

# INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

---

Volume 7 | Issue 5

---

2024

© 2024 *International Journal of Law Management & Humanities*

Follow this and additional works at: <https://www.ijlmh.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com/>)

---

This article is brought to you for “free” and “open access” by the International Journal of Law Management & Humanities at VidhiAagaz. It has been accepted for inclusion in the International Journal of Law Management & Humanities after due review.

In case of **any suggestions or complaints**, kindly contact [Gyan@vidhiaagaz.com](mailto:Gyan@vidhiaagaz.com).

---

**To submit your Manuscript** for Publication in the **International Journal of Law Management & Humanities**, kindly email your Manuscript to [submission@ijlmh.com](mailto:submission@ijlmh.com).

---

# Navigating Political Dynamics in the Banking Sector in Bangladesh: Challenges and the Way Forward

---

APURBA MOGUMDER SHANTA<sup>1</sup>

## ABSTRACT

*This study is, therefore, designed to map the interfaced relationship of the political factors with the banking industry in Bangladesh. This section examines the consequences of such influences and reveals some of the strategies that may be applied to operate in this context. The banking sector of Bangladesh is one of the prominent industries of Bangladesh and that is why we find political intervention, patronage, and regulatory framework at its best in this sector. Recognizing such problems and using appropriate measures to prevent the effects of these problems is of great significance to ensure a sound and stable financial environment. It is now intended that in this paper, the historical background of the Bangladesh banking industry, the current Bangladesh banking industry case, and opportunities and threats analysis of the growth of the banking industry in Bangladesh, taking into consideration the political impact, will be discussed.*

**Keywords:** *Banking Industry, Banking law, drawbacks, resolutions, Government Influence, Ordinance, Banking Sector Challenges, Financial Problems, Political Influence, Bangladesh Bank, Politics, Audit, Policymakers, High Court Division, Basel Committee, Banking industry, Political Intervene, Lending Practice Policies, Central Bank, Political Instability, GDP, International Law, Corporate Governance, Banking Policy, Payment, Loan, Financial Instability, Finance Ministry, Digital Banking, Banking Industry, Corruption, Regulatory Framework, Foreign Exchange.*

## I. INTRODUCTION

Like most other nations, Bangladesh's banking industry operates under several levels of politics and laws. Politics cannot be a casualty in the study of the real world and the relations that exist between various states in as much as there are relations between politics and banking. These policies, regulations, and decision-making have an intensive impact on all the activities, smooth running, and business growth of the bank in Bangladesh. This paper also describes the matrix of political intervene and banking business of Bangladesh as regards, it is stated that laws and

---

<sup>1</sup> Author is a LL.M. student at North-South University, Bangladesh.

regulations have a role.

Bangladesh, being a developing country, has experienced a rotation in the banking sector in a rather surprising way. The banking sector had a massive dimension in the polity of the nation during the independence of the nation's democratic and authoritarian rule. Bangladesh began the process of liberalization in the financial sector as early as 1976 to privatize the banks to attract private investment and continued through the mid-eighties in the form of Structural Adjustment Policies (SAPs). In the period from 1992 to 1996, a set of liberalization measures that are known as the Financial Sector Reform Programme (FSRP) was taken.<sup>2</sup> Its main targets were Nationalized Commercial Banks (NCBs) modernization through integrating new banking technology, computerizing such operations, improving human resource skills, and changing the traditional banking system within the organizations and corporate and credit management systems.<sup>3</sup>

Some of the achievements in the governance of this sector can be traced to this period. That which is the political part of the management of the country, which participates in forming the banking policies of the country, appointments of the regulating authorities, and mapping over the economic framework of the country in general, should have been observed. Nevertheless, the basic charter and the legal requirements governing these institutions, together with those of the banking sector. In general, the banking license laws, the capital adequacy laws, the loan provisioning laws, and those that address the issue of financial stability present an avenue through which the strength and efficiency of the banking sector can be determined.<sup>4</sup>

In this writing, there is an effort to trace out several indexes of political influence on the banking business in Bangladesh. It will also focus on the measures that relate to political stability or instability, the impact on investors and their confidence, the distribution of available resources, and the general business environment for the banks in the two regions.<sup>5</sup> Besides, we will elaborate on the workings of the central bank, which is Bangladesh Bank, and how it operates independently or in coordination with the government regarding the determinations of the

---

<sup>2</sup> Salahuddin Ahmad and Dilli Raj Khanal 'Services Trade in Developing Asia: A case study of the Banking and Insurance Sector in Bangladesh', *Asia-Pacific Research and Training Network on Trade Working Paper Series*, No. 38, July 2007, pp. 04, 06, 42,. Available at: <https://www.unescap.org/sites/default/files/AWP%20No.%2038.pdf>.

<sup>3</sup> Salahuddin Ahmad, Dilli Raj Khanal "Services Trade in Developing Asia: A case study of the Banking and Insurance Sector in Bangladesh." (2007) (38) <https://repository.unescap.org/handle/20.500.12870/1370> accessed 11th April 2024.

<sup>4</sup> 'Political Economy of Private Bank Governance in Bangladesh' (2024) Cambridge University Press [Preprint]. doi:<https://www.cambridge.org/core/books/is-the-bangladesh-paradox-sustainable/political-economy-of-private-bank-governance-in-bangladesh/1B368072B7ED88A77C59F4AFEEC83CEE>.

<sup>5</sup> *ibid*

monetary policies and framework as well as the present state of the banking system. We shall also explain instances of political interventions in banking and the possibilities of intervention in bank affairs.

Besides, there shall also be a brief description of the modern issues, legal changes, and development of the banking system of Bangladesh. This will further show how, through legislation, the government has been solving issues to do with non-performing loans, corporate governance, and company executive responsibility. In addition, it will identify challenges of the banking laws and regulations with reference to political and economic factors of the country. It agreed that it was very much essential for all the stakeholders, the government, and the policymakers, as well as the investors, to appreciate the roundabout relationship of politics of the banking sector in Bangladesh.<sup>6</sup> As for its regulation, economics, political climate and structures, and Law systems mainly defined the country's banking sector.

## **II. A BRIEF REVIEW OF THE NOTION “POLITICAL INFLUENCE”**

The material considered and analyzed ensures a quite comprehensive perception of the complex interconnections of political effects in the sphere of the banking system of Bangladesh and its prospects for further evolution. It examines the histories, present scenarios and impacts of the various angles of political variables on the banking industry. Any government and its policies and regulations, politics, corruption, policies, and decisions relating to any country, to a large extent, have an impact on the sector. It focuses on the problem of non-performing loans and its connection with political and corrupt factors along with economic and financial factors. Assessing the case of KM Zakir Hossain versus Bangladesh Bank and others demonstrates that political interference plays a large role in deciding monetary outcomes.<sup>7</sup> The actions to enhance the second level of corporate governance and the development of the company's immunization evidence the information postulate of the alleged conception of optimal governance as well as the digitalization as the method of the firm's shielding from these risks. In addition, the factors for the policymakers and the banking institutions exposed that it is necessary to decentralize the operations, increase transparency and improve the protection to enhance the solidity of the banking system.<sup>8</sup> In sum, this research seems to be the first empirical study for investigating various political impacts on the banking industry of Bangladesh relevant to various stakeholders, policymakers, and investors.

---

<sup>6</sup> *ibid*

<sup>7</sup> *ibid*

<sup>8</sup> (2020) Central Bank non-functional: Puts banking sector on edge Default loan, political influence, and business groups intervention blight Bangladesh Bank [Preprint]. doi: <https://www.ti-bangladesh.org/articles/story/6330>.

### III. POLITICAL AND ECONOMIC FACTORS IMPACTING THE BANKING SECTOR IN BANGLADESH

Since the attainment of political independence, the financial sector and, more specifically, the banking sector have continued to bear more or less a political touch and interferences.<sup>9</sup> We are also famous for our dimensions of political instability that have nastily impacted our banking industry. It depicts the closeness of the political affairs to the gross economic growth of the country. This part tried to present the political factors relating to banking sectors and how these elicit the need to boost the total GDP effectively.<sup>10</sup>

Here are some key political and economic factors affecting the banking sector in Bangladesh: The following are the strategic political and economic variables in Bangladesh affecting the banking sector:

#### (A) Government policies and regulations

The government is the executive body or state, has a great potential in controlling the banking sector through its policies and regulations. The interest rate, reserve requirement, capital adequacy and lending practice policies can have far-reaching effects on banking operations as well as profitability. The problems of governance, transparency and accountability persist from the Board of Directors to lower level officials. The sad part is that these shortcomings have pervaded as far as private commercial banks.<sup>11</sup> Although Bangladesh adheres to sound international banking regulations, it appears that regulatory requirements need further tuning and robust implementation. However, it's government's intervention in the banking sector relying heavily on state-owned banks hasn't helped. Political decisions, such as the choice of key personnel and lending priorities, can have an impact on how these banks perform.

#### (B) Political Instability

The country needs political stability for the banking sector to thrive. Instability, not banks is perhaps the most exciting issue in the banking sector, which can't be dismissed from developing economies. That can create a lack of trust, lowering investors' confidence and potentially siphoning the capital flow. And it could reverberate through the banking sector more generally. Conflict and political instability in LDCs (least developed countries)<sup>12</sup> as well as developing countries, including Bangladesh, are often interlinked with the banking crisis. The economies

---

<sup>9</sup> *ibid*

<sup>10</sup> *ibid*

<sup>11</sup> Dr Salehuddin Ahmed, "Banking sector: Regulations, compliance and good governance" *The Daily Star* (Dhaka, 10 March 2015)

<sup>12</sup> *ibid*

get really sensitive and affected too by the conflicts and other kinds of violence because it gets spillover to their countries next door.<sup>13</sup> The neighboring country shall be exposed to adverse political instability in regional trade and bilateral areas. This latter move created a huge financial crisis. Furthermore, if there is an internal problem, it will be particularly challenging for banks to retain consumers' and investors' deposits<sup>14</sup> unconcerned when everyone wants them to panic. They will withdraw their money from that bank. The result is clear, and the foreseeable negative outcome in the financial sector befallen into a socio-economic crisis.<sup>15</sup> This situation is even dire due to political instability that the investment rate failed miserably and could not even touch its ambitious target of GDP.<sup>16</sup> The political environment also impacts the effectiveness and the extent of enforcement of banking regulations. Weak regulatory oversight due to an unstable political environment could sometimes result in financial instability.

### **(C) Corruption and governance**

Corruption at the country level can be filtered down to corruption in the banking sector. A corrupt environment can result in mismanagement, embezzlement, and lack of transparency when it comes to financial transactions, among other issues that hinder trust in the banking system. There is always a will and a way for everything. It is not that no one wants to regulate funding amounts in cryptocurrencies and fiat themselves, but the body's managerial staff or executive are not following the right practices, which can mean they breach any least expectations concerning accountability-transparency rules, as it appears with predictive modalities and persistency within 2nd-term imperatives \*Format insecurities (actions insecurely waiving their own sticks until if applicable).<sup>17</sup> This has led to a rise in corruption and mismanagement in the financial sector. In, recent times, the issue of bank loan defaults is on fire.<sup>18</sup> The defaulters tend to be politically connected most of the time. Behaviorally, the people also do not want to take responsibility for their own initiative; from that perspective, Government has enacted some laws such as the Money Loan Courts Act, 2003; Bank-Company Act, 1991; Financial Institutions Act, 1872; Negotiable Instrument Act, 1881; Criminal Penal Code, 1860; Money Laundering Prevention act 2012 and other laws but due lack of proper implications getting impossible consecutively in all over world faces substantial liability

---

<sup>13</sup> Ali Compaoré, Montfort Mlachila, Rasmané Ouedraogo, and Sandrine Sourouema, "The Impact of Conflict and Political Instability on Banking Crises in Developing Countries" (2020) WP 20/41, (5), <<https://www.elibrary.imf.org/view/journals/001/2020/041/article-A001-en.xml>> accessed 5<sup>th</sup> May, 2024.

<sup>14</sup> *ibid*

<sup>15</sup> *ibid*

<sup>16</sup> *ibid*

<sup>17</sup> *ibid*

<sup>18</sup> *ibid*

dilemmas.<sup>19</sup> The primary factor is the malpractices of the officials. Sometimes, bribes were shared with low-level project managers as well, where the bank officials could not divide over the funding of projects. In industrial loans, bankers took bribes both in open terms (1.0–5.0 percent of loan size) and under the guise that they were paid for by clients at certain times; gifts or congratulations were given, even just entertainment. Bribes comprised 1.0 percent to 5.0 percent in the case of term loans, based on the project's varied qualities.<sup>20</sup>

#### **(D) Policy on Non-Performing Loans (NPLS)**

A bank's financial condition can be impacted by government policies and political decisions related to the management of non-performing loans (NPLs). Whether there are delays in addressing NPLs or policies that induce their buildup and thus can stress the banking sector. The quality of the loans in a bank's portfolio is highly important. High NPL levels can result in a bank becoming less profitable and unstable. The annual reports of Bangladesh Bank showed the total value of non-performing loans (NPL) in our banking system was Taka 22,480 crore in 2009. By 2018, the amount skyrocketed to Tk93,911 crore; as of September 2022, it had shot to an alarming figure of Tk134,396 crore.<sup>21</sup>

It is unfortunate that defaulters of loans are getting encouraged and empowered for their fraudulent practices, whereas honest borrowers shall suffer.

#### **(E) Economic policies and development plans**

The banking sector is much influenced by different government economic policies, including the measures regarding their own tools of expansion and purchases. For example, expansionary budget policies may create opportunities for lending, whereas a contraction policy would also exist.<sup>22</sup>

Bangladesh's international relations and trade policies can also influence the banking sector. Announcements of new trade agreements and foreign investments or geopolitical tensions can also affect the finance sector as well.<sup>23</sup> Possibly as a secondary impact, the availability of foreign funding and financial support may be influenced indirectly by political relations with international financial institutions and donors, affecting banking sector stability.

---

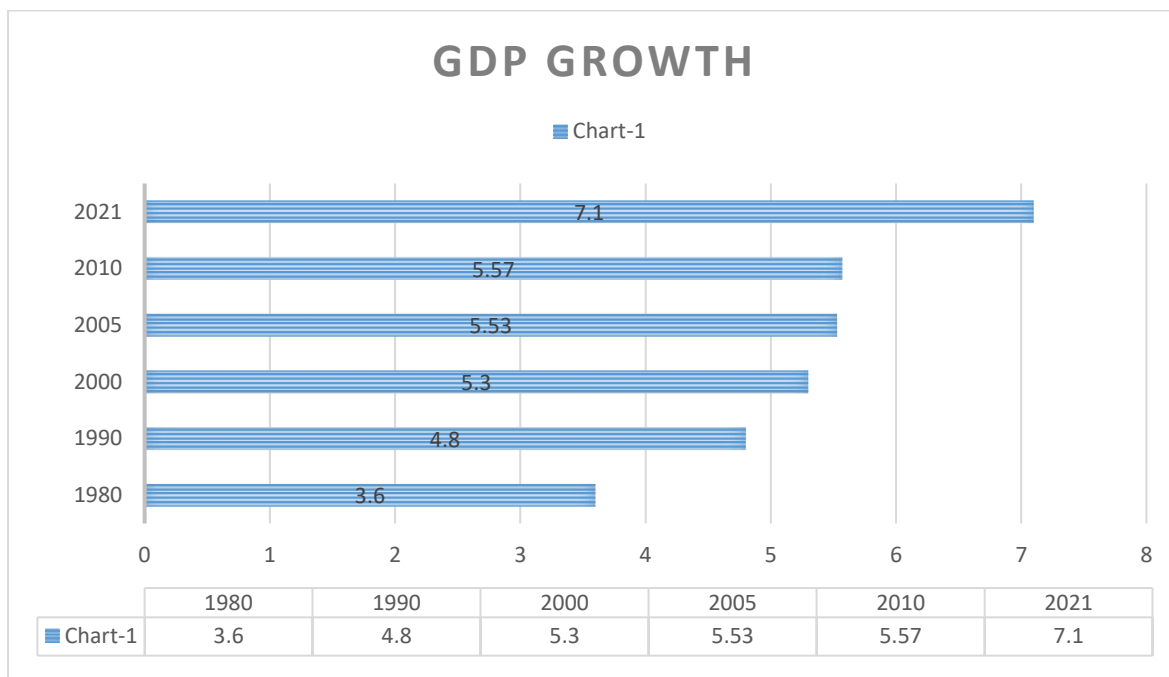
<sup>19</sup> See the website '<http://bdlaws.minlaw.gov.bd/>'

<sup>20</sup> Dr. Helal Uddin Ahmed, "Impact of corruption in the financial market of Bangladesh" *The Financial Express* ( Dhaka 10 July 2017).

<sup>21</sup> Dr Fahmida Khatun, "The never-ending crisis in our banking sector", *The Daily Star* ( Dhaka,12 December 2022)

<sup>22</sup> *ibid*

<sup>23</sup> *ibid*



However, leaving aside the entire analysis and if we have to comment on the present state of economic advancement from Chart 1, it depicts how the GDP growth has not been a continuous sharp slope through the years, and the economy's average growth rate is 3. Perhaps this is explainable by their decrease from 6 % in the eighties and nineties. The average rate of economic growth per annum for the decade was four. 8 percent. In the recent past, the rate of growth has been on the rise, most particularly after the year 2000, with an average growth rate of 5%. slightly declined to a between 2 and 3 per cent average in the 2001-2005 period.<sup>24</sup> The growth rate was 5. From a survey that was conducted at the end of 2010, 57% of the people were identified as smartphone users, and by the end of this year, the number is likely to be 7. 10% by 2021.<sup>25</sup> As a result, we have a method to, to very much so, observe. Economic development, the achievement of which is impossible without stimulating the financial sector.<sup>26</sup> Studies have proven that mainly banks and other institutions have played a vital role in enhancing economic turnover and speeding up the economy.

#### IV. CASE SUMMARY

**Case Name: KM Zakir Hossain vs. Bangladesh Bank and others (Writ Petition No. 4828**

<sup>24</sup> Bangladesh Economy: Recent Macroeconomic Trend [Preprint]. doi:chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://mof.portal.gov.bd/sites/default/files/files/mof.portal.gov.bd/page/fbec0015\_547a\_4cd0\_ad6d\_4e1f8fd07ba4/real\_sector.pdf.

<sup>25</sup> ibid

<sup>26</sup> Azran, A. (2024) *The rapid growth of Bangladesh's economy, and what comes after*, *The Daily Star*. Available at: <https://www.thedailystar.net/anniversary-supplement-2024/bangladesh-the-world-stage/news/the-rapid-growth-bangladeshs-economy-and-what-comes-after-3543361> (Accessed: 23rd June 2024).



**of 1999)**

In the Supreme Court of Bangladesh (High Court Division)

**Date of Decision:** May 9, 2000

**Appellants:** KM Zakir Hossain

**Respondents:** Bangladesh Bank and others

**Honorable Judges:** K.M. Hasan and Khademul Islam Chowdhury, JJ.

**Subject:** Banking

**Case Overview:** In this case, an original petition has been made by KM Zakir Hossain (the petitioner) to get a direction for quashing or recalling the “No objection” letter which was issued by the Bangladesh Bank (respondent No. 2) in connection with rescheduling of a loan. The loan in question can be connected with Islam Brothers Properties Limited (respondent No. 4), which borrowed money in IFIC Bank (respondent No. 3). For instance, the Chairman of IFIC Bank was the Chairman and Managing Director of Islam Brothers Properties Ltd, and such position perhaps was a clear case of conflict of interest.

The petitioner stated that the loan rescheduling was done with political intervention of the board of directors of the bank, contrary to what was provided under the Circular No 98 of Bangladesh Bank which stated that outstanding loans could not be rescheduled where a director of the bank has interest in the borrowing company. Further, the petitioner also alleged that the rescheduling was irregular and there was no comply with the banking conduct regulations.

**Key Points of the Judgment:**

1. The court also wanted to make it clear that, in the case of Circular No. 07, it mainly had more to do with personal loans availed by the directors of banks and their relatives which it extended to corporate loans. Basically, it discovered that the loans advanced to various entities of the Islam Group were pooled in an account of Islam Brothers Properties Ltd, making them corporate loans as opposed to being director’s personal loans.
2. This has informed the court in stressing that unlike other defendants, the borrower, Islam Brothers Properties Ltd. (respondent No. 4) has not been in any form of default on its loan payments but had been paying its installments as and when due. This factor was looked at as being very important in determining whether or not the loan can be rescheduled.
3. To the above, the petitioner suggested that the Impugned rescheduling was legalized by Circular No. 01 of 2000, which was contradicted by the court. They said that the circular titled

as Circular No. 01 of 2000 only looked into personal and corporate loans of the bank directors and thus was not specific to this case.

4. To our surprise, the court accepted Bangladesh Bank's argument that it has discretionary powers to change or even cancel its own orders and circulars in terms of Section 21 of the General Clauses Act. As a result, the issuing of a "No objection" letter was within its mandate to do so.

5. As there were no materials where the petitioner could nominate the respondents, particularly respondent No. 4 and an officer of the Bank, namely respondent No. 2, as having colluded among themselves, this allegation was also dumped.

6. The court dismissed the purported that the "No objection" letter was discriminative because it said that the circumstances of this case were different from that of Mr. Aga Yusuf another director of IFIC Bank had his loan rescheduling application turned down by Bangladesh Bank.

**Conclusion:** Conclusion: Here the Hon'ble court dismissed the present writ petition filed by the petitioners and decreed the following Rule in favour of Bangladesh bank and other respondents; The Rule is discharge without any order as to costs. The court stated that loan rescheduling did not breach Circular No. 07 since the borrower was not in any way in arrears on its payments and signed the "No objection" letters from the bank who has the authority to issue such letters. As for the allegations of conspiracy and discrimination revealed by the petitioner, these were not proven.<sup>27</sup>

### **Case Summary (II)**

**Title:** Gazipur Paperboard Limited v. Bangladesh Bank and Others

**Writ Petition Numbers:** 2523, 3798, 4239, and 4243 of 2015

**Decided On:** August 20, 2015

**Court:** Supreme Court of Bangladesh, High Court Division

**Hon'ble Judges:** Md. Ashfaql Islam and Zafar Ahmed, JJ.

**Counsels:**

**For Appellant/Petitioner/Plaintiff:** Md. Lutfor Rahman, Advocate

**For Respondents/Defendant:** Nahid Mahtab, Advocate

---

<sup>27</sup> KM Zakir Hossain v Bangladesh Bank [1999] (Bdlex) Writ Petition No 4828 [09 May 2000] (Supreme Court of Bangladesh (High Court Division)) (KM Hasan and Khademul Islam Chowdhury, JJ) ><https://www.bdlex.com/pers/Personalized.aspx>> accessed 29<sup>th</sup> July 2024

**Subject:** Banking

**Key Points of the Judgment:**

These petitions included writs (2523, 3798, 4239 and 4243 of 2015) that involved banking matters, political influence and a general legal question which have been delivered and determined jointly. It may be recalled that in these cases, the petitioners had sought to strike down Article 1 as being unconstitutional. 0 of the circular No. 4 issued by the General Manager of the Banking Regulation and Policy Department, Bangladesh Bank dated 29th January, 2015 on restructuring of large loan of Taka 500 crore and above in aggregate.

In Writ Petition No. 2523 of 2015 involving Gazipur Paperboard Limited a company was indebted to several banks for loan facilities that had been extended to it but whether due to changes in economic cycles the company could not properly schedule its repayment. They also applied for restructuring under the BRPD Circular and were told that they were not eligible because their aggregate loan exposure was below Taka 500 crore.

In Writ Petition No. 3798 of 2015 the petitioner, a Ship breaking and Scrap Business, suffered severe business loss and asked for restructuring of the loan. The mortgaged property in connection with the petitioner was advertised by a bank and the petitioner have sought a direction to the bank relating to loan restructuring under the BRPD Circular.

Similarly, Writ Petitions 4239 and 4243 of 2015 also of the borrowers who sought restructuring of their outstanding loans.

The main grievance was that as the Circular of the BRPD confined the borrowers' prospect for restructuring their loans by fixing a criterion of crossing at least Taka 500 crore discriminated them who having lesser outstanding loan amount and this is due to political influence. This, the petitioners noted, also infringed on the principles of equality and non-discrimination in the articles 27 and 31 of the constitution of Bangladesh.

As for the first Article, the court looked into its legal validity of the provision. According to the case, the applicant tried to decide whether it 1.0 (b) of the BRPD Circular was discriminatory and whether it breached equality and fairness principles. The court also thought over the legal powers of Bangladesh Bank to issue such circulars and directives in the larger public interest for ensuring proper loan discipline.

**Conclusion:** Finally, the court upheld the classification done on the basis of amount of overdue loan saying that this was rational and did not offend on the equality clause. It also said that the petitioners could still seek to restructure their loans under a different circular; thus, the Rule

was discharged. But to petitioner's representations the court asked Bangladesh Bank to meet the objections legally and promptly.

The court again made it clear that action under the writ petition was not possible against the private bank company and the court also referred back the cases wherein the petitioners asked for the stay order against the private banks.<sup>28</sup>

## V. CHALLENGES FACED BY THE BANKING SECTORS

### (A) Regulatory & Policy challenges:

Today, banking sectors are experiencing great pressures on account of regulations and policies. They are required to abide by various rules that include the following: AML (anti-money laundering)<sup>29</sup> and data protection laws. Adhering to these changes can be quite a time-consuming and expensive affair. That can affect the profitability of the banks: To surmount those challenges, many banks are putting their resources into the technical area, aiming at minimizing compliance and making it easier. This will be useful to the banking sectors to keep updated and aided through the process.<sup>30</sup>

### (B) Operational Challenges:

The problems associated with operations within the banking sectors have recently entered the list of acknowledged types of risks that threaten financial organizations. The Basel Committee on Banking Supervision (BCBS)<sup>31</sup> has been instrumental in raising it to the status that it boasts of today. The BCBS, in one of its publications, defines operational risks for banks as 'the risk of loss arising out of inadequate or failed internal controls, people and processes, or from external factors'.

Today's financial world has highly evolved ways and means in dealing with financial risks and issues after the World financial crises in 2008.<sup>32</sup> Yet, such systems have not been effective in coping with operational risk as well.<sup>33</sup>

Employees' mistakes, inadequate internal control, improperly installed control, fraud,

---

<sup>28</sup> Gazipur Paperboard Limited v. Bangladesh Bank and Others [2015] (Bdlex) Writ Petition 2523, 3798, 4239, and 4243 of 2015 (Supreme Court of Bangladesh (High Court Division)) (Md. Ashfaquul Islam and Zafar Ahmed, JJ.) ><https://www.bdlex.com/pers/Personalized.aspx>> accessed 29th July, 2024

<sup>29</sup> *ibid*

<sup>30</sup> Workassist, "What Are the Top Challenges Facing the Banking Industry?" (*Workassist*) <<https://workassist.in/blog/what-are-the-top-challenges-facing-the-banking-industry>> accessed 29<sup>th</sup> July, 2024

<sup>31</sup> *ibid*

<sup>32</sup> Ahmed, S. (2009) *Bangladesh and global financial crisis*, *The Daily Star*. Available at: <https://www.thedailystar.net/news-detail-71313> (Accessed: August 3, 2024).

<sup>33</sup> RiskOptics, "What are the Top Operational Risk for Banks?" <<https://reciprocity.com/resources/what-are-the-top-operational-risks-for-banks/>> accessed August 3, 2024

ineffective procedure, disruption of third-party businesses, and internal business<sup>34</sup> can lead to operational problems.

In many operational areas, the most significant difficulties in banking include-

- Third-party risk
- Fraud within & from outside the organization
- Cyber security risk
- Technology & IT failures
- Operational resilience
- Human error
- Insider threats<sup>35</sup>

**(C) Financial Challenges:**

- Economic uncertainty

The economy of global is more and more complex. Some aspects, such as political instability and trade barriers, contribute to uncertainty and international business growth. Such factors often affect the banking sectors<sup>36</sup> since these banks may experience decreased sales of loans & other related financial products that form the basis of source of income for the banking sectors. As for these difficulties, the banks are taking appropriate measures to separate their portfolios and minimize the risk level.<sup>37</sup>

- Impact of political instability

The stability of the political system constitutes a significant influence on the finances. The political factors are those which are influenced by the government policy or pattern of governance. Thus, during such political transition<sup>38</sup>, there is likely to be economic insecurity.<sup>39</sup> Therefore, the extent of investments will be held back by population and borrowers will delay borrowing as they are unsure of the next governance practice to be adopted. Withal, internal and external factors call for political stability so that the flow in the financial sector can readily

---

<sup>34</sup> *ibid*

<sup>35</sup> "Top Operational Risks for Banks" (*VComply*, September 27, 2023) <<https://www.v-comply.com/blog/what-are-the-top-operational-risks-for-banks/>> accessed August 6, 2024

<sup>36</sup> *ibid*

<sup>37</sup> *ibid*

<sup>38</sup> *ibid*

<sup>39</sup> *ibid*

be achieved.<sup>40</sup>

## VI. STRENGTHENING REGULATORY FRAMEWORK

### (A) Capital reform

Increasing the quantity, quality, reliability, and openness of the capital base is among the goals of the bank. The only way that the banking sector will be in a better position to act as a buffer to future shocks is if there is a higher level of loss-absorbing capital.

### (B) Capturing all the risks

Possible Novelties in the Formulation of Bugs: It is important to capture all the risks. In addition, let us stress that the enhancement of the capital base quality is not the only requirement; all the risks should be addressed.<sup>41</sup>

### (C) Formation of a new liquidity Framework

It has been another area that has continued to experience radical changes. It is also envisaged that the reform measures in the banking business will alter the regulatory capital regime profoundly.<sup>42</sup>

## VII. BASEL III: INTERNATIONAL REGULATORY FRAMEWORK FOR BANKS

Basel III is a set of measures that have been agreed at the international level and was developed by the Basel Committee on Banking Supervision with the purpose of responding to the crisis of 2007–2009.<sup>43</sup> The measures are intended to increase the regulation, supervision and management of risks associated with operation of banks. As with all Basel Committee standards, the standards for Basel III are the bare minimum for banks that are active in the international market. Members also agree to adopt and enact standards in relation to their jurisdictions at the time frame set by the committee.<sup>44</sup>

## VIII. ENHANCING CORPORATE GOVERNANCE IN BANKING SECTORS

Corporate governance is a set of ideas in banking that addresses the ways through which proper management of the banking institutions can be achieved in light of set regulations. Appropriate

---

<sup>40</sup> Momin A, “PESTLE Analysis of The Financial Services Industry” (*PESTLE Analysis*, July 7, 2023) <<https://pestleanalysis.com/financial-services-industry-pestle-analysis/>> accessed August 6, 2024

<sup>41</sup> *ibid*

<sup>42</sup> Banking Supervision C Basel Committee on, “Fundamentally Strengthening the Regulatory Framework for Banks” (September 3, 2010) <[https://www.bis.org/speeches/sp100903a.pdf&ved=2ahUKEwjDko\\_e3\\_CBAX9X9VPUHhAQfD-0QFnoECBYQAQ&usg=AOvVaw0Pkmx-yhek1qtap\\_J0W6nq](https://www.bis.org/speeches/sp100903a.pdf&ved=2ahUKEwjDko_e3_CBAX9X9VPUHhAQfD-0QFnoECBYQAQ&usg=AOvVaw0Pkmx-yhek1qtap_J0W6nq)> accessed August 7, 2024

<sup>43</sup> *Basel III: International Regulatory Framework for Banks* (2017) *The Bank for International Settlements*. Available at:<https://www.bis.org/bcbs/basel3.htm> (Accessed: 24 August 2024).

<sup>44</sup> “Basel III: International Regulatory Framework for Banks” (December 7, 2017) <<https://www.bis.org/bcbs/basel3.htm>> accessed August 8, 2024

governance in the banking sector and the corporate environment, in general, are emphasized to be central in the corporate achievement of the industry and the economy as a whole.

The October 2010 Basel Committee<sup>45</sup> principle of enhancing corporate governance was more of a continuum of similar efforts that the Basel Committee has been undertaking in order to enhance good corporate governance practices within the banking industry. In the corporate governance guidelines for banks, it was the Basel Committee that issued and designed guidelines in 2010, and they were aimed at integrating a number of key learnings from the 2007/8 global banking and financial crisis<sup>46</sup> while at the same time enhancing how banks are managed, and how the supervisors, in turn, supervise this important area.

### **(A) Corporate Governance principles for banks**

#### **1. Board's overarching duties.**

While performing their functions, the board members owe the bank a 'duty of care' as envisaged by the national laws, rules, and supervisory measures. They should reflect the corporate governance of the bank and also its corporate culture and values.<sup>47</sup> The board also plays a central role in the general corporate governance agenda, and therefore, it bears the responsibility of sufficiently developing risk governance<sup>48</sup>. The board is also responsible for coming up with and ratifying the bank's organizational structure.

#### **2. Board Qualifications and Composition**

The bank should have a nominating committee or a similar body of a sufficient number of independents who are members of the Board of Directors.<sup>49</sup> The board of any bank should consist of people with adequate skills, diversity, and invaluable knowledge for the non-executive positions and overall qualifications to meet the challenges that the bank's complexity and risk demands.

#### **3. Board's internal structure and practices**

The board should maintain a leadership structure and, where necessary, employ committees so as to perform its oversight and other functions.<sup>50</sup>

#### **4. Senior Management.**

The professional behavior of senior management is the major input to a bank's good

---

<sup>45</sup> *ibid*

<sup>46</sup> *ibid*

<sup>47</sup> *ibid*

<sup>48</sup> *ibid*

<sup>49</sup> *ibid*

<sup>50</sup> *ibid*

governance. The senior management should conduct the bank's operations in compliance with the board's business plan, risk management, and other policies.<sup>51</sup>

#### **5. Management of group structures<sup>52</sup>.**

In the case of the parent board of directors, the board should be made aware of any significant risks or challenges facing the whole bank and its subsidiaries.

#### **6. Risk management function.**

Banks should also have an independent risk management unit with comprehensive independence in appreciating the strategic importance of risk management, adequate powers and resources, and direct reporting line privilege to the board of directors or the audit committee supported by a CRO. Global and international business-related incumbents, depending on risk appetite and local regulations, must have a CRO<sup>53</sup> overseeing the bank's risk management function.

#### **7. Business continuity planning is along risk identification, monitoring, and control avenues.**

Risk management rules that should be implemented within the bank's risk governance should contain specific risk identification processes, risk aggregation and mitigation procedures as well as risk monitoring processes<sup>54</sup> that correspond to the identified risk profile of the bank.

#### **8. Risk Communication.**

There is need for the bank to ensure that there is communication of risk to the various parties, to the internal and external audience and to the board and senior management<sup>55</sup>.

#### **9. Compliance.**

The compliance function should also brief the board on the level of compliance of the bank to various laws, rules and standards in the area<sup>56</sup> and inform the board on any developments.

#### **10. Internal audit.**

Some of the attributes to implement for internal audit include having a charter to state its responsibility, reporting to the board and not being of the audited entity.

---

<sup>51</sup> *ibid*

<sup>52</sup> *ibid*

<sup>53</sup> *Banking Risk Management: Cro Plays Crucial Role* (no date) *The Financial Express*. Available at: <https://thefinancialexpress.com.bd/views/banking-risk-management-cro-plays-crucial-role-1527349003> (Accessed: August 9, 2024).

<sup>54</sup> *ibid*

<sup>55</sup> *ibid*

<sup>56</sup> *ibid*



### 11. Compensation

As for the design and operation of the compensation system, it is proposed that there should be a board compensation committee constituted within the scope of financial institutions.<sup>57</sup>

### 12. Disclosure and transparency.

A bank's corporate governance should be operant to shareholders, depositors, other stakeholders, and the market as a whole. For the most part, disclosure and transparency standards should be adequately carried out in concordance with OECD emoluments.

### 13. The role of supervisors

Supervisors should issue recommendations or rules that are consistent with the principles identified; Africa's banks must have good corporate governance policies and practices.<sup>58</sup> Such assistance is particularly important in situations where national corporate governance rules, regulations, codes, and/or listing requirements are inadequate to meet banks' particular corporate governance needs.<sup>59</sup>

## IX. RECOMMENDATION FOR POLICYMAKERS AND BANKING INSTITUTIONS

It is well understood that Bangladesh Bank is the central bank of Bangladesh and has the supreme power and control over the other banks and financial organizations. The state has 62 scheduled banks, of which 43 are commercial banks, 6 are state-owned commercial banks, 3 are specialized banks, 10 are Islami Shariah PCBs, 1 is a digital commercial bank, 9 are Foreign Commercial Banks, and 5 are non-scheduled banks, and all operate under the Bangladesh Bank's supervision.<sup>60</sup> Bangladesh Bank's major functions are:

1. Decision making on the direction of monetary as well as credit policies and exercise of the policy decisions made.
2. It also focuses on the safeguard of the and the encouragement of the financial subsector.
3. It controls our countries' foreign exchange,
4. Among its functions, it gathers loan-related information and supervises the banks and financial institutions.

---

<sup>57</sup> *ibid*

<sup>58</sup> *ibid*

<sup>59</sup> "Corporate Government Principles for Bank" (*Bank for International Settlements*) <<https://www.bis.org/bcbs/publ/d328.pdf&ved=2ahUKEwjqu9vftO-BAxWFamwGHfImBC4QFnoECA4QBQ&usg=AOvVaw37fQFfDijc2JBi6apct7ee>> accessed August 9, 2024

<sup>60</sup> See Bangladesh Bank websites. Available at: <https://www.bb.org.bd/en/index.php/financialactivity/bankfi> (Accessed: 15 August 2024).

5. It oversees and controls the payment system,

6. It, in fact, is regarded as the banker of the government, and Bangladesh Bank carries out activities such as issuing currency notes, etc.<sup>61</sup>

As per the recommendation, the central bank should have a supervision cell in order to identify default loan cases. To ensure transparency among the officials of banks and financial institutions, there shall be an index of targets, and it is recommended that every 3 months, each financial institution is recommended to conduct a review meeting in order to examine the fulfillment of the above-mentioned index; there should be an annual confidential report where all successes and failures should be mentioned, there shall be a reward for the success and punishment for the failure. After the assessment of the performance of the MD's and CEO's incentive system introduced based on the performance, a separate bench in the High Court Division can be established for loan defaulter cases on the basis of existing laws of the country for the merger of banks; new policies can be introduced, there should be three-step procedure before giving the approval of the loan, before giving loan on the basis of the immovable asset it is necessary for a proper valuation of that asset and after the assessment loan should be provided<sup>62</sup>.

Recently, Transparency International Bangladesh (TIB) published a report where it has shown how the Bangladesh Bank became an ineffective entity due to the defaulted loans, and it is because of immense political pressure as well as intervention by some giant business groups. TIB<sup>63</sup> warned that the central bank has its supremacy on paper only but the reality is disappointing. Due to a lack of corporate governance and huge corruption among its officials, the central bank cannot function properly. The central bank needs to ensure that no loan defaulter gets a free pass as a result of political pressure.<sup>64</sup> If we talk about the state-owned commercial banks, then it is also found in TIB's report that those banks are controlled by the finance ministry, and its influence over the appointments is based on the basis of political consideration only, so it is the responsibility of the central bank to stop this practice of the finance ministry because it has created conflicts of interest because of which the autonomy of the central bank has compromised<sup>65</sup>.

---

<sup>61</sup> See *Establishment of Bangladesh Bank website*. Available at: <https://www.bb.org.bd/en/index.php/about/index#:~:text=The%20major%20functional%20areas%20include,of%20the%20country's%20international%20reserves>. (Accessed: 15 August 2024).

<sup>62</sup> Recommendations to bring discipline in banking sector, published on 11<sup>th</sup> October, 2023; Prothom Alo

<sup>63</sup> *ibid*

<sup>64</sup> *ibid*

<sup>65</sup> Political influence making Bangladesh Bank ineffective, published on 24<sup>th</sup> September 2020; The Daily Star

## X. BUILDING RESILIENCE IN THE BANKING SECTOR

Prior to talking about how to we can build resilience in our banking sector first we need to understand what building resilience means. It is basically a process through which people became better about reframing thought patterns as well as they were tapping into the strength based approach in order to working through the obstacles and we have to keep in mind that this process does not happen overnight and if we think that we are ready to resilient then we need to work for it to maintain<sup>66</sup>.

We live in the age of science and technology, and to sustain in this era, banks face rising competitive pressure to switch to the digital banking system in order to retain the cost. It is the demand of the clients because we know it provides faster banking services compared to conventional banking systems. Nowadays, we use many online banking services; for instance, many mobile banking operators like bKash, Nogod, uPay, Rocket, etc. Nowadays, most banks have their own mobile banking app through which their clients get on-demand banking services. Most banks use the Bangladesh Electronic Fund Transfer Protocol (BEFTN)<sup>67</sup>, which is the national payment system. However, Digitization in banking operations faces new vulnerabilities. It became mandatory to focus on operational resilience in the banking sector. Regulators worldwide are working progressively to examine the ability to recuperate when an operational disruption occurs. A joint paper published by the Prudential Regulation Authority, Financial Conduct Authority, and Bank of England is a different approach to regulation and supervision for building operation resilience in the UK<sup>68</sup>. This paper highlighted the significance of banks' responses during disruptive events and emphasized governance and individual accountability. These were the suggestions for building resilience:

1. There should be an end-to-end testing program.
2. There should be a response to the disruptive event and focus on the ability to recover.
3. It should establish an integrated view of resilience, which was initiated by board members as well as senior management of the bank.<sup>69</sup>
4. In order to prevent any kind of disruptive event in the future, it should take action on the

---

<sup>66</sup> Operational Resilience in Banking

<sup>67</sup> *Bangladesh Electronic Funds Transfer Network (BEFTN) OPERATING RULES* (2010) *Bangladesh Bank*. Available at: [https://www.bb.org.bd/en/index.php/about/index#:~:text=The%20major%20functional%20areas%20include,of%20the%20country's%20international%20reserves.\(Accessed:16August2024\).](https://www.bb.org.bd/en/index.php/about/index#:~:text=The%20major%20functional%20areas%20include,of%20the%20country's%20international%20reserves.(Accessed:16August2024).)

<sup>68</sup> Joint paper published by Bank of England, Prudential Regulation Authority and Financial Conduct Authority 2018

<sup>69</sup> *ibid*

basis of continuous improvement.

5. For Those affected due to disruption, the bank should internally and externally communicate with those affected.<sup>70</sup>

## **XI. CONCLUDING REMARKS**

We urge the concerned authorities to take steps and form a commission whose duty is to bring a stop to the loan defaults and formulate a regulatory committee whose duty is to appoint and withdraw officials of the central bank. Formulate necessary policies for those who are involved in politics and ensure those persons don't hold any position in state-owned or private banks so that they don't create any obstacle in the banking operation. Without these measures and not updating the governance structure of the central bank, the consequences for the banking sector of Bangladesh will be short of dire.

\*\*\*\*\*

---

<sup>70</sup> *ibid*

**XII. REFERENCES****(A) Cases:**

- KM Zakir Hossain v Bangladesh Bank [1999] (Bdlex) Writ Petition No 4828 [09 May 2000] (Supreme Court of Bangladesh (High Court Division)) (KM Hasan and Khademul Islam Chowdhury, JJ)
- Gazipur Paperboard Limited v. Bangladesh Bank and Others [2015] Writ Petition No 2523, 3798, 4239, and 4243 of 2015 (Supreme Court of Bangladesh (High Court Division)) (Md. Ashfaque Islam and Zafar Ahmed, JJ.)

**(B) National Laws of Bangladesh:**

- Money Loan Courts Act, 2003
- Bank-Company Act, 1991
- Financial Institutions ACT, 1993
- Negotiable Instruments Act, 1881
- Bankruptcy Act, 1997
- Companies Act, 1994
- Money Laundering Prevention Act, 2012

**(C) Books:**

- Gereaid Epstein, 2019 *The Political Economy of Central Banking*
- Christopher Adolph, 2015, *Bankers, Bureaucrats, and Central Bank Politics: The Myth of Neutrality*
- Momin A, "PESTLE Analysis of The Financial Services Industry" (PESTLE Analysis, July 7, 2023)

**(D) Journal Articles:**

- Political influence making Bangladesh Bank ineffective, published on 24th September 2020; *The Daily Star*
- Recommendations to bring discipline in banking sector, published on 11th October, 2023; *Prothom Alo*

**(E) Reports & Seminar/Conference Proceedings:**

- Joint paper published by Bank of England, Prudential Regulation Authority and

## Financial Conduct Authority 2018

- Banking Supervision C Basel Committee on, “Fundamentally Strengthening the Regulatory Framework for Banks” (September 3, 2010)
- A case study of the Banking and Insurance Sector in Bangladesh.” (2007) (38)
- Banking Supervision C Basel Committee on, “Fundamentally Strengthening the Regulatory Framework for Banks” (September 3, 2010)
- Ali Compaoré, Montfort Mlachila, Rasmané Ouedraogo, and Sandrine Sourouema, “The Impact of Conflict and Political Instability on Banking Crises in Developing Countries” (2020)
- In total, nine FCBs operate in Bangladesh. These include Bank Al-Falah Limited (Pakistan), Citibank N.A. (United States of America), Commercial Bank of Ceylon PLC (Sri Lanka), Habib Bank Limited (Pakistan), HSBC (Hong Kong), National Bank of Pakistan (Pakistan), Standard Chartered Bank (United Kingdom), State Bank of India (India), and Woori Bank (South Korea). See [www.bb.org.bd/fnansys/bankfi.php](http://www.bb.org.bd/fnansys/bankfi.php).
- The lending rate is the bank rate that typically serves the private sector's short- to medium-term borrowing needs. This rate is typically differentiated based on the borrower's creditworthiness and the financing objectives. (see [www.theglobaleconomy.com/rankings/Lending\\_interest\\_rate/](http://www.theglobaleconomy.com/rankings/Lending_interest_rate/)).
- Between 1991 and 2013, the Bangladesh Nationalist Party and Awami League alternated power every five years through reasonably free and fair elections overseen by nonpartisan Caretaker Governments; for an analysis of the political dynamics of the competitive phase from a political settlement perspective, see Hassan (2013) and Hassan and Nazneen. (2017).
- The BAB is an advice service provider for private commercial banks. Established under the Companies Act of 1913, the BAB began operations in 1993 with nine commercial banks, which had grown to 38 as of the end of December 2015. See [www.bab-bd.com/](http://www.bab-bd.com/).
- See [www.dhakatribune.com/business/banks/2017/11/26/independent-bangladesh-bank](http://www.dhakatribune.com/business/banks/2017/11/26/independent-bangladesh-bank).
- See [www.dhakatribune.com/business/banks/2018/12/09/economists-banking-sector-must-steer-clear-of-political-influence](http://www.dhakatribune.com/business/banks/2018/12/09/economists-banking-sector-must-steer-clear-of-political-influence).

- As an ex-Governor of Bangladesh Bank stated: "Bangladesh Bank may play a role in most of the cases, but it is unable to play a role in some of the cases, as we can see from the outside." Currently, the central bank is issuing certain circulars. It appears that these decisions are not made with appropriate judgment. The potential consequences are not considered. These circulars appear to be published after being persuaded by a quarter of politicians and bureaucrats acting in their own best interests. It is true that the Bangladesh Bank cannot act independently of the government. However, various initiatives are currently being launched outside of the central bank to issue circulars. Bangladesh Bank is only providing legal recognition.' (See <https://en.prothomalo.com/opinion/Financial-sector-crisis-spreads-to-other-sectors>).
- Based on data obtained from [www.theglobaleconomy.com/rankings/bank\\_accounts/](http://www.theglobaleconomy.com/rankings/bank_accounts/). Country comparisons are also done using accessible data for comparable countries. [www.theglobaleconomy.com/rankings/bank\\_accounts/](http://www.theglobaleconomy.com/rankings/bank_accounts/)
- A bank's operational expenses expressed as a percentage of its net interest revenue and other operating income (source: [www.theglobaleconomy.com/rankings/bank\\_cost\\_to\\_income](http://www.theglobaleconomy.com/rankings/bank_cost_to_income)).
- Domestic credit to the private sector by banks refers to financial resources provided by other depository corporations (deposit-taking corporations except central banks), such as loans, purchases of non-equity securities, and trade credits and other accounts receivable that establish a claim for repayment. (see [www.theglobaleconomy.com/rankings/Bank\\_credit\\_to\\_the\\_private\\_sector/](http://www.theglobaleconomy.com/rankings/Bank_credit_to_the_private_sector/)).

\*\*\*\*\*