided rules to code transactions or to automatically perform specific tasks, today's machine learning powered AI can provide real-time insights that provide a competitive advantage above organizations that are still relying on manual processes.

For example, an organization using AI enabled tool for bank reconciliation, can easily match banking transactions to GL transactions. Faster reconciliation helps close the books faster, which means that the financial statements and reports used in decision making reach to organization leaders sooner.

All the multinationals and local conglomerates operating in Bangladesh have been using AI enabled tools to smoothen the business process for more than a decade. The utilities range from using optical character recognition to interpret and correctly code and record a vendor invoice, to performing following tasks:

- Match the invoice to goods or services delivered and to purchase orders
- Extract information from accompanying contracts or other documents
- Send alerts about discounts for early payment
- Route the invoice to the correct person for approval
- Forecast cash balances to determine the best time for payment

- Identify human-caused errors
- Eliminate duplicate payments
- Detect fraudulent AP schemes
- Reconcile payments to invoices

The companies are using different ERP system like SAP to automate these time-consuming and labor-intensive business processes, accounting teams can do more with a smaller headcount. In today's complex regulatory environment, where staffing has been a challenge for years, hiring an AI bot to do the time-consuming and repetitive tasks can be a true game-changer.

In the wake of the pandemic, many organizations are developing multiple-scenario financial forecasting models to help them respond to sudden changes in their operating environment. Adding machine learning to forecasting allows Financial Planning & Analysis teams to include vastly more data from many more sources to increase the accuracy of their projections. These kinds of projections are far beyond the power of Excel.

On the audit side, AI tools assist with risk assessment by combing through the entire GL to identify questionable transactions. Instead of sampling just a few transactions, and hoping to find the needles in the haystack, audit teams can test 100% of transactions and find all the needles, thus considerably reducing audit risk.

Artificial intelligence and government audit and accounts of Bangladesh

In Bangladesh, the use of AI in government auditing and accounting is still in its infancy, but it is beginning to gain traction. The Bangladesh government has launched initiatives to encourage the use of AI in the public sector and private companies are also developing AI-powered solutions that can be used by the government. For example, the Bangladesh government is using iBAS++ (integrated budget and accounting system) which has some features similar to some artificial intelligence software.

IBAS++ is not an artificial intelligence (AI) system in itself. However, it does use AI-powered tools and techniques to help with its functions. For example, IBAS++ uses natural language processing (NLP) to extract data from documents and financial statements. It also uses machine learning (ML) to identify patterns and trends in financial data. It can generate more than 400 reports which helps in monitoring decision making, accounting and auditing.

These AI-powered tools and techniques help IBAS++ to automate many of the tasks involved in government accounting and auditing. This can free up auditors to focus on more complex and strategic tasks. Additionally, the use of AI can help to improve the accuracy and efficiency of government accounting and auditing. However, it is important to note that IBAS++ is not a self-learning system. It does not have the ability to think for itself or to make its own decisions. Instead, it is a tool that is used by auditors to help them to do their jobs more effectively.

One of the most significant areas of AI's impact on government auditing and accounting in Bangladesh is the automation of tasks that were once time-consuming and tedious. For example, recording financial transactions, tracking expenses, and reconciling accounts can now be done with ease by using AI-powered accounting software.

Another area where AI is making an impact in government auditing and accounting in Bangladesh is the ability to analyze large sets of data quickly and accurately. This saves significant time and reduces the potential for human error.

AI is also being used in the detection of fraud and financial discrepancies, particularly in identifying patterns and trends that may not be immediately apparent to human auditors. This will greatly enhance financial security, minimize financial losses, and help to maintain public confidence in the government.

Benefits of AI in auditing and accounting

AI presents a number of opportunities for audit and accounts professionals to improve the efficiency and effectiveness of their work. For example, AI can be used to identify potential fraud and errors in financial statements. AI can also be used to provide insights into the performance of businesses, which can help professionals to make better decisions.

In order to be successful in the age of AI, audit and accounts professionals need to be proactive. They need to upskill, adapt to new regulations, and embrace the opportunities that AI presents. By doing so, they can ensure that they can reap the full benefits of AI as mentioned below.

Improved efficiency and reduced costs

AI can vastly improve the efficiency of all operating functions, automating routine tasks, analyzing data quickly and accurately, and providing insight that supports decision-making. This can lead to better resource allocation

and reduced operating costs. Adoption of AI in public sector will ensure proper utilization of public money and practice of good governance.

Better and faster services

The use of AI in citizen services can improve the speed and quality of service delivery. AI can provide real-time access to information, personalized recommendations, and automated responses to queries. This will save time, reduce paper-based transactions, and streamline operations, leading to better and faster service delivery.

Increased transparency

AI can enhance the transparency of business operations by automating processes, reducing errors, and providing real-time data and analysis. Automated processes enable end-to-end tracking, reducing the potential for corruption or fraud. Officials can generate accurate reports using AI-powered software, providing civil society with real-time access to financial and performance data. This improved level of transparency is crucial for both private and public sector.

Improved accuracy

One of the most significant benefits of using AI in auditing and accounting is improved accuracy. AI-powered software can perform tasks with a high degree of accuracy, reducing the potential for errors that could cause financial harm to the organization and its stakeholders. This will ensure transparency in financial reporting and help to build trust between the stakeholders and the organization.

Improved compliance

AI can help entities comply with regulations and industry standards. The software can detect potential errors or discrepancies, and alert accountants to take corrective action. This will ensure that entities adhere to regulations and industry standards, preventing financial loss and reputational damage.

Limitations and challenges of AI in accounting and auditing in Bangladesh

While AI has the potential to revolutionize the accounting and auditing industry in Bangladesh, it is important to understand its limitations. Despite its accuracy and efficiency, AI is not infallible and can still make errors. This means that human oversight is still necessary to ensure that AI is not making mistakes.

Moreover, the development of AI in Bangladesh is still in the early phase, and it will take time for the industry to adapt to new technologies. As a result, the adoption of AI may be met with resistance from some professionals who are unfamiliar with the technology.

Finally, the use of AI in accounting and auditing requires a significant financial investment. This may be a barrier to entry for some small- and medium-sized accounting firms in Bangladesh.

One of the biggest challenges facing audit and accounts professionals is the need to upskill. AI is changing the way that audits are conducted, and professionals who do not keep up with the latest developments will be at a disadvantage. AI-powered tools can automate many of the tasks that were previously performed manually, such as data entry and analysis. This frees up professionals to focus on more strategic tasks, such as risk assessment and decision-making.

Another challenge facing audit and accounts professionals is the need to adapt to new regulations. As AI becomes more widely used in the audit and accounts profession, regulators are introducing new regulations to ensure that AI-powered tools are used in a fair and transparent manner. Professionals who do not understand these regulations could face sanctions.

In Bangladesh context, the audit and accounts profession will face the following challenges categorically.

Lack of skilled personnel

The adoption of AI both in private and public sector is heavily dependent on the availability of skilled personnel. The development of AI software and the use of complex algorithms require personnel with specialized skills, which may not be readily available in Bangladesh. Moreover, training existing personnel may be time-consuming and expensive.

Data privacy concerns

AI software requires large amounts of data to train algorithms. This raises concerns about the privacy of sensitive information. The organization must take measures to ensure that data is secured and only accessible by authorized personnel. This will help to maintain data privacy and prevent unauthorized access.

Bias and discrimination

AI-powered software is not free from bias and discrimination, especially if it is not developed carefully. There is a high probability of perpetuating

systemic biases, which may result in critical situations. For example, if government adopt AI tool with bias, it may result in unfair distribution of public funds or services to certain populations. So, the government and organizations need to ensure that AI adoption is ethical and free from discrimination.

The ‘black box’ problem

Despite the AI technology’s immense potential, a lingering “black box” problem has continued to present a significant challenge for its adoption, raising questions about the transparency and interpretability of these sophisticated systems.

In brief, the black box problem stems from the difficulty in understanding how AI systems and machine learning models process data and generate predictions or decisions. These models often rely on intricate algorithms that are not easily understandable to humans, leading to a lack of accountability and trust.

Therefore, as AI becomes increasingly integrated into various aspects of our lives, addressing this problem is crucial to ensuring this powerful technology’s responsible and ethical use. A lack of trust in AI is perhaps the biggest challenge to the widespread adoption of AI tools in the audit process. This is often referred to as the “black box problem.”

Will AI replace auditors and accountants?

As with any transformative technological development, some naysayers have predicted that the onset of AI audits and accounting could spell the demise of the auditing and accounting profession. However, this is unduly pessimistic. Most experts in the AI field see machine learning augmenting accountants and auditors, rather than replacing them. The role of auditors and accountants may evolve, while the skillset required in order to flourish may also change, but there is no prospect of AI auditors and accountants replacing human talent. However, overseeing these highly intelligent machines will become critical to the success of companies. And those with advanced knowledge of this complex technology may gain a commercial advantage. AI may solve many accountancy and auditing issues, but companies will still have to remain ahead of the curve in order to be competitive.

In addition to the challenges and opportunities mentioned above, there are a number of other factors that are shaping the future of the audit and accounts profession in Bangladesh. These factors include:

The growth of the digital economy: The digital economy is growing rapidly in Bangladesh, and this is creating new challenges and opportunities for audit and accounts professionals. For example, the growth of e-commerce is making it more difficult to track and verify financial transactions.

The increasing complexity of financial markets: The financial markets in Bangladesh are becoming increasingly complex, and this is making it more difficult for audit and accounts professionals to keep up with the latest developments. For example, the rise of derivatives markets is creating new risks that need to be managed.

The changing expectations of stakeholders: The expectations of stakeholders, such as investors, regulators, and customers, are changing. Stakeholders are demanding more transparency and accountability from businesses, and this is putting pressure on audit and accounts professionals to provide more robust and timely reporting.

The audit and accounts profession in Bangladesh is facing a number of challenges and opportunities. By understanding these challenges and opportunities, professionals can prepare for the future and ensure that they remain relevant in a rapidly changing profession.

Recommendations

Here are some specific recommendations for how audit and accounts professionals in Bangladesh can prepare for the future:

Upskill: Professionals need to upskill in order to keep up with the latest developments in AI and other technologies. There are a number of ways to upskill, such as taking online courses, attending workshops, and networking with other professionals.

Adapt to new regulations: Professionals need to stay up-to-date on new regulations that affect the audit and accounts profession. There are a number of ways to do this, such as subscribing to industry publications, attending conferences, and networking with other professionals.

Embrace the opportunities that AI presents: Professionals should embrace the opportunities that AI presents and use it to improve the efficiency and effectiveness of their work. There are a number of ways to do this, such as using AI-powered tools to automate tasks, identify risks, and provide insights.

By following these recommendations, audit and accounts professionals in Bangladesh can prepare for the future and ensure that they remain relevant

in a rapidly changing profession.

Bangladesh Government has adopted National strategy for regulating Artificial intelligence in March 2020. This strategy should be followed up regularly and updated as per the requirement of the everchanging Artificial Intelligence technology.

Conclusion

The government and private sector in Bangladesh should embrace AI as a tool for progress in the respective areas. While the adoption of AI may come with some challenges, the potential it holds is quite vast. AI can lead to improved efficiency, reduced costs, better services, and increased transparency. To ensure its success, the government of Bangladesh must invest in infrastructure and create an enabling environment for AI adoption. The private sector also has to come forward and play pioneering role in AI adoption and upgradation. Additionally, it must pay attention to data privacy concerns and ensure that the adoption of AI adheres to ethical principles. Such a step would help Bangladesh to become a leader in AI in the region, thereby positioning it for economic growth, efficiency, and progress.

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Brief History of Procurement and an Overview of the Public Procurement System in Bangladesh

Md Nadiruzzaman*

Abstract

Public Procurement is the process by which the government buys Goods, Works, and Services using public money. Different ministries, departments, authorities, and state-owned enterprises use a substantial amount of taxpayers' money for public procurement. The government of Bangladesh took a comprehensive initiative to enhance the performance of public procurement as part of its efforts to strengthen the management of public resources. The Country Procurement Assessment Report (CPAR) by the World Bank in 2002 mainly triggered the changes in the public procurement system in Bangladesh. Since then, Bangladesh has come a long way in effecting reforms in this sector. The establishment of CPTU and framing of the Public Procurement Act (PPA)-2006 and Public Procurement Rules (PPR)-2008 represent key milestone achievements in this sector. Public procurement in Bangladesh is now done following the stipulations made in PPA and PPR. The government of Bangladesh has already successfully implemented e-GP, and it is on its way to formulating a sustainable public procurement policy (SPPP) to make public procurement sustainable. This article will shed light on the evolution and process of public procurement in Bangladesh, which will help understand the dynamics of changes in this sector.

1.0 Overview of public procurement

The trace of the earliest procurement dates back between 2400 and 2800 B.C. and is found on a red clay tablet discovered in Syria, which inscribes a purchase order for “50 jars of fragrant, smooth oil and 600 small weights of grain” (Coe, 1989). During the industrial revolution, procurement gained its importance through railway equipment purchase and supply.

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During the world wars, procurement shifted back from focus because of the scarcity of materials due to war. Again, after 1960 procurement gained importance through the competitive bidding process and supplier competition (Nolan, 2018).

Acquiring goods, services, and works by public money is known as public procurement. It encompasses all steps from identifying needs to preparing bids and awarding contracts and all stages of contract administration until the expiration of a services contract or the end of an asset's useful life (UNDP, 2007). The procurement process starts with the recognition of the need. Subsequently, it goes through the bidding process, contract award, and payment. Public procurement amounted to \$11 trillion out of the global GDP of nearly \$90 trillion in 2018- approximately 12 percent of the global GDP is spent following regulation (Bosio & Djankov, 2020). As a substantial amount of taxpayers' money is used for public procurement, it is prone to corruption and fraud.

Public procurement in the pre-Covid period accounted for almost 30% of GDP in developing countries. (OECD, 2019). Bangladesh spends around \$25 billion on public procurement annually, equivalent to 40 percent of its annual budget. Government procures goods, works, and services every year as part of the implementation of its public expenditure program intended to bring about - social well-being and realize the government's goals (ADB, 2012). Public procurement has gained significant attention due to its potential impact on society and development.

Public procurement is intricately involved with the government and society, and the Citizens see public procurement through public works, road construction, and infrastructure development. They are directly affected by the lack of transparency and corruption in the procurement process resulting in large-scale wastage of money (Krause & Tutunji, 2014). Government can relocate its resources to priority sectors if there are savings in public procurement. Despite being a highly regulated sector, a World Bank study has found instances of corruption and discrepancies in the procurement process in Bangladesh, including bribes in the form of financial benefits and arranging dinners and trips for government officials (The Daily Star, 2020). It also stated that the monopolization by large bidders and favoritism towards politically connected bidders hamper the socio-economic development of this country. Moreover, decisions by procuring entities inconsistent with PPR and PPA, keeping prices inflated during cost estimation, manipulation by government officials, delayed allocation of funds, and poor monitoring by the consultant are challenges of public procurement (Arifeen & Zakaria, 2013).

2.0 Brief history of public procurement in Bangladesh

2.1 Pre independence-era

During the British period, there was no specific act or rule about public procurement. At that time, the procuring departments used to follow the General Financial Rules (GFR) formulated by the British administration, which was subsequently revised in 1951 by the then Government of Pakistan. GFR provided a set of board guidelines about government contracts. The concerned departments were responsible for preparing detailed bid documents and fixing the contract conditions without standard guidelines.

2.2 Post independence era

After the independence of Bangladesh, the Government adopted the GFR of 1951 and followed it along with the guidelines issued by the Department of Supply and Inspection and Public Works Department (PWD) for the procurement of goods, works, and services. In 1998, the GFR was revised, but no fundamental changes so far as they relate to public procurement were affected during such revision. Therefore, procurement anomalies grew unabated. The development partners like the World Bank and the Asian Development Bank, who funded most of our development projects, questioned the probity of procurement.

To assess the situation of public procurement in Bangladesh, the World Bank fielded a mission which prepared the Country Procurement Assessment Report (CPAR). The report identified many shortcomings in the country's procurement system, including, among others, the following:

- a) absence of a legal framework for governing public procurement,
- b) complex bureaucratic procedures,
- c) poor bidding documents,
- d) lack of professional competence, etc.

To overcome the shortcomings, the Government of Bangladesh launched a project called “Public Procurement Reform Project-I” with IDA assistance in February 2002 (CPTU, 2017). Under this project, Public Procurement Regulations 2003 was issued, and CPTU was established under IMED (Implementation Monitoring and Evaluation Division). CPTU introduced a centralized Procurement Management Information System (PROMIS) and revised the delegation of financial power. Subsequently, the Public Procurement Act 2006 and Public Procurement Rules 2008 replaced the Public Procurement Regulations 2003. After the successful implementation of “Public Procurement Reform Project-1,” another project, called Public Procurement Reform Project-II, was launched to establish electronic

government procurement (e-GP) and strengthen the CPTU (CPTU, 2017). To implement the “Digitizing Implementation Monitoring and Public Procurement Project (DIMAPPP),” the Government of Bangladesh and the International Development Association (IDA) of the World Bank Group signed a financing agreement for US\$55 million on August 29, 2017 (Prince, 2019). CPTU has initiated a strategic plan to promote sustainable public procurement (SSP). CPTU has already published the draft policy paper for sustainable public procurement. The following diagram illustrates the sequence of public procurement reforms in Bangladesh.

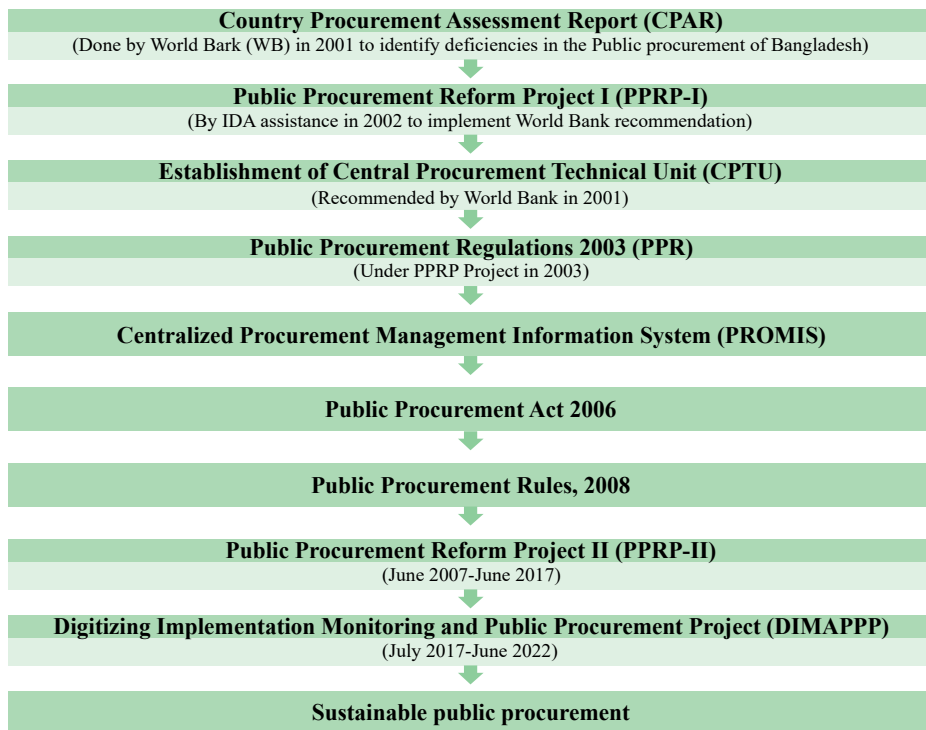


Figure 1: Sequence of Public Procurement Reforms

3.0 Why tendering process

The competitive tendering process guarantees robust, transparent & compliant procurement with existing rules & regulations by involving both parties, buyer & suppliers. This process ensures competition among potential bidders. This process has little or no room for favoritism because the tenders are evaluated based on predetermined criteria. As the selection process is based on quality and price, every bidder attempts to decrease operational inefficiencies and redundancies to minimize costs and enhance

the quality of their work. Implementing competitive tendering will increase technical efficiency in service production, improving the financial input-to-service output ratio. (BOYNE, 2002).

On the contrary, the government is responsible for spending public money for the public’s interest, so it uses tendering process for procurement to ensure value for money & transparency. It is used for procuring goods, works & services with minimum value guaranteeing the highest quality where the procurement process is highly regulated. In the public procurement domain, the Government or representative chosen by the government is the procuring entity, i.e., the tenderer. In Bangladesh, without the tendering process government can purchase up to a ceiling of Taka 25,000 in a single procurement with an annual aggregate of Tk. 10,00,000 by direct cash purchase per rule 81 of PPR-2008 (PPR, 2008). Above this ceiling, the government needs to go through the tendering process for procurement.

4.0 Types of procurement in Bangladesh

In Bangladesh, procurement is divided into two board categories, National Competitive Tender (NCT) & International Competitive Tender (ICT). Each tendering process is applicable for the procurement of Goods and Related Services and Works and Physical Services. However, the procurement methods practiced in Bangladesh are as follow:

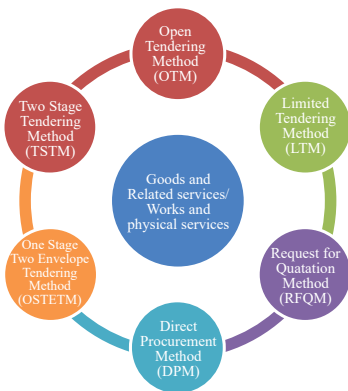


Figure 2: Procurement methods for goods and works

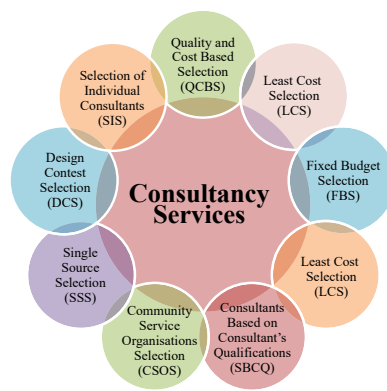


Figure 3: Procurement methods for services

5.0 Overview of processing of a tender

The procurement Process of Goods and Works starts with the Annual Procurement Plan (APP). At the beginning of each financial year, the Procuring Entity shall publish the complete procurement plan and updated APP for the development projects or programs and Revenue Budget (PPR, 2008). The procurement method is determined in the APP, and the

APP shall be approved by the Head of Procuring Entity (HOPE). After inclusion in the APP, the procuring entity (PE) needs to set up an official cost estimate committee by whom the cost estimate is worked out. PE starts designing the Technical Specification/Bill of Quantity (BoQ) of the procurement object and developing the tender document per the Standard Tender Document (STD) published by the CPTU. This stage is crucial for the tendering process because of the significance of the tender document. Tender documents consist of a cover letter, an invitation to tender, a form of tender, instruction regarding the tender security, the amount of performance security if the contract is awarded, other instructions to the tenderer, general and particular conditions of the agreement, payment conditions, bill of quantities, design drawings, specification, and tender evaluation criteria. The key to successful procurement often lies in the bidders' essential understanding and cooperation; each must know his duties and rights. The documentation is the vital link between the tenderer and the procuring entity (Hosny H.E., 2019).

When the tender document is ready, the Invitation for Tender (IFT) is prepared and published in the newspaper, CPTU website, and other media as per the stipulations made in PPR-2008. According to Rule 95 of the Public Procurement Rules, 2008, the Purchaser may, independently or in response to a written clarification request from a Tenderer, modify the tender document after publication and before the deadline for submission of tenders by issuing an addendum. The receiving of the tender must be on the date specified in the IFT unless extended by the purchaser before receiving. The minimum days between the issuance of IFT and the closing date are determined as per PPR.

6.0 Evaluation of tender

Evaluation of the tender starts after the opening of the tender. Evaluation is selecting the right contractor by the Tender Evaluation Committee (TEC). The evaluation of a tender is based on three “major” criteria: cost, time, and quality, which are determined by the amount of the tender, the timeline for completion, and the experience of the prior work, respectively (Herbsman & Ellis, 1992). This suggests that in addition to the bidder being suitably qualified to carry out the contract, the winning tender is entirely responsive to the terms of the agreement. “Tender evaluation” refers to strategically evaluating tender proposals offered by pre-qualified contractors. The tender evaluation method should meet the client's requirements (Hardy, 1978).

The evaluation is the most complex and essential part of a tendering process. Only accepting the lowest price sometimes does not work because

lowering the cost often means reducing the quality (Puri & Tiwari, 2014). While current procurement guidelines and processes in Bangladesh aim to select the “lowest-cost” contract with some “quality” assurance, the lowest-cost purchase does not always guarantee the most benefit over the long term (Byron, 2023). The rationale is that additional costs are associated with product maintenance during its lifetime and then for product disposal after its functional life has passed. Therefore, the lowest offer in a tender frequently is not the cheapest in the long term. That’s why TEC needs to be very cautious and insightful during evaluation.

7.0 Approval of contract and contract signing

Tender Evaluation Reports are sent to the Approving Authority by Rule 36 of PPR-2008. Delegation of financial power (DoFP) determines the approving authority. The highest authority for contract approval is Cabinet Committee for Government Purchase (CCGP). Generally, procurement of Goods and Works with physical services of more than 100 crores and consultancy services of more than 30 crores requires the approval of CCGP. Procurements less than the mentioned amount are regulated by the DoFP. The statutory public authorities and the state-owned enterprises have their delegation of financial power up to which the authorities/enterprises can procure Goods or works. After the approval, both parties sign the contract.

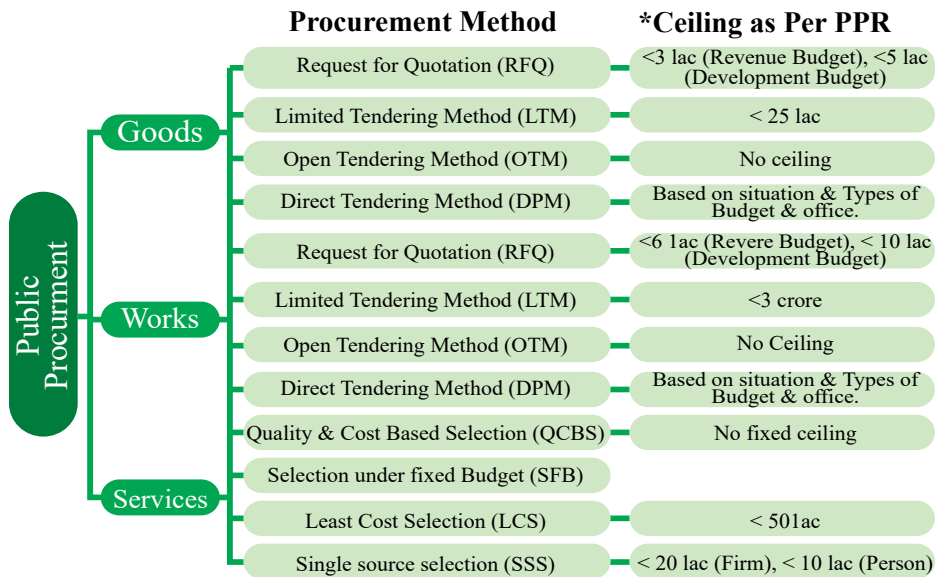


Figure 4: Ceiling of different tendering methods

** This ceiling is subject to change from time to time by Government Order.*

8.0 E-government procurement

Electronic government procurement (e-GP) brings transparency to procurement processes. Costs are reduced while purchasing goods, works, and services. E-procurement systems can be used while procuring goods and services (Jung Lee, 2010). The electronic government portal (e-GP) for Bangladesh is under the control of CPTU, which also controls its operation and upkeep. As per rule 128 of the PPR-2008,

“Any or all government procurement may be undertaken using electronic processing systems following the principles governing e-GP as prescribed by the Government.”

Access to e-GP is available to all government departments, agencies, and offices (Rashid, 2018). Adopting e-GP reduces the price-to-cost ratio by a minimum of 10.25% and, in the most robust case, by 11.85% (Abdallah, 2015). The price decline is not accompanied by increased cost overruns, suggesting that these procurement-stage cost reductions will ultimately result in actual cost savings. Increased competition and increased transparency in the electronic procurement process may be vital to reducing political influence. First, a more diverse pool of bidders can engage in the bidding process thanks to an electronic procurement system. Due to the low cost of participation, bidders from outside the location of procuring entity’s office can also apply and compete, increasing competition and driving down costs. Allowing bidders to submit their bids electronically rather than in person at the procuring entity’s office may further lessen the political influence. This will increase competition and drive down costs. Nowadays, only competitive national tenders of goods and works are invited through the e-GP system. International competitive tenders and tenders for consulting services are yet to be included in the e-GP system (Rashid, 2018).

9.0 Sustainable public procurement (SPP)

As part of global efforts to promote sustainable development, public procurement processes are examined using social justice, environmental sustainability, and economic equality. Governments employ public procurement policies to guarantee that supplier activities are environmentally and socially beneficial while supporting good economic welfare, particularly in the case of company production and consumption behaviors (Adjei-Bamfo, Maloreh-Nyamekye, & Ahenkan, 2019). National Sustainable Public Procurement (SPP) policies are needed

to achieve this. The three pillars of sustainable public procurement are people, profit, and the planet.

The term “people” refers to ethical and advantageous business practices toward employees and the neighborhood and community in which an organization operates. Planet refers to sound environmental policies. Profit is the economic value produced by the company after all input costs, including the cost of capital invested, have been subtracted. SPP is a process that helps public institutions meet their needs for goods, services, and projects in a way that maximizes value for money over the course of a project’s entire life cycle, generating benefits for the organization as well as for the society, the economy, and the environment, while minimizing environmental harm.

Bangladesh published its first-ever SPP in January 2023. Incorporating sustainable procurement parameters and selecting the “most advantageous” bid based on the product’s life cycle cost could help Bangladesh achieve optimum benefit. Introducing sustainable public procurement (SPP) parameters into the country’s existing system will aid in transitioning the country’s public procurement to sustainable/green public procurement (GPP).

10. Conclusion

Public procurement has a significant share in public spending. Efficient public procurement helps minimize the per-unit cost of development. It is, therefore, essential to strengthen the institutions that deal with public procurement and enhance the professional competence of the relevant officials to bring in a reasonable degree of proficiency in procurement activities.

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