



# The Role of International Business Law and Economic Development of Bangladesh

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## ABSTRACT

The aim of this paper is to discuss and propose ways to overcome the barriers hindering the economic development of Bangladesh, including the steps the government has taken and is taking for an improved future. The inadequacy of government policies, supervision, systems and managements has been discussed and the importance of education to raise alertness among the mass uneducated people of the nation has been pointed out. Researches and Developments made by the Agriculture Department of Bangladesh to increase the produce to feed the huge population and theories applied to put off flood water washing away crops has been mentioned. The paperwork deals with corruption at different levels of the government and how corruption can be concentrated in the nation through introduction of strong judiciary laws and how the taxation method can be better to enlarge the yearly national profits such that the country does not have to depend completely on foreign finances and aids for developmental works and infrastructure growth. The opinions of renowned economists worried with the economy of Bangladesh have been discussed and the work has been made supported by their views.

**Keywords:** *Capital market, development and non-development expenditures, GDP, inflation, remittance, Bangladesh Development, Economic Barricades*

## INTRODUCTION

Bangladesh, since its independence in 1971, had to experience several military rules besides democratically elected government associated with major political assassinations. Regardless of all the aroused disputes, the country constantly pushed to achieve economical, social and developmental success through introduction and implementation of different policies during the ruling period of different elected governments as well as at the time when the country was declared to be under the emergency rule. Bangladesh, named in the list of the developing nations, is blessed with several natural advantages over developed countries. Examples of such are huge reserves of oil, natural gas, coal, timber and the only natural port of the world that connects SAARC and ASEAN business hub together. The utilization of such natural assists is close to zero. Foreign donors are granting financial aids for reformation and infrastructure development of the country.

Loans are being taken on heavy interest, by GOB, from World Bank and Asian Development Bank for developmental purposes. Henry Kissinger, US Secretary of State (1973-1977), pointed Bangladesh as "a bottomless basket" in 1974. Considering foreign interests about Bangladesh developments, associated with improper management of the government, corruption, influences of power against the system, political conflicts between the political parties, fraudulent in tax and taxation system, lack of proper education, lack of family planning, etc. today resulted the nation to end up with unemployment rate of 4.8% and 36.3% population under poverty line (CIA Factbook, 2010).

## RESEARCH OBJECTIVE

The aim of the thesis is to point out the factors barricading the economical development of Bangladesh- how GOB is commerce to overcome the barricades by using different instrument, to measure the success of GOB in implementing the policies and the effectiveness of the policies to shape-up the future achievement of the country. Necessary suggestions are included to ensure better execution of the GOB policies. A part included in the study emphasizes on how the revenue collected through implementing strong taxation policy and taxes be utilized for infrastructure and economical development to benefit the citizens.

## RESEARCH QUESTIONS

1. What are the possible factors barricading the development of Bangladesh;
2. How to overcome the barricades;
3. What political reforms and judiciary changes are necessary to stop corruption and political instability in Bangladesh?
4. How could a strong and effective taxation system be helpful to ensure the implementation of future socio-economic development of Bangladesh based on internal resources; and

## METHODOLOGY

We have prepared the paper on the basis of data from various sources of Bangladesh and with the practical experience of the economic development of the country. In the last decade economy, healthcare services and education have increased but the political turbulence leftovers unmoved, which is a hindrance in the advancement of the country. Poverty and illiteracy are also two other major problems in the economic progress of the country. In this paper, we have stressed on the inflation, debt burden, social safety net programmes and collapse of the capital market. We also show the economic development of the country due to the creative activities of the government of Bangladesh and various non-government organizations (NGOs).

## ECONOMY OF BANGLADESH

Bangladesh is an agriculture driven economy. Total of 54% of the population of the nation is directly and indirectly involved in farming and lives in rural areas (World Bank, 2011). Due to soil fertility and ample supply of water, having the blessing of thousands of rivers and its branches zigzagging nationwide and Bangladesh can harvest three crops every year.

Apart from the fact that cyclones and floods damage crops every year, the production of crops meets substantial local consumption demand but are not grown sufficiently enough for export purposes. Labor-intensive manufacturing is the second sector, especially RMG (Ready-made garments industry), where both men and women are engaged in generating foreign revenue and contributing to the GDP. The third sector which contributes greatly to the economy of the nation is the export of manpower which brings remittances by Bangladeshi workers working abroad, such as in Middle-East, Singapore, Malaysia, etc.

Due to cultural and religious norms, women previously stayed within the compound of their houses and were liable to take care of the house-hold activities, whereas men were regarded as the only earner and head of the family. As a result of high living costs, not sufficient enough earned by men in the family, women had to involve themselves in labor workforce to live a better life.

## **MAJOR ECONOMIC PROBLEMS IN BANGLADESH**

Bangladesh faces natural disasters such as, devastating floods, cyclone, tornado, storm, draught, earth quake, tidal surge, river bank erosion, salinity expansion in coastal areas, infrastructure collapse, fire, tsunami, arsenic contamination in ground water, Monga (about to famine in north-western part of Bangladesh) which pose multiple threats to the development of the country.

Shortage of electricity and gas supplies are major problems in national production and development. So that foreign direct investment (FDI) is comparatively low due to these difficulties. Every government will face various difficulties in the Medium Term Budget Framework (MTBF) from 2013 to 2017.

The next problems are poor infrastructure of roads, bridges and ports. Inflation is another problem in the development of the country. Political instability such as, strike of opposition parties is one of the main causes of hindrance of economical improvement.

In Bangladesh export is less than import, which is a permanent problem of the country. Other obstacles of development are illiteracy and unskilled manpower and non-proper utilization of the manpower. Natural calamities and non-planned urbanizations are also effect economic development. External and internal debt and budget deficit in every year influence the economic development.

## **ECONOMIC DEVELOPMENT OF BANGLADESH**

In recent years, Bangladesh has experienced high national growth. The rapid expansion of exports in the ready-made garment increased. The Government of Bangladesh has 2011–2015 five-year plan of economic development which prioritizes public and private infrastructure investment, and has set a target of increasing the investment rate to 32% GDP by 2015.

Bangladesh started microfinance system successfully which help the poor and the ultra poor to develop their financial conditions. The Grameen Bank is the first microfinance institution in Bangladesh, which was established in 1976. It gives loan to those people whom the government or any commercial bank will not give loan facility. At present, Grameen Bank is the largest micro-finance bank in Bangladesh and probably the biggest micro credit organization in the world. At present, it provides small loans of about \$600 million to more than 10 million rural poor (95% are women) of Bangladesh (Islam et al., 2012). Some other institutions such as BRAC (Bangladesh Rural Advancement Committee), ASA (The Association for Social Advancement) etc. also provide microfinance facilities to the poor.

Recently some banks including Bangladesh Bank are giving loans to agriculture, small and medium sized enterprises (SMEs), in renewable energy and other productive sectors. Bangladesh exports readymade garments mainly to the USA, Canada and many countries of Europe. The country also exports shrimps and leather. Bumper production in crops and vegetable has advanced the country in food sector.

## **REMITTANCE FLOW IN BANGLADESH**

The remittance is a driver of growth of the economy of a country. It develops volatility in the exchange rates, and plays an important role in the macroeconomic stability. Bangladesh is

considered as one of the major labor exporting countries of the world. Since independence over 7.4 million labors went abroad. In FY 2010-2011, flow of remittance increases by 6.03% over that of previous fiscal year and reaches at \$11.65 billion while foreign currency reserve increases by only 1.50% and reaches \$10.91 billion. It is forecast that in FY 2014-2015, remittance might reach \$15.31 billion and foreign currency reserve would reach \$14.64 billion.

Current account balance is not satisfactory in Bangladesh. Remittance plays an important role for a positive current account balance in any economy. Bangladesh is considered as a trade deficit country in the Asia but current account balance since FY 2005-2006 remains positive due to high remittance inflow. In FY 2010-2011, remittance inflow is \$11,650 million while the trade deficit is \$7,328 million, service deficit is \$2,398 million and income deficit is \$1,354 million and as a result the current account balance in FY 2010-2011 is only \$995 million. Current account balance in FY 2009-2010 was \$3,724 million which was high during the last decade.

**Table 1: GDP and remittance as a percentage share of GDP.**

Fiscal year	Remittance (in crore taka)	% change in remittance	Remittance as % of GDP
2001–2002	14,377.03	40.17	5.26
2002–2003	17,728.82	23.14	5.898
2003–2004	19,869.8	12.15	5.97
2004–2005	23,646.97	18.99	6.38
2005–2006	32,275.68	36.49	7.76
2006–2007	41,298.53	27.96	8.74
2007–2008	54,295.14	31.45	9.95
2008–2009	66,675.85	22.8	10.85
2009–2010	76,010.96	14.15	10.95
2010–2011	82,992.89	9.04	10.54
2011–2012	89,853.16	8.27	9.98
2012–2013	96,713.43	7.63	10.86
2013–2014	1,03,573.70	7.09	10.99
2014–2015	1,10,433.97	6.62	11.12

Source: Bangladesh Economic Update (2011c).

## INTERNATIONAL LAW IN BANGLADESH

The status of international law in its application in Bangladesh depends on the political goodwill of the government. The constitution does not specifically provide for any mechanism for treaty-making and adoption of treaties. By interpreting constitutional provisions and through judicial precedents, we can see that the power to get into an international treaty remains on the executive branch while the power to incorporate the rules remains in the hands of the legislative body of the government. Lastly, the power to interpret the rules and to decide on the applicability of an international treaty remains on the judiciary of Bangladesh.

However, many treaty organizations in the past have voiced their concerns over non-application of treaty rules in national laws of Bangladesh. For example, in 1990, Bangladesh ratified The Convention on the Rights of Children, 1989. However, full implementation of the treaty remains

unseen till today. The Committee against Torture (CAT) in the ‘Concluding observation on the initial report of Bangladesh’ reported on 8 August 2019 in point 48 that “the Committee is concerned that the State party has not outlawed corporal punishment in all settings and that it continues to take place on a broad scale, including in school”. The Committee also recommended taking legislative action to address the issue in point 49 (a) that to “Introduce additional amendments in the Children Act, the Penal Code and other national legislation in order to explicitly and clearly prohibit corporal punishment in all settings”.

Point to be noted here is that the Committee against Torture comprises of 10 independent experts who monitor implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by its state parties and Bangladesh ratified the convention on 5 October 1998. It is yet to be seen how Bangladeshi government implements this recommendation into action.

### **History and Development of International Law**

There was little scope for an international law in the ancient and medieval period, and its modern beginnings coincide, therefore, with the rise of national states after the middle Ages. Rules of maritime intercourse and rules respecting diplomatic agents soon came into existence. At the beginning of the 17th century, the great number of small independent states, which were finding international lawlessness intolerable, prepared the way for the favorable reception given to the *De jure belli ac pacis* [concerning the law of war and peace] (1625) of Hugo Grotius, the first broad formulation of international law. Though not formally accepted by any state, his thoughts and observations were afterward regularly consulted, and they often served as a basis for reaching agreement in international disputes. The most significant principle he gave was the notion of sovereignty and legal equality of all states. Other important writers on international law were Bynkershoek, Martens, Wolff, and Vattel. The League of Nations came into being after the end of First World War. The League of Nation's task was to ensure that war never broke out again. Many looked at the League to bring stability in the world.

In the First World War, no strong nation remained on the side-lines to give effective support to international law, and the concept of third party arbitration was again menaced. Similarly many of the standing provisions of international law were violated. Advance modes of warfare presented new problems in the laws of war, but attempts after the war to affect disarmament and to ban certain types of weapons failed, as the outbreak and course of Second World War showed. The end of hostilities in 1945 saw the world again faced with grave international problems, such as rectification of boundaries, care of refugees, and administration of the territory of the defeated enemy. The failure of the League of Nations led to the formation of the United Nations as a body capable of compelling obedience to international law and maintaining peace. After World War II, a worth noticeable development in international law was the definition and punishment of war crimes. Efforts for the codification of international law proceeded slowly under the International Law Commission established in 1947 by the United Nation organization.

The nuclear and space age have led to new developments in international law. The basis of space law was developed in the 1960s under the efforts of United Nations organization. Treaties have been signed mandating the globalization of outer space (1967) and celestial bodies (1979). The limited test ban treaty of 1963 prohibited nuclear tests in the atmosphere (open space), outer space,

and in the water. The nuclear non-proliferation treaty, 1968 attempted to limit the spread of nuclear weapons. The agreements of the Strategic Arms Limitation Talks, signed by the United States of America and the USSR in 1972, restrained the defensive and offensive weapon systems. It was first among many international arms treaties signed between the two nations until the dissolution of the USSR. Other treaties have covered the internationalization of Antarctica 1959, narcotic interdiction 1961, satellite communications 1963, and terrorism 1973. The Law of the Sea 1983 clarified the status of territorial waters and the exploitation of the high seas and seabed. Similarly Environmental issues have led to a number of international treaties, including agreements such as fisheries 1958, endangered species 1973, global warming and biodiversity 1992. Since the signing of the General Agreement on Tariffs and Trade (GATT) in 1947, there have been many international trade agreements. The European Union (prior to 1993, the European Community) has initiated toward the establishment of a regional legal system. In 1988 a Court of First Instance was established to serve as a court of original jurisdiction on some economic matters. The establishment of the International Criminal Court (2002), with jurisdiction over war crimes, crimes against human kind and humanity and associated matters, was a remarkable step forward in international law irrespective of the United States' repudiation of the treaty under the President George W. Bush.

### **Status of International Law under the Constitution of Bangladesh**

The relationship between international law and municipal law is one of the important issues of the international law that entails theoretical as well as practical implications. States differ in ways they give effect to international law. Practically, two critical questions are examined in a given situation; whether international rules retain their international character or not when they are applied by the municipal court; and whether international law takes precedence over municipal law or not when they are in conflict with each other. These practical questions are, generally, answered by the constitutional norms of the respective countries. In this sub continent, courts followed the common law approach to the application of international law into municipal law. The practice continued after the independence of sub-continent and also after the emergence of Bangladesh as a sovereign nation. So that, the constitution of Bangladesh made some specific provisions for International law. But if any conflict arises between constitutional and international law, constitutional law will be supreme over international law.

It should be mentioned that the Proclamation of Independence of 10th April 1971 declared that the elected representatives of the people of Bangladesh would undertake to observe and give effect to all duties and obligations that developed upon themselves as a member of the family of nations and to abide by the Charter of the United Nations. The Constitution of Bangladesh did not alter the practice regarding international law that prevailed before the independence and provided for the continued operation of the 'law in force' immediately preceding its commencement. Article 149 of the Constitution provides that "Subject to the provisions of this Constitution all existing laws shall continue to have effect but may be amended and repealed by law made by the Constitution." The object of this article is to maintain the continuity of the pre-existing laws even after the commencement of the constitution till they are altered or repealed or amended by a competent authority, provided such laws does not contravene other provisions of the constitution.

Article 25 of the Constitution stipulates that "the State shall base its international relations on the principles of respect for international law and the principles enunciated in the UN Charter." This may be interpreted to mean that Bangladesh is bound by both customary and conventional rules of

international law and by the principles described in Article 1 of the UN Charter. Among the principles enumerated in Article 1, promotion of respect for human rights and fundamental freedoms for all has been included. The provision of article 145A provides for one kind of obligation to present the treaty before the parliament only for discussion; and again if an international treaty relates to the question of national security, that treaty will be discussed in the secret session of the parliament. However, this article does not define the phrase 'secret session' anywhere in the constitution. This seems to be an incomplete provision of the constitution, raising more issues and creating more problem than it solves. So far, only one treaty titled the Ganga Water Sharing Treaty, 1966 placed before the parliament in 1997 for discussion and debates by the members of the parliament.

The constitutional provision on international law is normative on character and it is the embodiment of principles of jus cogens. It reflects to a large extent the desire of Bangladesh to become an active member of the international community. The notion is reinforced by the fact that Article 8(2) of the constitution declares that Fundamental Principles of State Policies shall be fundamental to the governance, shall be applied in the making laws and shall be a guide to the interpretation of the constitution and of the other laws of Bangladesh. Bangladesh Constitution there has been introduced an entrenched Bill of Human Rights known as Fundamental Rights substantially in accord with the rules of the International Bill of Human Rights. Rights enshrined in this chapter include such rights as equality of all irrespective of religion, race, caste, sex or place of birth, and entitled to equal protection of law, non-discrimination in all matters including opportunity in public employment, right to protection of law, of life and personal liberty, safeguards as to arrest and detention, protection in respect of trial and punishment under retroactive law, freedom of movement and assembly, freedom of thought, conscience and speech, freedom of profession or occupation, freedom of religion, right to property etc. The second significant point remember is that the High Court Division under Article 102 has been conferred the jurisdiction to enforce any of the Fundamental Rights guaranteed under the Constitution. So, we may safely say that to the extent Fundamental Rights are in accord with human rights have been made Constitutionally enforceable by the Court, these human right have become the legal rights of the citizens of Bangladesh.

Moreover, in the absence of any other express constitutional provision regarding the place of customary international law in our legal system, some reflections on the practice of other states, in particular, British practice, may help to analyze the issue in depth. In this regard, it would also be pertinent to focus on judicial decisions of our court, if any, to clarify whether the courts adopted any particular theoretical or practical approach on this issue.

## CONCLUSION AND RECOMMENDATIONS

In this paper we have tried to discuss aspects of economic development of Bangladesh. Bangladesh is developing step by step and we hope that within the 21st century the country will reach in peak of the development. The migrated labors are sending remittance from abroad but all of them are not using the economic development. Production of electricity and gas supplies in industries, construction of roads, bridges and development of ports, and political stability are necessary for the economic development. Inflation in all the commodities is a great problem of the economic development. Government must stress on creating efficient manpower and national production should be increased. Bangladesh is a small country but its natural resources are rich and these must be used properly.

Government and social organizations must take various steps to improve education and make the large populations as boon not burden of the country. Government should increase the fund in annual budget in education sector. At present the government budget for higher education is very low and it should be increased to create intellectual persons. The government of Bangladesh should follow the strategy of Japan. Japan has no huge natural resources, such as, mines, forests etc. as like other developed countries but it becomes a developed country due to its educated and skilled populations.

Government should take strong steps to stop corruption. Bangladesh was in top in corruption in the world for consecutive five years in the last decade. At present the corruption has partially decreased and we hope the government of Bangladesh will be more active to oust corruption completely. Political unrest is a great problem of the country. Due to political instability foreign direct investment is not satisfactory in Bangladesh. The country has two seaports and many rivers for transport and most portion of the country is plane. Hence communication is not very costly and it is a natural advantage for the country in the way of development.

Government should take steps to decrease domestic and foreign debts to reduce payment of interest. The budget deficit should be decreased to reduce debts. Subsidies in non-productive sectors must be decreased step by step. The government should export skill labors to earn more remittance and skill labors must be created with various training programmes.

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