An Investment Council for Bangladesh Institutional Facility to Improve the Investment Climate

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An investment council is wanted by prominent investors and business leaders in Bangladesh. They see this as an institutional bridge between the government and the private sector. They believe that it will provide an institutional resource to facilitate cooperation and consultation between the policymakers and the investor community. They want it to be a quasi-legislative body with a recognized legal right to be consulted in matters of legislation affecting investments and to promulgate investor code of conduct. They also want this to be a quasi-judicial body with the first right to settle disputes concerning investments. They wish this to make public private partnership in infrastructure development a reality. It may be the institution to foster a strong commitment to responsible corporate governance as well as liberal cultivation of corporate social responsibility in the investor community.

JEL CLASSIFICATION: O53

Introduction

The idea of an investor council to strengthen the institutional capacity for the investor community in Bangladesh cropped up in a recent research on investor perceptions in Bangladesh. Captains of industry and prominent business leaders perceive the presence of severe governance problems, and see the proposed investor council as a tool to improve the governance, both in the public and in the private sector. They see it as an indispensable institutional facility for a sustainable and vigorous investment climate.

Bangladesh has seen impressive growth in investment as percentage of GDP since 1990. It has achieved remarkably fast rate of growth of output compared to the relative stagnation of earlier periods. No one would regard Bangladesh as a 'test case of development' (Faaland & Parkins, 1976) anymore. The crucial factor in this achievement is the remarkable rise of entrepreneurship in Bangladesh after a decisive move towards liberalization of the private sector after 1982.

The private sector played an increasingly dominant part in investment growth. Compared to the previous era of tight state control and the near complete monopoly of industry by the government, the private sector was allowed to play a progressively greater role after 1982. But still great many elements of state control remain in place. State governance by the bureaucracy still suffers from widespread perception of corruption, inflexibility, and adversarial attitude towards business.

This paper seeks to articulate the concept of an investor council as a potential institutional apparatus in the investment landscape to serve as a necessary device to improve the investment climate. This articulation occurs from the perspective of business leaders.

The goal of the research was to find out what the prominent captains of industry and influential business leaders were thinking about the problems affecting the investment climate and how those could be tackled. The research team sat with 46 selected business leaders and major investors with high visibility and influence in the investor community of Bangladesh. They answered structured questions as well as unstructured ones. They freely expressed their views on a wide range of issues relating to investment climate. Some aspects of the findings from this research have already been published in three journals (the Economics, Business and Financial Markets, the Indian Economic Journal, and the Independent Business Review). The present paper considers the issue of institutional capacity building not covered in other published papers.

General Background

'The investment climate refers to the opportunities and incentives for firms to invest productively, create jobs, and achieve sustained growth. Among others, it includes factors that are incentives or disincentives for starting and running a business, including financial services, infrastructure, governance, regulations, taxes, labor, and conflict resolution. The investment climate is recognized as crucial to improve output, employment, and enterprise productivity, all of which may potentially stimulate employment growth, and alleviate poverty'. (World Bank, 2004; Dollar et al., 2005)

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'Recent analytical work emphasizes microeconomic reforms to strengthen property rights, unleash competition, and reduce the cost of doing business as critical steps in creating a sound investment climate and achieving growth and poverty reduction (World Bank 2004b, 2005a; Lewis, 2004). It is further recognized that these changes need to be credible and sustained for private firms to respond by increasing investment and production.'

However, the issue of creating an institutional apparatus to improve governance and thereby promote investment has not received much attention in Bangladesh. This is not surprising if one considers the long era of colonial rule, followed by a period of deprivation before the rise of an entrepreneurial class. Bangladesh did not see the rise of a noticeably large merchant class until after the 1980's with relaxations in government control. The political culture is still caught in the traditional outlook of a clannish and cultish feudal era. The majority of the voters live in the rural areas; and they are unfamiliar with the modern commercial cultures. Leaders are chosen not on their productivity or performance, but on their pedigree. The political discourse has for long demonized the businessmen as greedy and uncaring opportunists, rather than as creators of jobs and as the drivers of growth.

The political instability and turmoil in Bangladesh may indicate the challenges faced by a people under extremely rapid changes in the economy and the culture under the pressures of globalization. A rural society suddenly awakes to an unprecedented rush to urbanization, an extremely rapid accumulation of wealth by a few, and a sudden onslaught of commerce, and faces an abrupt jump to mobile phones and internet from a state of utter isolation. The changes are shockingly rapid and utterly bewildering. The society was not institutionally equipped to handle such changes. Amidst the outburst of unprecedented creativity in social organization known as the non-government organizations, a chaotic rush to commerce and a massive exodus of millions to foreign lands as remittance senders, and the rush of millions of formerly home-shackled women sprinting to the cities for urban jobs all added to the chaos and confusion. The extreme rapidity with which alien cultural norms made inroads created a fundamentalist backlash, with the ominous possibility of militant confrontation. In short, the whole society is caught in confrontation between the old and the new.

In this general background of rapid changes, the new generation of investors faces a bewildering variety of investment opportunities as well as unintelligible labyrinths of regulatory and structural barriers. They desperately need a way to articulate their aspirations, voice their concerns, and organize their efforts.

There are of course chambers of commerce in all major urban centers, but they do fail to serve as the distinctive voice of the businessmen qua businessmen. These chambers have long been dens of people who take political factionalism to heart in order to secure the permits and licenses that were long the main objective of joining such chambers. That is, the businessmen in Bangladesh are yet to cultivate an image of a distinct class of people with their own distinct social, economic, and political agenda.

But things are changing. This is what the new entrepreneurs are eager to say. The new generations of educated businessmen have increasing exposure to the mercantile culture. They are learning under the pressure of globalization. They are now seeking the cultivation and projection of the image of a responsible and socially-conscious class of entrepreneurs who create jobs and behave responsibly for the overall betterment of society. They want the public to understand that they are not merely merciless profit-seekers. This class now recognizes the need to establish an institution to voice their legitimate concerns. Their concerns go beyond the narrow personal interests, but inseparably integrate the broader social, economic, and cultural aspirations, and the needs of the general masses.

To understand their concerns, a quick review of the problems they have identified and the solutions they have offered with respect to the investment climate may be helpful. They filled in unstructured and open ended questionnaires to identify 48 different problems. Here is an abridged version of their views, covering only the most important factors. These are problems that would come under the purview of the investment council in two areas of concern: state governance and corporate governance. The thrust of the state governance is to promote greater liberalization, deregulation, and public private partnership. The thrust of the corporate governance is to take up a greater burden of self-regulation.

Issues of State Governance

General Issues

The governance related issues are of grave importance to the investor community. The investors are highly skeptical of the suitability, stability, or continuity of government policy, as they see that change in political power changes the partisan policies. Investors are worried about the continued plague of corruption in nearly every sphere of government-investor linkage. And in general, they are dissatisfied with the bureaucratic hassles of administrative red tape, undue complexity, and unfriendly legal structures. It is tough to deal with the concerned ministries.

Business leaders have a feeling that the law books may have sound and sensible laws but the administrative apparatus of the government is not well equipped to execute the rule of law. In candid admissions, they opined that some businessmen themselves search for loopholes and try to evade or violate laws. A strong legal structure with powers of strict enforcement might go a long way to shield the investors against unfair competition and unjust barriers erected by violators.

Table-1: The Most Important Governance Related Factors
(in descending order of % of respondents)

Factor	%
Unsuitable government policy	*52.27*
Corruption	*43.18*
Difficulty in dealing with line ministry	*40.91*
Lack of political stability	*31.82*
Unsuitable environmental law	*22.73*

Other problems include disregarding rule of law (6.82%), bureaucratic and procedural delay (6.82%), lack of government subsidy and support (6.82%) and difficult approval process (2.27%). Thus nearly 70% of the respondents strongly felt that the government policy environment is unhelpful.

An importance score was calculated by using structured questionnaire. 15 pre-identified problems were given to them, with a request to assign an importance score between 1 and 15 to each factor. Had everybody given the highest importance to the same factor, it would reach the highest score of 15. However, since the factors were not assigned equal importance by different respondents, a weighted average was calculated by dividing the sum of scores by the number of respondents.

Table-2: Importance Score of Governance Related Factors
(Highest possible score 15)

Factor	Score	Score rank
Government Policy	10.25	1
Dealing with Line Ministry	9.97	2
Licensing	9.54	3
Environmental Law	9.37	4
Land registration	8.07	5
Contracts	8.05	6

(Corruption does not appear here because it was not included as a factor in the list of pre-identified problems).

Problems of Macroeconomic, Fiscal, and Monetary Policies:

Tax Related Problems

Many investors found trouble with the administration of tax. The tax assessment and filing procedures are complicated and full of loopholes, and the bureaucracy is rather unfriendly. Many also thought the level of tax was high. Several business leaders think that the tax net should be widened and tax administration simplified.

Some investors are worried about the soundness of fiscal policy, especially regarding the priority of government expenditures and the justification of the complicated tax structure. Senior officials of the National Board of Revenue (NBR) on condition of anonymity, confessed too many problems with tax administration, and recognized the need to reform the tax structure. However, they perceive the general tendency of tax evasion as a major challenge. They think that the business leaders have a role to influence the investor community to willingly comply with tax laws.

Table-3: List of Tax Related Factors and the number of respondents

Factor	N.	%
Tax administration	17	38.63
Taxes (level)	12	27.27

Table-4: Importance Score of Tax Related Factors

Factor	Score
Level of Tax	10.27
Tax Administration	9.33

Finance Related Problems

The majority of investors found the rate of interest to be very high. The seriousness of the problem is however more with access to finance, especially for smaller and newer firms. The conditions attached to finance are also burdensome for the borrowers.

Macroeconomic stability is a general problem that provides an outer layer of significance to financial issues. If the macroeconomic conditions are unstable, the uncertain returns on investment have direct implications on the financial health of the enterprise.

Table-5: List of Finance Related Factors and the number of respondents

Factor	N.	%
Interest rate	28	63.64
Macro Economic stability	24	54.55
Access to finance	22	50.00

Table-6: Importance Score of Finance Related Factors

Factor	Score
Access to finance	10.25
Conditions of Finance	9.52
Rate of Interest	9.21
Macro-economy	9.18

Problems of Infrastructure

The investors are quite emphatic about the infrastructural inadequacies, especially of power. They have also identified port bottlenecks, poor and congested roads. Reliable water supply also has been found as a highly important issue.

Table-7: Most Important Infrastructure Related Factors
(in descending order of % of respondents)

Factor	N.	%
Power	36	81.82
Ports	24	54.55
Roads	18	40.91
Water	12	27.27

Table-8: Importance Score of Infrastructure Related Factors

Factor	Score
Power	12.46
Ports	11.83
Roads	10.89
Water	9.63

Investment Council's Role in State Governance

The investment council of course is a non-government private sector institution. Its role in state governance is one of advocacy. It would persuade and inspire the government to identify the governance problems and undertake their feasible solutions.

Government leaders are necessarily swayed by public opinion. The role of the council would be to educate the general public on the governance issues and motivate them to advocate certain clearly understood policies. Hence the key role of the council is to conduct public relations through policy advocacy.

In this regard, a major challenge for the council is to project a professional image of the investor community to the general public. Given the general apathy of the masses towards the business community, it is imperative that the masses become aware of the positive contributions made by the business community and the areas of concern where the masses need to speak out. The general public must be persuaded to trust the business community. This will require a careful and continued campaign of creating public awareness.

The most basic argument in favor of setting up a professional council is to recognize that the profession has special needs to thrive and function properly while the general public may not be able to grasp all the complexities. The state has a duty to protect public interest such that the profession may not become adversarial to public interest. The formulation of policy regarding the profession needs the active cooperation of the profession to deal with the complex issues. The professional council therefore has a primary responsibility to assist the government in policy formulation. Just as the profession has a right to be heard in matters of policy affecting it, it has a duty to inform and educate the policymakers so that they can make proper policies.

The formulation of state policy regarding the profession requires the continuous gathering of data and analysis of the same in view of changing circumstances, needs, constraints, and opportunities. Capable professional researchers and experts on policy matters need to be employed as a regular body of expertise to continuously watch over the changing situations and to develop a framework of adjustment of policy instruments.

The council of course must serve as a permanent lobbying group to press for requisite action by the government. However, to the extent possible, the council should assist the government to undertake the action. Pressure and support must work together.

Issues of Corporate Governance

The special and specific role of the investment council is to act as a self-appointed guardian of the investor community with a recognized role in self-regulation. If the investors learn to behave responsibly and professionally, the council can hope to persuade political leaders to listen to them with seriousness.

At heart, this is an issue of taking up a major burden of governance off the government's shoulder.

The need for building institutional capacity for governance

The business leaders feel quite strongly that the prevailing institutional facilities do not give them enough opportunity to press for their demands. The chambers of commerce and the various industry associations do not as a rule have a recognized right to be heard by the policymakers. Political leaders of course do join ceremonies of these outfits and often seem to promise a lot; but they are not committed. The central goal of the proposed investment council is to secure a recognized right to be heard as well as to provide a method of showing commitment and to be accountable. The proposed council would be a resource offering all possible help to the government.

The institutional character of the Investor Council

The institutional character of the proposed council might read like this preamble:

> Bangladesh Investment Council (proposed) wants to act as the highest national institution of investors. Its mission is to protect and promote the interests of the investors in keeping with the vision of a prosperous Bangladesh where the people enjoy full freedoms of democracy, and enjoy full security from all kinds of oppression and injustice, and where they fearlessly enjoy freedom of expression in every manner.
>
> The Council envisions itself as the officially recognized representative of the investor community.
>
> It wants the government to recognize and grant it the status as a quasi-legislative institution with the right to adopt rules of conduct for investors and the officially recognized right to represent the investors before Parliamentary and constitutional authorities. It seeks to develop the capacity for self-regulation of the investment profession through the promotion of socially responsible corporate governance and good business practices.
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> It further wants government's recognition as a quasi-judicial organ of the investor community with the first right to settle disputes among investors through arbitration and also to be the first to settle disputes involving the general public and a member of the investor community through amicable negotiations.

The example most commonly cited by the business leaders is the Bar Council for the legal profession. The Bar Council has actually taken over a serious responsibility of ensuring professional code of conduct among the practitioners of law. There is no serious doubt about the capacity of the Bar Council to ensure self-regulation in the law professions. An aspiration of other professional councils would be to build up the capacity for self-regulation so that the state need not worry too much about regulating the profession.

Lawyers must obtain official permission of the Bar Council before they can practice law. The Council has been influential as a matter of rule that judicial appointments are made from the legal profession and that legislation by the parliament is not done without the professional involvement of the Council, even if somewhat informally.

Less glamorous is the Bangladesh Medical Association. It has not yet built a tradition of carefully overseeing the professional conduct of doctors and health professionals. Nor has it been taken seriously as a recognized stakeholder in the formulation of health related polices.

The Engineers Institution in Bangladesh is another professional body that has not achieved the same degree of maturity as an institution. However, the engineers have managed to exercise significant influence over policy making.

The accounting profession has also not acquired the kind of respect that it requires despite the presence of various factions of accounting professionals.

The investors cannot claim to have a professional council or even an association that can compare with any of the professions (law, medicine, engineering and accounting) mentioned above. The primary reason is the relative infancy of professional investors. Various chambers of commerce and the many industry associations lack the required organizational cohesion to expect the government to regard any of them as a genuine representative of the profession. Most are new associations and are yet to develop a clear vision and mission.

Many business leaders felt an acute sense of despondency on the issue of political instability and discord. They saw that the politics of confrontation had a direct bearing on investment. The volatile environment of conflict frequently leads to street closures, shop closures, and disruptions of production. They also saw frequent policy change as a threat.

The issue of what the entrepreneurs can do to act collectively as a bargaining agent to create pressure on politicians led to the notion of a national council of investors as a counterweight to the government entities of Board of Investment, Securities and Exchange Commission, and the plethora of other regulatory bodies. The existing chambers of commerce have generally failed to represent the investor community because those chambers themselves have become political battlegrounds between opposing factions as appendixes of the national parties. A fresh new institutional entity with a clear purpose of promoting and protecting investment was needed.

Several business leaders asked the researcher to draft a preamble for the proposed Investment Council. This draft was then circulated for commentary among those who wanted to discuss this open issue. The key points have been articulated in the draft preamble.

First, the underlying social philosophy is that a stable civil society needs instruments of checks and balance between the state and the market. The investment council may be an institution to serve as the link between the market economy's investors and the government policy makers and regulators.

Secondly, the Investment Council, as an authentic representative of the investor community ought to be a body with executive powers vested on elected officials. There was a strong feeling that the people who would act on behalf of the council ought to have professional abilities and the leadership qualities to serve effectively. As professionals, they would be keenly aware of the opportunities and constraints and hence would be able to articulate the need for changes in policies and practices pertaining to investments.

Thirdly, the government must be persuaded that the Investment Council is an authentic representative of the investor community and hence grant it quasi-legislative authority. This would mean that the government would not undertake any policy regarding investment without giving the investment council an opportunity to present its representation on behalf of the investors. The idea of a quasi-legislative organ is that rules that are limited in their application only to the members of the investment community ought to be primarily drafted by the council, and then sent for approval by the national legislatures. The legal idea is that the investment council would make by-laws that apply to the investors only while the national parliament will make laws that apply to all citizens.

Fourthly, the idea of the Investment Council as a quasi-judicial body is based on the premise that the complexity of the ever changing investment landscape means that justice cannot be ensured in matters pertaining to conflicts over investments unless investors themselves join the peerage. It means that the Investment Council ought to be granted the first right of intervention and arbitration to settle disputes between investors and between an investor and third parties.

Fifthly, from an investment climate perspective of an economist, the investment council would be an apparatus to institutionalize the conduct of research on the ever changing investment climate and to engage in collecting and disseminating information and in articulating issues of policies and practices. This means that the investment council would ultimately become the key organ to watch over the investment climate.

Promoting Public-Private Partnership

One of the key institutional goals of the investment council is to promote public private partnership in investments. While several nations have achieved impressive growth in such investments in physical and social infrastructure, Bangladesh has done relatively poorly in this regard. The key problem I s tat lack of a sense of friendly relation between private investors and the apparently arrogant public officials who look down upon the private individuals. But the need is great and progress in this front is vital for the general improvement of investment in infrastructure. The main issues may be discussed under three headings as follows.

Budget Discipline

The long-term outlook for a sustainable economy is that the government shall keep its expenditures under control and thereby maintain a tolerably low level of tax rate, and would avoid budget deficits that crowd out private investment and raise the future tax rates. One central piece of this notion of budget discipline is that the government will hand over the bulk of expenditure on infrastructure to the private sector, but without giving up its regulatory role for the protection of public interest.

The idea of public-private partnership is to hand over substantial responsibility of investment to the private sector for traditionally public investment projects in physical and social infrastructure. Projects suitable for such partnership are the e ones where the private sector can apply commercial principles to recoup its investments with an acceptable degree of profitability, while the public investment in the project retains the regulatory agenda to protect public interest. The expectation is that the flexibility and promptness with which private investors move will make the projects more efficient, flexible and timely, while the participation of the government will mean that the project cannot act against public interest.

The government leaders and even more so the bureaucrats are not very eager to promote public private partnership. They are accustomed to see the complex and lethargic process of project implementation. The end result is that despite major expenditures from the public exchequer, the roads are dilapidated and urgent repair work and maintenance is delayed. The private sectors suffer enormously. After all, the taxes are raised form them and spent without much regard to their wishes. The private sector wants to come forward and speed up things and reduce the e massive waste in the workable formula of public-private partnership.

The reason Bangladesh has not done much by way of PPP projects may be the absence of an organized a dedicated institution to take up the matter earnestly.

PPP in Physical infrastructure

One of the key tasks the investment council can do is to organize a framework whereby the private investors would invest the same money that would otherwise be taken from them by forcible taxation, and use it properly to build the physical infrastructure such as roads, ports, dockyards et cetera.. Though energy sector is basically monopolized by the state, and the private sector wants it to be liberalized as soon as possible, they would want to invest in power generation in the interim. Power shortage is a very serious obstacle to the growth of private investment and a source of much frustration.

PPP in Social Infrastructure of Education and Health

The government spends very large sums of money for education and health. And the private sector is thriving side by side with the e government run institutions of health and education. One of the e key goals of the investment council is to bring health and education beyond the primary level under the umbrella of the e private sector investment. The concept of public private partnership in these sectors is to assist the government to gradually hand over the responsibility of health and education to the private sector.

Improving Corporate Governance

For long-term sustainability, the private sector must learn to behave responsibly through organized self-regulation. The investment council may articulate codes of conduct and principles of conflict resolution for voluntarily compliance of investors. Good business conduct should also shield the general public from any abuse and hence the investor council should also provide the referral and adjudication for conflict resolution with the members of public. All in all, without strong and ethical corporate governance, the general public will not trust the e investment community and the sword of state law will hang over their necks.

Promoting corporate social responsibility

The investment council would undertake a permanent campaign of building a friendly image. Corporate social responsibility rests o the philosophical theme that without a healthy community in which business operates, business cannot remain healthy. The mistrust of the public must be replaced by respect and sympathy, if the corporations commit themselves to the betterment of society in credible, reliable and sustained basis. The people do not want charity: they want respect, and corporate social responsibility should provide a reason for them to trust the corporate entities as respectable and reliable entities.

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