

Legal Insights

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Bangladesh's Economy is Expected to Grow Faster Between 2020 and 2034

- World Economic League Table 2020

Bangladesh's economy would grow at one of the fastest rates between 2020 and 2034, mainly due to the demographic dividend and growing per capita income. According to the newest edition of the World Economic League Table 2020 (WELT), issued by London-based Centre for Economics and Business Research, Bangladesh currently ranks 40th among 193 nations this year and would rise to 25th by 2034. The place is currently held by Belgium.



According to the report, many Asian economies will advance up the ranks of the WELT in the long run, as these countries cash in on their demographic rewards. The Philippines and Bangladesh are the two most notable instances. The Philippines will enter the top 25 largest economy in 2034, rising to 22nd position.

Bangladesh had a purchasing power parity adjusted GDP per capita of \$5,028 in 2019, which was a good year for the country, with an outstanding 7.8% growth rate. This was, however, lower than the 7.9% GDP growth rate seen in 2018. Since 2014, Bangladesh's population has grown at a pace of only 1% per year and as a result, per capita income has increased significantly in recent years.

Last year, Government debt as a percentage of GDP increased to 34.6%, up from 34% in 2018. Despite the rise, the Government's finances are in good shape, which due to the comparatively modest debt load, Government was able to run a budget deficit of 4.8% in 2019.

Between 2020 and 2025, yearly GDP growth is expected to drop to an average of 7.3%, while CEBR also predicts that the economy will continue to grow at this remarkable rate over the next nine years, propelling Bangladesh from 40th to 25th place in the WELT by 2034.

The Philippines, Bangladesh, and Malaysia are the three fastest-growing Asian economies in the chart among the major economies. India has surpassed both France and the United Kingdom to become the world's fifth largest economy in 2019. In 2026, it will overcome Germany to become the fourth biggest economy, and in 2034, it will overtake Japan to become the third largest.

Anti-Corruption Commission

-Vs-

Partho Gopal Bonik

CASE LAW
UPDATE**Background Facts:**

The present criminal case was initiated by Anti-Corruption Commission against accused Partho Gopal Bonik, DIG Prison, Sylhet and later charges was formed against him for taking bribe as a public servant and criminal misconduct under section 161 of the Penal Code 1860 and section 5(2) of The Prevention of Corruption Act, 1947 respectively along with section 4(2) of the Prevention of Money Laundering Act, 2002.

On 02/11/2020 the HCD rejected the accused's application for bail and ordered the lower court to dispose of the matter within 6 (six) months. On 25/01/2021 the same court again rejected the review petition arising out of the previous order and directed the lower court to dispose of the matter within one year. The accused again sought bail on 25/04/2021 in the Special Court-5, Dhaka, sighting his wife's medical situation without proofs enclosed.

In the Virtual Hearing of that application on 17/06/2021, The Learned Judge did not give any order in the open court. On the same day the Learned Judge granted bail to the accused by making an order from his chamber and sent it to Central Jail where the accused was in custody.

Issues before the Court:

1. Whether the order granting bail from the Judge's chamber despite an open court in the present case was given lawfully?
2. Whether the bail shall be canceled by the HCD?

Decision of the court:

After elaborate discussion regarding the particular details of the case, His Lordship Justice M. Enayetur Rahim stated that, Section 366 of the Code of Criminal Procedure, 1898 and Rule 179(2) of the Criminal Rules and Orders (Practice and Prosecutor of Sub-Ordinate Courts), 2009 both require a "Judgment" to be delivered in an open court in front of the related parties.

He observed that, although only the word "Judgment" has been mentioned in these provisions, but the intention of these provisions is to mean all kinds of court order, decree, interim order, direction etc. to be given in the open court in front of all the relevant parties. Therefore, the bench reversed the lower court's decision for being ultra vires and canceled his bail. The court also transferred the case from Special Court-5, Dhaka to Special Court-4, Dhaka and ordered the accused to appear and surrender before the said court within 20/09/2021.

The court also provided direction to all the Sub-Ordinate Court's stating that in order to keep transparency and accountability in the judicial process, orders granting bail, all interim orders or directions including judgments must be given in an open court in the presence of all the relevant parties or their lawyers.



Legislative Updates

Summary of the Bangladesh National Archives Act, 2021

The National Parliament of Bangladesh after consultation with relevant ministries, divisions and stake-holders etc., passed the Bangladesh National Archives Act, 2021 by repealing the previous Ordinance No. XXXIX of 1983- National Archives Ordinance, 1983.

The Act was published through an Official Gazette Notification dated 22nd September, 2021 and therefore, for easier understanding the stated Act has been summarized in the following:

Key Definitions

1. 'Manuscript' means a hand written, mechanical or document prepared in a mechanical or any other manner on a paper, metal or any other object other than granite.
2. 'Personal Archives' means records other than government archives, Manuscripts, documents or printed objects.
3. 'Personal Record' means records or documents of which are 30 (thirty) years of age and taken, produced or prepared at the time of performing personal functions which have historical, social, political, economic or cultural significance.
4. 'Government Archives' means all and any such government records that have been reserved or submitted for permanent reservation in national archives, manuscripts, documents, or printed objects.
5. 'Government Records' means records accepted by government offices while performing office functions , any original

document, manuscript, magazine, letter , report, book, magazine of historical importance of 25 (twenty-five) or more years old, produced or prepared, Planning, Registration, Maps, Images, Pictures, Designs, Lists (chart), Gazette, Gazettes or any other record or part of it which is handwritten, oxidated or printed and audio-visual content taken by government offices on metal objects or documents or anything other than granite It will also include cinematography, tapes, recordings, discs, films, etc.

Major & Significant Sections

(A) Section 3 – Department of Archives and Libraries.

There will be a Department called The Department of Archives and Libraries and a Director General shall be the Chief Executive of the Department & the officers and employees appointed under the Department of Archives and Libraries (Officers and Employees) Recruitment Rules, 2002 shall be treated as employees of the Department.

(B) Section 4 – Establishment of National Archives.

The existing Bangladesh National Archives shall now be governed by the 2021 Act and it will be considered as the Central Record Reserve of the Government. Apart from that, there shall be an official seal of the National Archives and that seal shall be under the control of the Director General and he or any employee empowered by him can use this seal for the work of national archives.

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(C) Section 5 – Formation of the Advisory Council.

There will be an advisory council for national archives to serve the purpose of the Act and it shall be constituted with the members described in section 5 of the Act but in the case where the department of history of Dhaka, Chittagong, Rajshahi and Jahangirnagar Universities of the department concerned, if any, is a professor nominated by the Vice Chancellor of that university then tenure of that person shall be three (3) years from the date of nomination. The meeting of such Advisory Council will be held at the date, time and place fixed by the Chairman of the Advisory Council and shall be maintained in accordance with section 6 of the Act.

(D) Section 7 – Functions of the Advisory Council.

The functions of the Advisory Council shall be to advise on the following matters, namely-

- a) Identification, collection, preservation and use of government and private archives;
- b) Custody, transfer, care and management of public and personal records;
- c) Editing and publishing of government and private archives; and
- d) Formulation of guidelines for conducting various short and long term courses or diploma courses related to archives.

(E) Section 7 to Section 12 (Responsibilities of Director General).

The powers, functions, responsibilities of the Director General of the Department of National Archives and Libraries are set out all throughout the Act but more specifically described from section 8 to section 12 of the Act which includes but is not limited to powers and responsibility of the Director General, assignment of power, selection of government records, identification and transfer to national archives, procedures for taking action on its documents in the case of closure of government offices, transfer of personal records to national archives.

(F) Section 13 – Public Accessibility of Record.

Information may be provided subject to the prevailing laws and regulations of the country, from the government and personal records reserved in national archives in the context of a person's application. An application has to be made to provide information under sub-section (1) along with the Director General by paying the prescribed fee.

(G) Section 15 - Restrictions on Sending Manuscripts and Documents Abroad from Bangladesh.

Director General can give written permission subject to prior approval of the Government of Bangladesh, a person can send outside Bangladesh any official record, document, manuscript or printed object which is more than 75 (seventy-five) years old and which has historical or cultural or literary value.

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(H) Section 17 - To Store Government and Personal Records Permanently in National Archives.

The official and personal records taken by the Director General for permanent reservation will be credited to the Reserve of National Archives.

(I) Section 18 – Temporary Record Transfer from National Archives.

No government archives can be transferred from national archives elsewhere: provided that if a government office considers any records, documents, documents, manuscripts or any other items transferred by it to the National Archives are necessary, then the Director General may preserve the records, documents, manuscripts, documents or any other objects and preserve the copy of the same to the office may be sent and sent back to the office within the time frame prescribed by the Director General.

(J) Section 19 – Use of Information and Communication Technology.

Modern technology, including information and communication technology, must be ensured in the process and functions of identifying, collecting, custody, preservation and use of government and private archives and providing various services by national archives.

(K) Section 22 – Crime and Punishment.

(1) If a person knowingly keep any record, documents, magazine, map, manuscript or document distorts etc., tear it up, or hack or damage the server information by deleting it, from the National Archives then it will be a crime under this Act and for that he shall punished imprisonment for a term not exceeding 3 (three) years and a penalty not more than BDT. 20,000.00 (twenty thousand).

(2) If a person somehow keep any record, documents, magazine, map, manuscript Or document etc., embezzles, traffics at home or abroad or with dishonest or malicious intent takes outside the building of the National Archives, then it shall be a crime under this Act and for that he shall be imprisoned for a term not exceeding 5 (five) years and a penalty not exceeding BDT 100,000.00 (one).

It would not be out of place to mention that unlike the previous legislation there are no right or power conferred upon anyone to destroy or make destruction of any record or public record, as it was under section 10 (Destruction of Records) of The National Archives Ordinance, 1983. So, apart from all the material changes of the previous legislation. The cancellation of the right to destroy any public records is no longer available in the new Act; namely, Bangladesh National Archives Act, 2021.

Digital Financial Services in Bangladesh

Financial Technology (FinTech) can offer various services to the customers for value that saves cost, time and hassle. FinTech can perform the valuable task with or without the need of traditional banking channels in sectors such as capital raising, investment, deposit, payment, insurance, etc, for customers, retailer or the banking sector. FinTech and Digital Financial Services (DFS) are a practically different issue but are interconnected.



Financial Technology creates the services that are offered to consumers such as mobile money or e-wallet with or without any connection to the banking sector, and/or financial technology can help to improve the value chain of the financial institutions such as by offering bank services from the mobile application, or artificial intelligence (AI) being used as a customer care service provider through encrypted internet transmission. The digital financial services are the product of development in financial technology that can be an enterprise of itself based on a new business model or be linked for optimizing the financial services value chain. Those engaging in the market in conjunction with the banking services include Paypal, Apple Pay, Rook Security, Infosys, Octopus, whereas entities providing internet-based or mobile-based financial services include AliPay, WeBank, FINO PayTech, Bkash, OpenCoin etc

From the regulatory perspective, the growth of the new digital financial services and fintech poses risks and challenges for countries and financial institutions because, without proper scrutiny of the systematic mechanism used by the service providers, there is a grave threat of the services/channels as well as risks the customers being susceptible to fraud, theft or other forms of financial crimes. However, it will be utterly wrong to assume that the digital financial services are causes of grave risks and threat only, rather it has the potential to transform our lives, our thoughts and mechanisms of trade and commerce, especially in the area of Finance Inclusion. The DFSs has another advantage of being involved in a cross-border transaction that creates a 'very complex and dynamic ecosystem in the digital economy, where services are converging, value chains are being transformed into complicated value networks and regulatory domains overlap.' The development in this sector can facilitates various arrangements, software and applications for improving cross-border payment, risk assessment and prevention of laundering.

In addition to the "functional or product-oriented" description of the services, there are innovative technologies that have the potential to transform the spectrum of financial services and intermediaries includes "digital identities, currencies, distributed ledgers, big data, artificial intelligence, and machine learning." CB insights noted that the major area of FinTech revolutions are lending, blockchain/crypto, Regtech, personal finance, payments/billing, insurance, capital markets, wealth management, money transfer/remittances, mortgage/real estate.

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The global investment in the FinTech has surged from USD 1.8 billion in 2010 to USD 19 billion in 2015. On an interesting figure to note while conducting the assessment of investment in FinTech, KPMG, one of the largest accounting firms in the world predicts that there will be a rise of investment in the Regulatory Technology (Regtech) that purport to minimize the cost of compliance borne by the financial institutions.

Key Digital Financial Service Providers



bKash started as a joint venture between BRAC Bank Limited, Bangladesh and Money in Motion LLC, USA in 2010. Being the most popular MFS in Bangladesh, it has a market share over 60%. bKash was ranked as the 23rd company in the annual list of Fortune Magazine's 'Change the World in 2017' among the top 50 companies to make changes based on social issues. Ant Financial, an initiative of the Chinese e-commerce giant Alibaba Group; Gates Foundation and International Finance Corporation are the stakeholders of the Company which shows the confidence in this sector.

Dutch-Bangla Bank Limited under the preview of Rocket, offers mobile banking service, which is available in the 182 branches of DBBL in Bangladesh being the first company to provide banking facilities through mobile phones. Rocket provides financial services to unbanked communities efficiently and at affordable cost.



Nagad is an effort by the Bangladesh Post Office that encourages the everyday money related exchange needs of the individuals. Having access to over 8500 branches in Bangladesh Post Office, Nagad enables mobile money customers to make more than multiple times daily transaction compared to other MFS in the nation. As a venture backed by Government established under Bangladesh Post Office Act, Nagad enjoys higher transaction limit.

Nagad versus other MFS Operators:

TRANSACTION PATTERN	NAGAD		OTHER OPERATOR	
	Daily Limit (tk)	Monthly Limit (tk)	Daily Limit (tk)	Monthly Limit (tk)
Cash in	250,000	500,000	15,000	100,000
Cash out	250,000	500,000	10,000	50,000
Send Money	250,000	500,000	10,000	25,000

ipay is a digital e-wallet that allows users to make payments by linking their bank account to the system to access funds. The service is currently linked with all 57 banks in the country and is recognized as a payment system by over 100 brands covering more than 2000 outlets.



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SureCash, the mobile financial platform of Progoti Systems Ltd which is in an open payment network in partnership with 5 local banks, including the largest state owned banks and more than 1,000 payment partners. It has developed its own proprietary technology initially focusing on connecting schools, colleges, government education programs and utilities. It offers a complete mobile payment services allowing customers to make cash-in/cash-out transactions, person-to-person (P2P) money transfers, inward international remittances, government payments, school and college fee payments, utility bill payments and payments for goods and services.



NexusPay by Dutch-Bangla Bank limited is a completely card-less arrangement in Bangladesh for DBBL account holders. It works with all bank cards including Nexus, Visa, MasterCard, Dutch-Bangla Bank Agent banking and Rocket Mobile Banking. Cash can be sent for free to all cell phone numbers and can be moved effectively between all frameworks.



Dmoney is fintech company working in collaboration with the Post Office, with an aim to reach the greater population in rural and remote areas. It recently launched 'Daak Taka' a banking service allowing users to open an account for as little as 2tk. It allows users to make payments as well as withdraw and deposit money. Recently they signed an agreement with Al Arafah Bank to provide the first Islamic e-wallet.



UCash is a mobile financial service offered by United Commercial Bank Limited (UCBL). UCash has launched its services all over Bangladesh with the intention to provide banking facilities to the vast majority of unbanked population of the country.



Crunchbase is the leading platform for professionals to discover innovative companies, connect with the people behind them, and pursue new opportunities. Over 55 million professionals—including entrepreneurs, investors, market researchers, and salespeople—trust Crunchbase to inform their business decisions. And companies all over the world rely on us to power their applications, making over a billion calls to our API each year.



PayPal is committed to global brand in providing financial services and empowering businesses to join and thrive in the global economy. Currently, Paypal is considering entering the market of Bangladesh. Available in more than 200 markets around the world, the PayPal platform enables consumers and merchants to receive money in more than 100 currencies, withdraw funds in 56 currencies and hold balances in their PayPal accounts in 25 currencies.





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