

Bangladesh to overtake India in per capita GDP, says IMF

International Monetary Fund (IMF) released their World Economic Outlook in October and as per the report, Bangladesh overtook India as its per capita GDP in dollar terms is likely to expand by 4% in 2020 to \$1,888. The nation's per capita GDP is growing at a rate faster than its GDP. The IMF outlook also projected the Bangladesh's gross domestic product (GDP) growth at 3.8% for 2020



However, it previously forecasted a 2% growth for Bangladesh economy in the previous World Economic Outlook released in April earlier this year. For the next year, the IMF forecast 4.4% GDP growth for Bangladesh. Meanwhile, emerging and developing Asia's economy will see a 1.7% contraction but rebound in 2021 with a 8% growth, the report said.

The Outlook also mentioned that the global economy is climbing out from the depths to which it had plummeted during the Great Lockdown in April. But with the Covid-19 pandemic continuing to spread, many countries have slowed reopening and some are reinstating partial lockdowns to protect susceptible populations. Among other South Asian countries, IMF estimated a 10.3% contraction for India's GDP, while Bhutan's economy is predicted to grow by 0.6%, Sri-Lanka at -4.6%, Pakistan -0.4% and Nepal to remain flat.

However, the global growth is projected at -4.4% in 2020, a less severe contraction than forecast in the June 2020 World Economic Outlook (WEO) Update. The revision reflects better-than-anticipated second quarter GDP outturns, mostly in advanced economies, where activity began to improve sooner than expected after lockdowns were scaled back in May and June, as well as indicators of a stronger recovery in the third quarter. Global growth is projected at 5.2% in 2021, a little lower than in the June 2020 WEO Update, reflecting the more moderate downturn projected for 2020 and consistent with expectations of persistent social distancing.

Following the contraction in 2020 and recovery in 2021, the level of global GDP in 2021 is expected to be a modest 0.6% above that of 2019. The growth projections imply wide negative output gaps and elevated unemployment rates this year and in 2021 across both advanced and emerging market economies. The uncertainty surrounding the baseline projection is unusually large. The forecast rests on public health and economic factors that are inherently difficult to predict. A first layer relates to the path of the pandemic, the needed public health response, and the associated domestic activity disruptions, most notably for contact-intensive sectors. Another source of uncertainty is the extent of global spillovers from soft demand, weaker tourism, and lower remittances.



Legislative Updates

Legislation Updates of October, 2020

S.R.O. No. 262-Ain/2020- Pursuant to power conferred by section 21(1) of the Bangladesh Standards and Testing Institution Act, 2018 and in consultation with Bangladesh Standards and Testing Institution (BSTI), the Government prohibits the sale, distribution and commercial advertisement of below-mentioned products if it doesn't comply with the Bangladesh Standard mentioned in column 3 (three) below:

No.	Product's Name	Bangladesh Standard
(1)	(2)	(3)
1.	Wafer Biscuit	BDS 1001:2010 (1st Revision)
2.	Fruit Drinks (2nd Rev.)	BDS 1581:2015 (2nd Revision)
3.	Secondary cells and batteries for renewable energy storage-General requirements and methods of test-Part 1: Photovoltaic off-grid application	BDS IEC 61427 (Part 1) :2016

S.R.O. No. 15.00.0000.019.22.011.15-224 – The government fees for registration, establishment and administration of Online New Portal. Finance Department, Ministry of Finance circular 07.00.0000.144.32.121.16-27 dated 25-08-2020 shall continue to apply.

No.	Service Name	Fees (BDT)	Time period
1.	Registration Fee	10,000	
2.	Registration renewal fee	5,000	Yearly
3.	Surcharge	2,000	If paid within a month
		5,000	If not paid within a month

Prevention of Violence against Women and Child (Amendment) Ordinance, 2020 (Unofficial English Version)

In exercising the power conferred upon the President of the Peoples Republic of Bangladesh, the following Ordinance has been made public.

Ordinance No. 04, 2020.

1. This Ordinance shall be called Prevention of Violence against Women and Child (Amendment) Ordinance, 2020. It shall become effective immediately.
2. Amendment to Section 7 of the 2000 Act: reference to “under section 5” shall be replaced with “section 3 and 6 of the Prevention and Suppression of Human Trafficking (PSHT) Act, 2012”.
3. Amendment to Section 9 of the 2002 Act: The words “rigorous imprisonment” mentioned in section 9 (1) & (4) (a) of the Act shall be replaced with “life sentence or rigorous imprisonment”. And the word “liable” mentioned in section 9(5) of the Act shall be replaced with “responsible”.
4. Amendment to Section 19 of the Act: section 19(1) shall be replaced with “(1) every offence under this Act shall be cognizable, and offences mentioned in section 11 (c) is compoundable.”



Legislative Updates

Legislation Updates of October, 2020

5. Amendment to Section 20 of the Act: reference to “under section 25 of the Act” in section 20(1) has been replaced with “section 26 of the said Act”. Reference to the “Children Act, 1974” in section 20(7) has been replaced with “Children’s Law, 2013 (No. 24 Act of 2013)” relating to where a child is accused of a crime under this law or is a witness to the crime.
6. Amendment to Section 32 of the Act: reference to Section 32 “medical examination of the victim” shall be placed with “medical examination of the accused person and the victim” and in section 32(1) reference to “victim of the crime” shall be replaced with “use of latest technology on the accused person of the crime and the victim of the crime.”
7. Amendment to Section 32ka of the Act: additional of section 32ka “The accused person of the crime and the victim of the crime under this Act, in addition to the medical examination under section 32, with or without the consent of the concerned person, must undergo Deoxyribonucleic Acid (DNA) examination according to the Deoxyribonucleic Acid (DNA) Act, 2014 (No. 10 Act of 2014).”

In Other News

Bangladesh to roll out its first car by 2021

Industries Minister recently in an interview with a national news agency said that the **Automobile Industry Development Policy 2020** will be finalized very soon, and the country will start making cars from next year.

The state-owned Pragati Industries Limited will start manufacturing the automobiles with technical assistance from Mitsubishi Corporation of Japan.

The Minister said that Japan would provide technical assistance for the production of Bangladesh's own brand of motor vehicles, and will also assist Bangladesh in developing the vendor industry related to automobile and light engineering industries and setting up an Automobile Testing & Research Institute in Bangladesh.

The Ministry of Industries has already formulated a time-bound action plan for the development of automobile and other industries in the country, and this action plan is believed to play an important role in attracting foreign direct investment (FDI).

Generally foreign cars cost more for end-users due to high import duties. If cars are made in Bangladesh, their prices will be affordable and it is believed that the general mass will be able to buy them for ease of commuting.

This will also create an opportunity to export motor cars to the world market, creating more options of export earnings.

CASE LAW UPDATE

The State Vs Oli Judgment of the Hon'ble High Court Division of the Supreme Court of Bangladesh

This Death Reference No. 61 of 2011 heard with Criminal Appeal No. 6592 of 2011 and Jail Appeal No. 50 of 2012 before the Hon'ble High Court Division of the Supreme Court of Bangladesh arising out of common judgment and involving common facts and law have been heard together and are disposed of by this judgment. In the judgment, the divisional bench of the High Court Division of the Supreme Court of Bangladesh has answered some very important legal points.

Issue before the Court:

In this case, the Divisional bench was confronted with an important question of law as to whether collection of call list and audio recordings by law enforcement agencies as well as publication of the same in media is amounting to a violation of a citizen's fundamental right guaranteed under article 43 of Constitution of Bangladesh i.e. right to privacy of his correspondence and other means of communication & whether the same is admissible as evidence before a court for the purpose of a criminal trial.

Decision of the Court:

The Court held that the practice of collection of call list/audio discussion from public/private phone companies without any formal requisition and formal seizure, and also behind the knowledge of the subscriber must be stopped. The Court has observed that nowadays private communications between the citizens including their audios/videos are often leaked and published in social media for different purposes. The Court has also confirmed about the citizens' right to privacy in correspondence and other means of communication is guaranteed under article 44 of the Constitution which cannot be easily violated at the instance of any interested quarter. In addressing this legal issue the Court has also opined as follows:

“Bangladesh Telecommunication Regulatory Commission and the phone companies operating in Bangladesh have a great responsibility towards proper compliance of the Constitutional mandate of maintaining privacy in communication. They cannot provide any information relating to communication of their subscribers and the citizens of the Country, unless it is permissible in law matched with the Constitution. So, when the Investigating Officers in relation to particular investigation/inquiry require any call lists or information relating the one's communication, they must make a formal request to the concerned authority of the respective company/office stating his reason why it is necessary for that investigation/inquiry, not in a roving and fishing manner. Only in that case the phone companies have obligation to supply the call list or information within the knowledge of the subscriber. Otherwise the supplied documents would lose its evidentiary value and the supplying person/authority would also be liable for aiding violation of one's fundamental right guaranteed under the Constitution.

This is also a demand of time that after unimaginable development of Information and Communication Technology and its use in commission of various offences, our Evidence Act should be made up-to-date by way of amendment or new legislation to deal with the developed technology as well as electronic record/document.

CASE LAW UPDATE



The State Vs Oli Judgment of the Hon'ble High Court Division of the Supreme Court of Bangladesh

In India some special provisions i.e. sections 65A, 65B and 67A are incorporated in their Evidence Act. Some other provisions, namely, sections 47A, 73A, 85A, 85B, 85C, 88A, 90A are also added to harmonize it for dealing with electronic record and definition of evidence as given in section 3 has also been amended. The procedure of certification of electronic document has also been introduced there by the Information Technology Act, 2000.

In the Druto Bichar Tribunal Ain, 2002 under which the instant case has been tried, any video or still photographs, recorded tape and disc are given evidentiary value, but without any ancillary amendment to the Evidence Act providing the manner of seizure and proof of the contents thereof and its generation/conversion into printed material/paper copy and certification. In the same way those have been given evidentiary value in Ain Sringkhola Bighnakari Aporadh (Druto Bichar) Ain, 2002. The Pornography Niontron Ain, 2012 has recognized the soft or converted hard copy of pornography, CD, VCD, DVD or any information or memory preserved in electronic process to be evidence with the same insufficiency. Recording of evidence through video conference in the case of money laundering committed within more than one countries and that of humane trafficking have been introduced by Mutual Legal Assistance in Criminal Matters Act, 2012 and Manab Pachar Protirodh Ain, 2012 respectively.

The Tothyo-o-Jogajoge Projukti Ain, 2006 has defined electronic signature, internet, electronic mail, data message, website, computer network etcetera and preservation of electronic record and document in its definition clauses in section

2 while sections 5 and 36 thereof provides certification of electronic signature and record and sections 6 and 7 give legal recognition and evidentiary value thereto.

All these special laws are lacking specific provisions as to how the materials would be collected and adduced in evidence. The only exception is the Anti-Terrorism Act, 2009 where an overriding rule of evidence has been introduced in its section 21 (3) which says that any discussion and conversation through Facebook, Skype, Twitter of any internet site by a terrorist person or entity, or still picture or video involving his offence if produced by the Police or law enforcers to any Court for the purpose of investigation, the information so produced shall be admissible in evidence.

However, the above laws are made applicable for the purpose of functioning of the Tribunals constituted thereunder. We have already pointed out that no amendment to the Evidence Act or any supplemental law providing the manner of proving the contents of electronic record/document and its generation into printed material and certification has yet been made for the purpose of regular proceedings under the general laws. It is, therefore, expected that the Legislature would take initiative for amendment of the existing Evidence Act or new legislation to address the issues."

The divisional bench of the High Court Division of the Supreme Court has made direction to communicate a copy of this judgment to the Ministry of Law, Justice and Parliamentary Affairs for taking necessary step and also to Bangladesh Telecommunication Regulatory Commission for circulation of the relevant part with necessary direction to the phone companies.

Complexities of Land Transfer in Bangladesh

Land is considered to be one of the most valuable investments in Bangladesh. It is also considered as a secured investment since there is no depreciation, rather the value usually increases. Most people in Bangladesh who are financially abled, wish to own a piece of land for their future. Investment in land is also considered a very good option for entities. It increases the net asset value of that entity and sometimes if the entity applies for mortgage in a scheduled bank, land can be a good collateral security against the mortgage.



However, one of the most complex transactions in Bangladesh is land transfer. Mostly due to the lack of knowledge of the concerned officials, mistakes or errors in records at the concerned offices, and a bureaucratic system. All these makes the transaction process lengthy, and on most cases an unfavorable one.

Usually, the land transfer process starts from the negotiation between a buyer and a purchaser, if the land is transferred through a sale. Otherwise the process starts from drafting and registration of the transfer deed. And usually the whole process of transfer ends with completion of land mutation in the name of the transferee. In between all these, there are other formalities involved as well, including deed registration from the concerned sub-registry office, obtaining sale permission from the concerned authority, due diligence of the land etc. To transfer any land, one usually requires to follow the steps described below:

Step-1: Pre-Registration Stage

- 1 Collection of all relevant land documents from the existing owner(s) i.e. title deed(s), bid deed(s), Mutation Khatian(s), Ground Rent Payment Receipt, all relevant Khatian(s) and other required documents.
- 2 Review the land documents and take legal advice if necessary.
- 3 Conducting physical verification and title search of the land.
- 4 Obtaining transfer/sale permission from the concerned government authority (if the land is situated within any government authority i.e. RAJUK, CDA).

Step-2: Registration Stage

- 5 Fix the terms and conditions of the transfer of property, and drafting of sale agreement between the seller and purchaser, if the land is transferred through a sale.
- 6 Registration of Sale Agreement from the concerned Sub-Registry office (Not Mandatory).
- 7 Drafting and finalizing transfer deed (Saf-Kabla Deed, Heba Deed, Exchange Deed etc.), and collection of all required documents of buyer and seller.
- 8 Payment of all Government fees and miscellaneous costs for the purpose of land registration.
- 9 Registration of the Sale deed from the concerned Government office in presence of both the buyer and seller.

Step-3: Post Registration Stage

- 10 Application for obtaining certified and original copy of the sale deed and collection of certified copy of the sale deed from the sub-registry office.
- 11 Application for Mutation to the concerned A/C Land Office and collection of the Mutation Khatian from the concerned Tahshil Office.
- 12 Payment of ground rent on regular basis at the concerned Land Office.

This entire property transfer process, and obtaining ownership of the land is usually a very complex one. Generally, ownership of a land is a combination of having both the title and possession on the land. These title and possession should also be supported by the proper documents. The absence of either title or possession over the land shall be considered as disputed land and any transfer of that land with defective ownership shall be consider as an invalid transfer. Therefore, before purchasing any land it is a pre-requisite requirement of the buyer to verify the authenticity of the ownership from the current owner.

Thus, the following issues should be taken into consideration, when planning to buy any piece of land:

A. Break of Chain

Break of chain is a common problem during any land transfer. Usually chain of ownership as referred in the title deeds and the name as inserted in the record of rights are not the same. At times, due to the lack of required documents it becomes difficult to identify the actual ownership of the previous owners. Under this circumstance, it is always advisable to take legal advice.

B. Discrepancy on Possession Documents and Actual Physical Possession

Mostly it is seen that there is discrepancy between the possession documents (i.e. relevant khatians, mutation khatian, ground rent receipt etc.) and actual physical possession of the land, meaning the name of the transferor has been recorded for one land while he is actually in possession of another one. This problem can be identified at the time of physical verification. Therefore, physical verification is very important before any transfer of land and if any such discrepancy is identified, then the issue should resolved before the transfer.

C. No Record at Concerned Government Office

It is very important to verify the authenticity of the title documents (relevant deeds) from the concerned sub-registry office, and possession documents, particularly Mutation Khatian from land office. Sometimes it appears that the documents submitted by the transferor are forged and therefore no record is found in the sub-registry office regarding the registration of the title deed or the existence of mutation khatian from the concerned Assistant Land Office.

D. Schedule Discrepancies in Title Deed and Via Deeds

Schedule of a deed actually determines the physical possession of the concerned land. Sometimes it appears that there are schedule discrepancies in between the title deed and via deeds due to the mistake of the deed writer or maybe some other similar causes. This sort of mismatches can be sorted out by executing a rectification deed with the corrected schedule or any other manner.