

**An Assessment of Potential Effectiveness: Analyzing the Mandate and Political
Constraints of the Commission of Inquiry in Bangladesh.**

Rahat Yasin

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Abstract

This thesis assessed Bangladesh Commission of Inquiry on Enforced Disappearances, established in August of 2024 to investigate enforced disappearances from 2010 to 2024. The key argument here is that this Commission has a “conditionally strong mandate.” This indicates that this body has effective powers of investigation, which contribute to truth-telling and prosecuting, but it does so in a manner that is dependent on certain conditions that are not guaranteed beyond a certain political situation.

I try to describe the Commission in three related ways. Firstly, mandate analysis with ICTJ’s eight-component model. It suggests strengths in that, with the 1956 Commission of Enquiry Inquiry Act, it has a semi-judicial role, has a country-wide investigation scope, and has aided in prosecution by transporting evidence to the International Crimes Tribunal. However, it also has weaknesses. Such as it provides merely a small fine for contempt of court now costing \$2, no provision for protecting witnesses, lacks a facility for document declassification, and lacks a mechanism for plan realization. Secondly, political economy reasoning of the imperfect transition explains security forces’ hindrances in investigations. Since it concerns crimes against humanity and lacks a promise of amnesty. Security forces perceive that evidence eradication takes a low toll with limited contempt of court fines. Whereas cooperation would imply risks of prosecution. A further example of this would be that of Aynaghar holding facility, which removed names of victims before visits by commissions. Lastly, mandating efficiency in making truth-telling with Freeman’s model of truth-telling concludes that, despite some weaknesses, it performed satisfactorily in documenting disappearance patterns, identifying key senior figures, facilitating arrest warrants for former Prime Minister Sheikh Hasina along with 29 other accused, and has inspected 1,350 of 1,752 cases. These three components in the mandate creates obstruction, which creates a gap in evidence, undermining the efficiency of the Commission, a lack of which creates a lack of

pressure from society. This shows that a mere structure of mandate cannot resolve the political power that perpetrator holds in incomplete transition.

Strategic recommendations are given in this thesis on the basis of their useability, with different recommendations for different periods. The recommendations for immediate actions involve working with grass roots organizations, such as Mayer Daak, and establishing a communication strategy. Recommendations for short-term actions, from 2025 to 2026, when an elected government takes over, involve reform in the ordinance, development of laws related to witness protection, and establishing an independent body for monitoring.

Recommendations for medium-term actions, from 2026 to 2028, involve security sector transformation and reparations. This thesis has three theoretical contributions to the field of transitional justice. Firstly, it demonstrates with concrete evidence that the strength of a mandate has a lot to do with whether “perpetrator institutions” retain their official powers in an incomplete transition. Secondly, it contends that communication deficits and a lack of societal support are primary challenges rather than merely secondary ones for a mandate. Lastly, it lends the notion of “justicecraft” that a blend of different approaches to justice, and will be most effective in the Bangladesh case. This paper concludes that Bangladesh’s Commission provides limited but tangible means of holding people to account. Their recommendations would need political dedication in successive regimes to implement.

Keywords: transitional justice, truth commissions, incomplete transitions, enforced disappearance, institutional effectiveness, Bangladesh

Chapter 1: Introduction

August 2024 marked a large political turning point in Bangladesh. The Awami League government led by Sheikh Hasina was thrown away after a student-led uprising and forced her into exile in another country. Later in the year, an interim government formed the Commission of Inquiry on Enforced Disappearances. This marked the first official investigation into the forced disappearance of approximately 3,500 people in the period from 2009 to 2024 (Fortify Rights, 2025a). Within the first year of its formation, the first interim report in December 2024 indicated that the Commission of Inquiry received 1,752 complaints of enforced disappearance (Commission of Inquiry on Enforced Disappearances, 2024). By October 2025, the International Crimes Tribunal, working through the findings of the Commission of Inquiry, ordered the arrest of former Prime Minister Hasina and 29 other suspects for crimes against humanity (NDTV, 2025).

At first, this appears to be a success in terms of transitional justice. Because for the first time Bangladesh saw a hope for accountability, recorded the violations, and pushed towards prosecution. The question this thesis aims to answer is: How well commissions handle the issue of human rights violations in a political environment where the sources of the violations retain their political power, democracy is weak and commissions have a temporary mandate?

The example of Bangladesh demonstrates the issue clearly. Despite their powers of investigation - the alleged perpetrators of the disappearance have destroyed the available evidence in the detention facilities (Fortify Rights, 2025a). The interim government in Bangladesh, providing political backing to the commission, will be replaced by elections in 2026. There are no intentions to implement the recommendations in the form of legislation for their implementation. The provisions related to victims, such as witness protection and psychological assistance, are excluded from its mandate (Amnesty International, 2007). The

December 2024 interim report identifies the perpetrators but lacks an action plan to compensate the victims.

The central argument of this thesis is that the Bangladesh Commission of Inquiry operates in a "conditionally strong mandate" (Freeman, 2006; Wiebelhaus-Brahm, 2010). It has a strong mandate if the bodies involved work together, but not if the same bodies are working against the mandate in destroying potential evidence, intimidating witnesses, and uncooperation in every form. The answer to why this is the case is to be found not in the structure of its mandate but in the larger problems of the incomplete transition (Teitel, 2000), why the members of the security forces are working to shield themselves from prosecution, in the disparity of power between the interim government and the security forces. Moreover, the absence of a connection to the work that is already taking place in the civil society of Bangladesh regarding justice.

Why this issue Matters

Bangladesh's experience in the political transition is a unique case in the studies of transitional justice. The traditional cases involve a post-authoritarian area (such as those in Latin America), a post-conflict area (such as Rwanda and Sierra Leone), and an area where the elites made a deal to introduce democracy in exchange for an amnesty agreement.

The Bangladesh experience is not the same as the above trends. The August 2024 uprising in Bangladesh was no negotiated settlement and no amnesty arrangement with elites. The students and people in society demanded a new order, and the regime collapsed before the security forces gave any concessions and reached any protective agreements. The interim government in Bangladesh, lacking electoral mandate and a fragile existence until the election slated for 2026, formed a commission but accorded no immunity to the offenders and no security sector reform to the transition process. This is described by scholars of

transitional justice as a "contested" and "incomplete" transition because a "democracy is not consolidated" here, "perpetrator institutions remain robust and entrenched following the transition" and "accountability instruments operate in a fragile political order instead of a stable democracy" (Teitel, 2000; Wiebelhaus-Brahm, 2010).

The implications are also huge in size. Security bodies that investigate themselves have the risk. If they fail and will be vulnerable to the granting of amnesty in a typical investigation. The prison of Aynaghar, where security forces removed the names of the victims and the access to the cells before the arrival of the commission, proves the hindrance to the investigation for the purpose of their institutional protection and not personal (Fortify Rights, 2025a).

At the same time, the limited term of the interim government restricts the scope of reform. The recommendations prepared in 2025 need to withstand an ongoing process of transition and a possible change in government in 2026. Unlike commissions in countries whose democracies experience transitions within well-functioning systems, the new government in Bangladesh might prioritize stability and military partnerships instead of accountability.

Research Question and Core Arguments

The point is that the effectiveness will be undercut by context, not simply the mandate. The truth is that the commission will be able to find a significant amount of truth and facilitate a significant number of prosecutions, but full prevention and full reparations will require changes and commitment well beyond the term of the interim government. More fundamentally, the success of the commission will depend upon the ability of Bangladesh to consolidate formalized accountability with the grassroots form of justice work.

My argument has four layers: Firstly, mandate design. The commission has the mandate of the Commissions of Inquiry Act of 1956, a legislation that is from the colonial regime. The

legislation is meant to investigate administrative grievances and not large-scale human rights violations. The legislation has powers to summon witnesses, request documents, and view premises but lacks victim-focused provision (no provision for the safety of witnesses), has weak enforcement capacity, and an implementation strategy that is unclear. The mandate in this case is "conditionally strong."

Secondly, institutional obstruction. The destruction of evidence in the detention centers indicates a rational process and not a random one in the choice made by the security forces, who are facing prosecution and therefore destroy the evidence, intimidation of witnesses, and unwillingness to cooperate, which has also been practiced in other countries such as Guatemala, Chile, and South Africa, and Sri Lanka (Wiebelhaus-Brahm, 2010).

Thirdly, political context. The fact that the interim government is a caretaker government. This government will pass everything to the next government through the election process. Civilians have little control over security agencies that constrain the process to be implemented. The recommendations of the year 2025 will live to outlast the life of the commission above their recommendations.

Fourth, grassroots justice. The family members of the victims and the civil society organizations like Mayer Daak have long been involved in grassroots justice practices. They recorded the number of enforced disappearances, keeping the memory alive, and holding the state accountable. The issue is that the commission functions in a parallel manner to this and carries out its investigation behind closed doors.

Thesis Contributions

The thesis contributes to the ideas and the policies regarding transitional justice in the following ways:

First, theoretical contribution: The literature has mostly consisted of the assertion that mandate design determines mandate success. But this neglects the fact that problems in institutions and incomplete democratization undermine the possible success of a good mandate. The case of Bangladesh shows that if institutions do not work together, there are no strong accountability mechanisms, and political power is limited, a strong mandate can not help much. I will claim that mandate design has to be understood in context through a number of constraints: institutional constraints, political constraints, and social constraints.

Secondly, a regional point: The Bangladesh experience is one that has been relatively unexamined in the literature on transitional justice. There are a number of different global areas that receive a great deal of attention (Latin America, Africa, and portions of the Asian continent), but the electoral transitions in the Southern Asian region are not there. The Bangladesh experience is similar to the experience of Pakistan, Nepal, and the island of Sri Lanka in the region.

Third, a policy contribution: This paper provides suggestions to improve the Bangladesh's Commission and to better structure future accountability mechanisms for incomplete transitions. Rather than concluding failure, I propose concrete changes that might enhance an aspect of the way the commissions operate during its term: witness protection, implementation bodies, public outreach, and more collaboration with the prosecution (Freeman, 2006).

Research Design

This thesis uses a qualitative design. The thesis employs mandate analysis, institutional analysis, and documentary evidence assessment in combination.

Mandate analysis involves the comparison of the Commission's legal basis and the international best practices regarding truth commissions. The rules and best practices are

derived from two sources: the International Center for Transitional Justice and the UN Human Rights Office.

Institutional analysis involves examining the effects of a weak transition process, where the security forces are still in power, there are no amnesty plans, and the terms of the government are not clear, thereby creating a motivation that affects the work of the commission. The work has relied on studies concerning difficult transitions in transitional justice.

Document-based analysis assesses how the Commission functioned in reality through its interim report (Commission of Inquiry on Enforced Disappearances, 2024). This involves the level of truth-telling, the collection of evidence, the existence of any gaps in accountability, and recommendations made in the report. This section will refer to the level of achievement by the Commission in its mandate and not strict standards.

The sources of the evidence are the interim report of the Commission "Unfolding the Truth" released in December 2024, legal documents (the Commissions of Inquiry Act 1956 and relevant conventions), human rights documents (related to Human Rights Watch, Amnesty International, and Fortify Rights), official statements, news reports in Bangladeshi and global news sources, and literature regarding Transitional Justice studies and theory.

Thesis Structure

This thesis consists of six chapters:

Chapter 2: Theoretical framework. I present the case of Bangladesh in the literature on contested transitions, demonstrating how the existing theory neglects the impact of obstruction and incomplete democratization on a Commission's effectiveness beyond its mandate.

Chapter 3: Detailed mandate analysis. I assess the mandate in terms of its legal basis, mandate capacity, independence, and victims-oriented provisions based upon the international best practices

Chapter 4: Systemic constraints. It focuses on institutional constraints, destruction of evidence by security forces, gaps in laws and their enforcement to restrict cooperation, and communication barriers that hamper public participation.

Chapter 5: Truth telling and accountability findings. This assesses the quality and completeness of the interim report regarding the investigation and its relation to the prosecution of cases at the International Crimes Tribunal.

Chapter 6: Recommendations and reforms.

Chapter 2: Theoretical Framework

The Commission of Inquiry on Enforced Disappearances in Bangladesh reveals an important, but relatively unexplored area of transitional justice: “what if truth commissions investigate instances of human rights violations while the perpetrators remain in power and the construction of a democracy has either failed or remains incomplete?” This chapter establishes the conceptual framework. We cannot assess this commission based upon universal standards. We need to understand the effect of the commission in a political environment where opposition, partial democratization, and powerful state actors alter the possible actions of the commission.

Transitional Justice in Incomplete Transitions

Transitional justice encompasses all the mechanisms and instruments that a state requires to handle large past injustices (UN, 2004). Most people consider the following three large waves in this form of justice: military trials following the second world war, the nineties and their focus on the truth, and the current combination of courts, truth commissions, and reparations (Teitel, 2003).

The Bangladesh commission appears to be the modern mix, but this masking of problems conceals an important one: the traditional notion of transitional justices presumes the transition has been complete, and the past regimes are out of power and new democracies are emerging in their stead.

The case of Bangladesh is an exception. The August 2024 protest ousted the prime minister, Sheikh Hasina, but the process entailed no negotiated transition with agreements and an amnesty for the elites. Rather, the interim government formed a commission in a fluid political environment where security agencies responsible for human rights abuses remain powerful (Human Rights Watch, 2024a). This is referred to in the literature as an “incomplete transition”, where the country finds itself in a state suspended between the “democratic ideal” and the “real life rollback to authoritarianism” (Teitel, 2000).

Why is this important? Perpetrators in incomplete transitions maintain their power in order to prevent accountability from taking place. They might choose to fail to co-operate, to misplace or destroy evidence, to intimidate witnesses, and hope that the political tides turn in enough time for the victims to receive any form of justice.

Other current studies examine “electoral authoritarian regimes,” in which leaders maintain their rule through election and judicial systems instead of through democracy (Sriram, 2005).

The Bangladesh experience under the rule of Hasina (2009 to 2024) reflects this model in that election processes take place while the opposition environment contracts to nothing, with the “disappearance” of challengers to the regime’s rule and the presence of democracy concealing the existence of “authoritarian rule” (HRW, 2024a).

The truth and reconciliation process conceptualized for an ex-authoritarian state and ex-conflict settings might simply fail to apply in a regime in which a facade of democracy conceals an oppressive regime.

Truth Commissions’ Design, Purpose, and the Debate on Effectiveness

Truth commissions are a unique form of transitional justice mechanisms. Unlike courts that focus on specific crimes, truth commissions aim to compile a comprehensive list of abuses, remember the victims, identify trends in the abuses, and make recommendations for the reform of institutions (Hayner, 2011). The ambitious mandate of truth commissions makes it difficult to measure success because a truth commission could compile a long list of abuses but fail to make perpetrators accountable, identify perpetrators but have no way to enforce the identification, and make recommendations that the government disregards.

The character of truth commissions has been widely noted to include five elements: they are formally government-sponsored, address past abuses and not current problems, operate for a fixed term of time, examine large-scale trends and not specific events, and issue full reports (Amnesty International, 2007; Hayner, 2011). By doing this, the mechanisms and people responsible for the problems are demonstrated, a difficulty for courts if the problems are committed by individuals.

But commissions are confronted with what has been labeled the “effectiveness dilemma.” Commissions wield an investigation capacity but lack the capacity to prosecute. They issue

names but lack the capacity to punish. They issue recommendations but lack the capacity to implement those recommendations (Wiebelhaus-Brahm, 2010). This has brought the question to the fore: Do truth commissions promote justice, or make a nominal gesture towards accountability?

Findings in the 47 countries indicate that truth commissions, alone, make little difference in human rights and democracy (Olsen et al., 2010). Truth commissions make a bigger difference when they are a part of a large system, and this involves prosecutions and the application of limited amnesty in favorable political context. The implication for Bangladesh is quite alarming because a truth commission, lacking prosecutions and the implementation of large-scale changes in the political environment, will not make a difference in the country.

Reviewing the Effectiveness of Commissions: “Conditionally Strong Mandate” Idea

Rather than employing the generic formula of effectiveness testing, the current work utilizes the notion of “conditionally strong mandate” borrowed from the works of Freeman (2006) and Wiebelhaus-Brahm (2010). The mandate might appear effective theoretically but fail in reality due to institutional opposition.

The Bangladesh Commission has robust investigation capacity but very weak enforcement capacity: little chance of punishment for failure to comply, no independent agency for enforcement, and dependent upon possibly biased prosecutions (Commissions of Inquiry Act, 1956). The commission has the capacity to demand documents but cannot guarantee their production, the capability to issue a threat of contempt but cannot prosecute on its own behalf. The commission fares well if institutions are supportive but poorly if they are uncooperative.

The framework employs six dimensions to assess the effectiveness of the Bangladesh Commission:

First, Technical Efficiency: Can it process cases, find evidence, and generate reports on schedule? This assesses personnel, available resources, and data systems in place. Secondly, Truth-Telling Efficacy: How effective are the fact-based narratives the specifics of events, victims' experiences, and the larger context? Effective work interweaves specific details, victims' voices, and large patterns. Thirdly, Accountability: Do results generate consequences for those responsible other than prosecutions: through damaging their reputation, officially sanctioning them, and supporting prosecutions? Fourth is Reparative Effectiveness: Are victims acknowledged, compensated, medically and socially served, and protected from repetition? The UN states that there are five forms of reparations: restitution, compensation, rehabilitation, satisfaction (in the form of apologies and monuments), and guarantees of non-repetition. Fifth, Preventive Effectiveness: Do the results urge changes to remove the abuses from taking place again in the future? How effective are the implemented recommendations? Sixth, Societal Effectiveness: How do results affect public awareness and memory? This includes education, public reports, hearings, media, and memory projects such as museums and monuments. Since the Bangladesh commission has a mandate until December 2025, the current study will focus mostly on the technical, truth-telling, and accountability effects. The reparative and preventive effects will be examined secondarily because a complete analysis requires assessments in the aftermath of the commission's active phase.

Analytical Gaps

The rules work well, but they do not match the specific problems in Bangladesh. Most people assume a country in its first years as a democracy, while the country is rebuilding after a war.

The country in question has an electoral dictatorship in the period of the transition, security forces in power, and a process of developing into a democracy.

There are two large gaps that need to be addressed. One, The 'institutional non-cooperation' problem: Most conceptualisations of effective investigation presume a degree of cooperation from the institution, but very little work has examined situations where the powerful in the institution deliberately obstruct the investigation process. They will destroy the evidence, intimidate witnesses, and fail to co-operate. By observing the detention centers in Bangladesh, the destruction of the evidence attests to the non-cooperation in the form of elites deliberately resisting to shield the culprits. It requires a theory that explores how the incomplete transitions embolden the culprits to obstruct the investigation process.

Two, The combination of formal and informal justice: New work distinguishes between the provision of formal justice and informal justice produced by victims and civil society. In Bangladesh, groups such as Mayer Daak and student movements keep the memory of disappearance cases alive, even if the official commissions are performing poorly. The question is: How does the provision of formal justice affect this informal justice process? Theories fail to provide an insight into this process.

The shortcomings mean that the effectiveness assessment of the case of Bangladesh should focus on more than the mandate and capacity. This should include the function of the resistance posed by the power-holders and the relationship with the existing victims-driven justice initiatives.

Bangladesh's Conditional Strength

The Commission in Bangladesh has a “conditionally strong mandate.” It has Quasi-judicial powers: calling witnesses, requiring documents, site inspection (The Commissions of Inquiry Act of 1956). It can act independently: They named high-ranking officials, including the

prime minister. It has Case processing capacity. It processes approximately 1,752 complaints, of which approximately 1,350 are valid.

But it also has some limits too. First, very light sentences for contempt of court (only 200 taka, approximately \$2). Second, No independent enforcement agency (relying upon the police and prosecutors, who might be biased) Third, No power to access intelligence documents. Fourth, No search and seizure powers (can request documents, but documents can be hidden and destroyed). Fifth, No extraterritorial jurisdiction (cannot summon people from foreign countries, e.g., Sheikh Hasina in India). Sixth, No witness protection for the survivors. Seven, Lack of any gender and intersectional perspective and lack of a plan for following up recommendations

Conditional strength implies that the commission functions well in conjunction with the other institutions but poorly if those institutions hinder it. For instance, the destruction of evidence in Aynaghar and other detention centers indicates well-choreographed obstruction to the point where it favors the ruling class.

The Missing Piece: Gender, Intersectionality, and Justice as Practice

One area where a large disparity is present is in relation to gender and violations. Enforced disappearances are committed against the male population in particular, but they also cause special problems for females in terms of economic hardship suffered by families whose members are "disappeared," sexual violence against female relatives in the search for "disappeared" persons, and psychological trauma. The commission appears to lack gender expertise.

Another area that is lacking is the concept of intersectionality. The presence of ethnic minorities in Bangladesh (in the Chittagong Hill Tracts), religious minorities, and the LGBTQ+ population means that the victims and the compensation offered to them might be overlooked if the perspective doesn't include an intersectional focus.

Moreover, in terms of gender, there is a need to focus on the practice of justice. The process of how people enact their form of justice through art, social media, and memorialization of events through grassroots records. The existence of networks such as Mayer Daak and student networks demonstrates that this form of justice has been in existence prior to and in addition to the presence of the official commission of justice.

There is also a call for a “justicecraft” approach that recognizes and supports both the institutional and the informal form of justice. This would involve incorporating documents created by victims into official documents and allowing the work of the communities to continue. Anything less will mean the loss of momentum and effect for the commission’s work if it is behind closed doors and if the work of the communities is thwarted.

In conclusion, this perspective presents the Commission of Inquiry in Bangladesh as having a conditionally powerful mandate: powerful if cooperative institutions are present, but weak if those institutions are uncooperative. The effectiveness of the Commission should be measured in terms of the particular context of Bangladesh: an incomplete transition, uncooperative security forces, and the absence of supportive institutions.

Chapter 3: Mandate Analysis

The mandate of the Bangladesh Commission of Inquiry appears quite strong but proves less effective in a scenario where institutions are resistant to it. This chapter will talk about the mandate's design as more than a mere technical issue and reveals the political shortcomings of an ongoing incomplete transition and its vulnerabilities by existing institutions. The mandate should be understood less in terms of a to-do list but in the light of political bargains in an unstable environment of an incomplete transition process (Sriram, 2005).

The legal basis for the commission, the Commissions of Inquiry Act of 1956, a law of the colonial period, was not designed for investigations into large numbers of people and atrocity crimes in the first instance. This reflects the rapid action taken by the interim government to establish a mechanism for accountability, even if the process is not optimal. The temporal jurisdiction (between January 2010 and August 2024) excludes pre-existing offences, in all likelihood in order to exclude prosecutions that might alienate friends rather than turn them into a focus for the investigation. The substantive jurisdiction is limited to enforced disappearance, possibly due to a combination of resource constraints and political prudence. Most significantly, however, the legal basis for investigation has no means of enforcing its will (Wiebelhaus-Brahm, 2010). The fine for contempt of court of \$2 USD has no efficacy in preventing interference by the security forces, and a witness protection statute simply does not exist: this indicates the interim government lacked the capacity to compel the cooperation of the security sector, the groups in fact put under investigation.

This chapter clearly demonstrates that in order for the "conditionally strong mandate" in Bangladesh to be effective, it has to work in collaboration with its institutions (Freeman, 2006). If the accused think that obstruction will serve them better than cooperation, then the mandate will fail.

Strong on Paper

The Bangladesh Commission has a number of official investigation powers. The Commissions of Inquiry Act, 1956, gives the Bangladesh Commission the legal powers of a judicial character to summon witnesses and testimony, to produce documents and records from the government, to physically enter premises and detain facilities, and to issue contempt of court offences in case of a failure to cooperate (Commissions of Inquiry Act, 1956). The

interim government in August 2024 has formally approved the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance in Bangladesh.

At first glance, the presence of such powers offers a chance for a full investigation to take place. The number of complaints the Commission has received in its first year stands at 1,752, proving its openness to the victims to step forward to report their experiences (Commission of Inquiry on Enforced Disappearances, 2024). The five-member panel formed to oversee the Commission, headed by former Justice Moyeenul Islam Chowdhury, demonstrate expertise and independence in their readiness to put the blame on higher officials in the country, such as the former Prime Minister Hasina. The clear political backing of the interim government in the formation of the Commission through its enabling order proves its initial backing.

However, the lack of enforceability makes powers nothing but empty promises (Olsen et al., 2010). Regardless of the potential efficacy of the mandate, it matters what the mandate can enforce, and not simply what the mandate can do, when confronted with resisting institutions.

Weak in Practice: Structural Vulnerabilities

The Contempt Penalty: A Meaningless Deterrent

The Act prescribes contempt of court provisions in case of lack of cooperation, with a jail term of up to one month or a fine of 200 taka (\$2). The fact is that a mandate designed for administrative investigations into administrative offences and not for instances where the perpetrators are institutional and charged with prosecution will not serve as a deterrent to a security force officer involved in crimes against humanity offences (McAuliffe, 2023). A \$2 fine and a jail term of up to 30 days will be of no significant effect to this officer.

The fact that the commission in October 2025 referred a case to the International Crimes Tribunal proves this: while security forces face the likelihood of the death penalty, only a \$2 fine will be imposed for obstruction by the commission. The large disparity in the two costs makes the process less effective. When the officials requested entry into the area of Aynaghar, security forces blacked out the names of the victims and closed the entries to the cells: these are enough indications of an orchestrated effort to obstruct, and not an isolated attempt to do so (Fortify Rights, 2025). The \$2 fine will not halt such actions.

Lack of Witness Protection: Facilitating Intimidation

The mandate contains nothing regarding the welfare and psychological assistance of witnesses and the security of survivors. This is no trivial matter but goes to the fact that the interim government's mandate is a limitation because it cannot compel the security sector to work along in securing the safety and psychological well-being of witnesses and survivors (OHCHR, 2015).

Consequently, witness intimidation by the remaining perpetrators in the security forces becomes a threat to victims who will testify concerning the issue of disappearance (Amnesty International, 2007). The Commission fails to provide a guarantee concerning security, thus making the process very costly for the witnesses. The fear of witness intimidation works in favour of institutional obstruction because the Commission lacks effective means to provide security to the complainant witnesses.

Limited Declassification and Documentary Powers

The Commission has the right to request documents from government institutions but has no right to declassify intelligence documents and military archives (UN General Assembly, 2005). Investigators cannot trace decisions and actions because they lack access to classified communications and documents, and military personnel records. They can only write what

the culprits declare and what witnesses remember. This matters. Documentation of large-scale kidnappings requires a paper trail in respect to who ordered the operations, in what forces they occurred, how the detention facilities were selected, and how the victims were processed. This information is contained in military intelligence documents, but the Commission is forced to operate in the dark in the absence of declassification authority.

Search and Seizure Powers Absent

The Commission has the right to enter facilities where people are being detained but is not allowed to undertake its own search and seize documents. Access to facilities, if controlled by security forces, amounts to theatre when inspections are involved (Human Rights Watch, 2021). The security forces in Aynaghar removed any evidence of human rights abuses before the inspection, thereby deciding what the inspection teams should view.

Missing Implementation Architecture

The order of establishment has no implementation strategy: no need for a government to respond to recommendations, no timeline required to implement changes, and no authority to monitor implementation (Martín et al., 2022). Recommendations will be "shallow statements bereft of implementation strategies." The interim government will be disregarding the report recommendations, and the next government will need stability and military collaboration instead of accountability, making the recommendations futile from the inception phase.

International experience has confirmed the importance of implementation mechanisms and the need to focus on implementation in order to bring about reform, and commissions with clear implementation and response mechanisms implement more recommendations than those commissions lacking such mechanisms (Bakiner, 2016). The mandate of Bangladesh has failed to provide these mechanisms and thus the probability that quality recommendations will be disregarded is high.

Why These Gaps Exist: The Political Logic of Mandate Design

Mandate structure requires an understanding of the limits of the interim mandate. The interim in Bangladesh was not negotiated. Demands for a regime change came from students and civil society before the security sector surrendered its power or came to an agreement regarding guarantees against prosecution for human rights abuses committed in the past (Deutsche Welle, 2024). This has brought a new political settlement where those who committed the abuses remain in their posts but now face a new threat to their accountability.

The Choice of the 1956 Act

The interim government failed to establish special laws to handle the investigation of mass atrocities committed. The government applied the Commissions of Inquiry Act of Colonial Law in 1956, designed to handle complaints involving government corruption (Teitel, 2000).

Why this choice?

The timeframe was short. The political structure was in a state of instability because the country had to go to the polls in 2026, and the new government might not be keen to fight for accountability anyway. The process of drafting legislation would need months, but forming a commission in accordance with current legislation would only need weeks. The aim was to be swift and maintain the momentum against the former regime even if it didn't quite have the best mandate in the process.

This is quite typical for a situation where the transition is incomplete. Each caretaker government has an uncertain term and has to make a choice between a broad and ideal mandate and political viability (Transitional Justice Institute, 2023). The case of Bangladesh fits in this category.

The Politics of Excluding Earlier Years

The period the commission considers is January 2010 to August 2024. This is after the year 2009 and thus the disappearance cases in the year 2009 are left out. For strategic reasons, if the period considered were to include 2009, testing would be in a period of transition where different groups might be accountable. By focusing on the period from 2010 onwards, blame will definitively be put on the administration of Hasina (2009-2024), where the narrative is simpler (International Center for Transitional Justice, 2022). The interim government, lacking a full electoral mandate and an uncertain term, chose to take into account too many cases because it might make political and prosecution processes difficult.

This gap demonstrates the way in which the commission fits into the politics of incomplete transition because the past is not a purely technical matter but, instead, a function of a space of adjustment and compromise between accountability and political viability (Hafner-Burton & Tsutsui, 2005).

The Narrow Focus

The commission investigates only enforced disappearance and nothing else, such as torture, extrajudicial killings, and arbitrary detentions that actually accompany cases of enforced disappearance in many instances. This seemingly rigorous focus in terms of methodology appears to be a political one too (Hayner, 2011).

The story of accountability in the case of disappearances is very clear: people went missing, families gave testimony, and security forces were to blame. Cases of torture require medical proof, deaths need ballistics proof, and those of surveillance require proof of intent. It was understood that a broad inquiry process would involve mid-level military commanders and intelligence officers (Roht-Arriaza & Mariezcurrena, 2006). The focus was put solely on the

case of disappearances because it was the most feasible priority to focus on, and other issues should be addressed in the future through other mechanisms and through the work of civil society groups.

Witness Protection Missing

One of the important gaps in the interim government is the absence of witness protection. This implies that the basic limitation of the interim government is its inability to compel the cooperation of the security forces (Sriram, 2005). Setting up witness protection requires the cooperation of the security sector regarding the exchange of information, security standards, and human resource provision, which the interim government lacked the capacity to facilitate.

This gap is deliberate. This demonstrates how the mandate design reflects the lack of equity in the incomplete transition process. The government has the capacity to establish a commission but cannot reform the security sector alone. The security sector has its independence and freely declines to cooperate (Al Jazeera, 2024). There was no witness protection to enshrine this reality.

How Gaps Help Institutional Obstruction

The structure of the mandate is very weak, making it simple to evade. This appears in the way the mandate is linked with the action of the institutions (Bratton, 2007). Those forces investigating themselves are in danger but lack any guaranteed safety. Those who think they will be charged with crimes against humanity will not rely on the future government for their safety. Then comes obstruction, and that will be in their best interests. The costs of obstruction to the commission are low because the commission has less severe punishment. There are no witness protection programs, and intimidation continues unabated. There will be no declassification of documents because there is no power to declassify the documents.

The case of the Aynaghar detention centre demonstrates this (Human Rights Watch, 2025).

The security forces knew in advance that their facilities would be inspected and deliberately suppressed the issue through the elimination of victims' names and the lockdown of the cells.

It was not an isolated instance of misconduct but a well-coordinated effort to shield the regime (Fortify Rights, 2025). The fine was practically insignificant: \$2.

The mandate's weaknesses are not merely constraints but facilitate obstruction too (Freeman, 2006). The mandate in Bangladesh has none of the protective and enforcement mechanisms required. The nominal fine shows the violator that the cost of obstruction is low.

What International Standards VS Bangladesh Situation

The International Center for Transitional Justice has enumerated eight essential ingredients for a mandate to be effective: legal basis, clear jurisdiction, robust investigation powers, independence and impartiality, access to enough resources, a victims-focused strategy, a reparations scheme, and a good implementation plan (Hayner, 2011). Bangladesh has the basics right but neglects the crucial instances.

Legal Clarity: The Act of 1956 and the order provide clear authority.

The commission has limitations in terms of what it is investigating and when it does so. The commission can only investigate issues regarding kidnappings and enforced disappearances and nothing else that has to do with human rights violation cases. The commission cannot also investigate cases whereby the culprit is outside its jurisdiction; thus, cases outside the country cannot be investigated. This indicates that some cases or issues are given priority over others (OHCHR, 2015).

The commission's investigative capabilities do not measure up to its formal power. Witnesses may be summoned before the commission, but other key investigation methods cannot be employed. The commission cannot declassify any information, carry out searches and seizures, or go outside the country to investigate something or someone. The commission's limitations do not stem only from its governing laws and regulations, but it seems to be restricted in its operation by politics to some degree.

There also remain questions about the independence and objectivity of the commission. Justice Chowdhury displays independence in his observations, but the process remains transparent and trustworthy. The commission operates in partnership with the interim government, which may exert pressure on the commission for the achievement of immediate political objectives rather than long-term justice. Such a mechanism casts a question on the authenticity of the commission's independence and the reliability of the commission's observations.

The resource constraints significantly impair the commission. The commission has handled 1,752 complaints, and it has to function within a constrained budget. The commission is faced with the dilemma of either handling many cases or taking a detailed look at each case. The commission gives a detailed examination to some complaints, while it gives a cursory examination to others. The limited resources imply that the commission's inability to function at its fullest may be a result of the political unwillingness to hold the government accountable.

There are large shortcomings in the commission's design for victims. There is no law on protecting witnesses, which is a problem because victims and witnesses can be threatened. There is a lack of access to mental health care to assist people affected by the disappearance. Most services are in Dhaka, which is a problem because it is difficult for people outside

Dhaka to find services. There is also a lack of gender analysis, which is a problem because disappearance disaggregated by gender differently affects males, females, and gender minorities (Amnesty International, 2024).

Reparations represent the missing element. The report identifies the offenders, but there are no provisions for any kind of remedy or compensation for the affected. This clearly reveals that the commission has a very narrow understanding of justice, which prioritizes accountability and does not address the real costs that the victims experience (Anadolu Agency, 2024). Without any kind of reparations, the role of the commission remains limited regarding overall reconciliation. The commission's structure makes it difficult to convert discoveries into concrete policy changes. There are no feedback loops to see if the recommendations are implemented, no timelines to urge the government to follow through, no parliament to monitor the process, and no civil society to keep the public engaged. Instead, the recommendations are left to the discretion of the subsequent governments, as opposed to being bound by laws. The commission could, therefore, present valuable documents and recommendations without implementing lasting changes to address impunity and instead leave trends of impunity to continue.

The mandate of Bangladesh is clear regarding powers but weak where it matters most in contested transitions, namely enforcement, victim protection, reparations, and survival in the aftermath of reporting. The mandate is strong only if it has the cooperation of other institutions.

The Mandate as a Political Trade-Off

Gaps should be understood differently than design flaws because instead of an incomplete design, they are political compromises of an incomplete transition (Teitel, 2000). The interim government did not press hard enough for witness protection, declassification authority, and implementation because:

One, Time pressure: There was little time following the 2026 election (Al Jazeera, 2025).

Number two, leverage in the security sector: The interim government lacked the leverage to compel security sector actors to cooperate (Sriram, 2005).

These limits are not unique to Bangladesh. They capture the essence of incomplete transitions in a generic sense, in that the institutions of the perpetrating regime will survive the regime change, there will be no amnesty, and democratic consolidation is in no way guaranteed (Wiebelhaus-Brahm, 2010).

The above assessment reveals Bangladesh's mandate, despite appearing robust in theory, has some flaws in its design that systematically facilitate possible hindrance by the security bodies (Freeman, 2006). The \$2 contempt of court fine, lack of witness protection, unavailability of declassification authority, and absence of a robust implementation plan form the core elements that determine the extent to which hindrance or cooperation will be forthcoming. The mandate is "conditionally strong"; it is effective only if the institutions adhere to a cooperative policy (Wiebelhaus-Brahm, 2010). If the institutions find that obstruction is a better means of securing their survival than cooperation, then the mandate cannot enforce its will (Teitel, 2000). Chapter 4 will examine the implications of this in practice and assess how institutional constraints make the powers of the commission weakness and ineffectiveness.

Chapter 4: Institutional Obstruction: How Mandate Gaps Enable Institutional Resistance

Chapter 3 reveals the shortcomings in the mandate of the Bangladesh Disappearance Commission, such as the lack of severe contempt powers, the absence of witness protection, the absence of the right to declassify, and an unclear implementation process regarding the recommendations of the Commission. At first glance, these appear to be administrative weaknesses. The chapter argues that the security force utilizes the shortcoming in the mandate to obstruct inquiries in a pragmatic manner based on their assessment of survival in an unconsolidated political transition process in Bangladesh. The Bangladesh Commission is “conditionally strong because the politicians in a given country assess the costs and benefits of supporting the Commission versus sabotaging the Commission and make a rational choice” (Freeman, 2006; Wiebelhaus-Brahm, 2010).

During a transition in a regime where security forces maintain genuine control despite a political transition, the best way for them to survive an investigation is to destroy evidence, intimidate witnesses, and fail to cooperate, and the costs of doing otherwise are not too high due to the existence of mandate gaps. A 2 dollar contempt of court fine will not deter an organization acting to save its own skin. Witnesses are intimidated when security forces fail to provide witness protection, while a lack of declassification authority keeps documents out of sight (Sriram, 2005). Thereby, as argued in McAuliffe (2023) and Sriram (2005), why obstruction succeeds because mandate gaps make resisting cheap.

The Destruction of Evidence

The most apparent obstacle is the destruction of evidence in the detention centers. At Aynaghar, where security forces detained and allegedly tortured the victims of enforced disappearance, the evidence was wiped out before the Commission visits. The names put on

the walls were painted out, the entrances to the cells were closed by brick, the admission books were taken out, and the structure was altered to cover up the irregularities (Human Rights Watch, 2025).

This was no isolated incidence of misconduct committed by a few members of the force. The level of organization and planning demonstrated in the coordination of the action in numerous facilities indicates decision-making at an institutional level. The security forces made the determination that the destruction of the evidence presented a greater danger than preserving it. The Commission might have been able to work backward through the chain of command to point to responsible officers if the evidence was available to the Commission (Anadolu Agency, 2024).

The decision to destroy the evidence is understandable. The security forces understood that the trial might proceed to the International Crimes Tribunal, and the sentences involved the death penalty. The decision to destroy the copies seemed to be the less risky option. The contempt of the Commission is too mild to be a deterrent because it involves a fine of only \$2 and a prison term of 30 days. The security officers weighing the prison term for crimes against humanity might find the fine trivial.

This is an illustration of the “conditional strength” notion. The Commission has the capacity to force cooperation only if the security forces want to cooperate with the Commission. But if the security forces conclude that non-cooperation will be detrimental to them in comparison to cooperation, the Commission’s powers will lose efficacy. This is what was seen in the Aynaghar case.

The Political Economy of Obstruction

The destruction of evidence in Aynaghar and other locations points to more complex processes in an incomplete transition process. For other countries, agreements following a period of authoritarianism and a conflict could provide security sector immunity and international supervision. This was not the case of Bangladesh. The government collapsed by university students and civil society prior to agreements in immunity (Deutsche Welle, 2024).

The interim government attempted to circumscribe such incentives by forming the commission promptly and gaining legal support from the international community. Bangladesh adopted the International Convention for the Protection of All Persons from Enforced Disappearance in August 2024. Yet it had its drawbacks too. The interim government lacked a mandate and lacked stability in its tenure until 2026. This reduced the effectiveness of the deterrent effect. Perhaps security forces delayed the investigation process in the interim government. In the next elected government, the need for stability might take priority over accountability. Because, the government will require cooperation from the security forces and thus will find it rational to abandon prosecutions. Perhaps to survive until the political tides shift, delaying an investigation is anything but irrationally driven in a politically volatile environment (Teitel, 2000; Sriram, 2005).

The officers also consider the personal costs to them. The officer in the field who was involved in the disappearance of people cannot be certain that if they offer cooperation, they will receive mercy and prosecution. The Commission gives no rules for cooperation, an amnesty offer, and a graduated form of immunity to confess. Without rules, the officers are persuaded to remain silent and even destroy any documents and avoid giving testimonies in favor and against the structure and their own options when the political temper changes

(Wiebelhaus-Brahm, 2010). The interim government cannot form an amnesty agreement and a dialogue offer to the security leaders.

The senior security officials make the same, but larger calculations. The Rapid Action Battalion, a major offending security unit cited in the interim report, was facing a genuine threat of disbandment (Anadolu Agency, 2024). This provokes the leaders to obstruct the investigation, destroy the evidence, and intimidate witnesses in order to avoid the issue escalating to the point where disbandment becomes a valid option (McAuliffe, 2023). The Commission has nothing to offer the security agencies regarding the choice of reform versus disbandment to engage in any form of cooperation. So, obstruction is the only means to survive.

This demonstrates that the obstruction in Bangladesh is anything but an indication of a flawed process. It is a reasonable measure to take in light of an uncompleted transition (Wiebelhaus-Brahm, 2010). The security forces know they might be awaiting prosecutions while there is an interim government with less than full powers and no negotiations in place to facilitate cooperation. Given this, the best options available to the security forces are obstruction through the destruction of evidence, intimidation of witnesses, and defiance of investigations. The mandate gaps provide the best possible chances to obstruct and to obstruct on a large scale.

Communication Gaps and Legitimacy Problems

Apart from the issue of proof and evidence destruction, the Commission also faces a lack of interaction with the wider society. The Commission undertakes its investigation in a closed manner in the city of Dhaka without any public hearings and lacking interaction with the victims (Al Jazeera, 2024). Secret testimonies underscore a lack of trust, as victims cannot

observe the investigation of complaints, the collection of evidence, and the recording of experiences (Bakiner, 2021).

The lack of communication will also affect implementation. It has been observed that the recommendations made by the commission stand a better chance of implementation if public interaction and monitoring by civil society are involved (Olsen et al., 2010). This is because the government will be aware that the recommendations will be monitored by the public, and any delay in implementation will be pressed upon by the civil groups involved. The fact that the process in Bangladesh is behind closed doors means that the recommendations will be made in December 2025 without any public pressure, and the recommendations will be ignored by the interim government in place and the democratically elected government to follow. The missing links with grassroots movements in justice are a lost opportunity. Entities such as Mayer Daak and survivor groups trace the incidents of disappearance, maintain the memory of the victims, and work towards accountability even before the existence of the Commission. They too could be involved in the process and thereby enhance the process of justice. Current actions might overshadow the grassroots movements in the process of justice. The results of the findings might be taken as the-state-imposed-history of the victims instead of a complement to the grassroots initiatives in the process of justice (Bakiner, 2016). The shortcomings occur through design, not simply limitation. There is no framework for public hearings in the Commissions of Inquiry Act. It is an outdated statute designed for administrative inquiries, not victims-oriented public hearings. The interim government lacked the capacity and will to introduce the element of hearings. The presence of legal-trained commissioners could provide the avenue of judicial process: investigation and collection of facts through processes unattended by victims' testimonies. Explanations do not condone the limitation but indicate its political and institutional basis. The effect is a Commission that is

less publicized, less integrated into the grassroots, and less fueled in its recommendations for implementation.

The Vicious Circle: How Constraints Reinforce Each Other

The mandated gaps in Chapter 3, the institutional barriers, and the issues of communication I discussed so far in this chapter are cumulative problems and do not exist singularly in the global context (Freeman, 2006). Identifying the issue gives a clear insight into why Bangladesh has a “conditionally strong mandate” that appears ideal but is deficient in its application in reality.

The process begins with the inefficiency in the enforcement regime. The \$2 fine for contempt allows the officials to thwart because the stakes are low. The security forces dismantle the evidence because fines charged by the Commission are low against possible prosecutions. The effect of the dismantled evidence is the absence of a complete truth to be told by the Commission. The Commission has access to the testimony and names of the victims but cannot establish command responsibility. Because the security forces cannot establish an expressed approval of a pattern, the Commission cannot establish institutional guilt based simply on individual misbehavior (Freeman, 2006).

Gaps make the process appear ineffective. When victims witness that the Commission cannot demonstrate command responsibility due to the destruction of proof - they recognize the process is irregular and biased in its favor. Civil society observers recognize that the destruction of proof occurred with no punishment, thereby illustrating weak institutions (Anadolu Agency, 2024). The interim report indicates who perpetrated an action but has not demonstrated the systematic process in its investigations, and people recognize that the results are incomplete or convenient selections (Anadolu Agency, 2024)..

Without citizen engagement, the Commission has limited political will to effect changes. The government knows that if the recommendations are disregarded, there are no repercussions, as the citizens are unaware if and how the recommendations are implemented. The recommendations are ignored by the subsequent governments too. The dissolution recommendation by the fast-action unit can remain unreported in the media. Reparations recommendations might go unfunded too. Recommendations will remain “weak statements with no real action” if citizens fail to push for implementation (Freeman, 2006). Failure to implement will convey a message that accountability is ineffective, adding to distrust against transitional justice (Olsen et al., 2010).

This lack of trust leads to a feedback effect of more obstruction. Since security bodies understand that recommendations will be disregarded with impunity, leaders realize that the cost of investigation is low and thus there is no need to comply the next time. Engaging with mechanisms of accountability will be futile. The process continues: lack of effective enforcement leads to obstruction, thereby undermining evidence and resulting in substandard results due to a lack of implementation momentum and thus ignored recommendations, and obstruction remains sustainable (Wiebelhaus-Brahm, 2010; Martín et al., 2022).

This vicious circle is a phenomenon that has been taking place in many countries in the world but is also a fact in the case of Bangladesh. The phenomenon has been discussed by Wiebelhaus-Brahm in the context of incomplete transitions and a combination of a lack of cooperation and weak implementation: “In the aftermath of a conflict, the dimensions of a possible mandate gap and the constraints.

What the Commission has Achieved Despite Constraints

To emphasize only the constraints is to run the risk of undervaluing the work the Commission has done. Despite the constraints, the Commission has done some excellent truth-telling work

in its first year, taking in 1,752 complaints and investigating 1,350 cases, a huge accomplishment in the face of constraints and interference (Commission of Inquiry on Enforced Disappearances, 2024). The report has found the pattern of enforced disappearance, pointing to the highest officials involved, and targeting former Prime Minister Hasina and another 29 for crimes against humanity (Anadolu Agency, 2024).

Most significantly, the Commission's results facilitated the beginning of prosecutions. By October 2025, based on the Commission's findings, the International Crimes Tribunal had issued arrests for Hasina and other people for crimes against humanity (Justice Info, 2025). This was no certainty. Truth commissions tend to only focus on fact-finding and fail to provide prosecutions in many instances. The Commission in Bangladesh facilitated the gap and functioned as an important element in the prosecution process (Hayner, 2011).

The readiness to point a finger at high-ranking officials, and Hasina in foreign countries in particular, proves the Commission has the capability to work independently even with the interim government's support (Justice Info, 2025). The members of the Commission appear eager to seek the truth despite the political risks involved.

However, the acknowledgment of such progress doesn't alter the overriding fact that the Commission is doing well in terms of truth and assistance with prosecutions but that it has no way of fulfilling its aims in prevention and reparative justice through its current mandate and processes. The arrest warrants are historical in their focus and do nothing to provide a focus for the prevention of similar crimes in the future (such as SSR), nor in providing reparative justice in the form of satisfaction through compensation and rehabilitation.

This chapter shows that for Bangladesh, institutional obstruction is a possibility instead of an exceptional issue in the process following a transition. Because security forces are confronted with prosecutions lacking guarantees of amnesty, an interim government lacking effective

control of the security forces, and security forces make the choice to obstruct. Lack of guarantees for contempt of court reduces the costs of repression. Threats of intimidation are feasible if witness security is lacking. A breakdown in communications precludes public pressure for reform. Nevertheless, the Commission has a genuine success: thorough investigations, recording a pattern, high officials implicated, and assisted prosecutions. The ambivalence of the experience lends credibility to the notion of a “conditionally strong mandate”: the Commission is effective for truth-seeking and assisted prosecutions when there is a degree of cooperation, but short of the mark in terms of prevention and reparations unless comprehensive institutional changes occur (Wiebelhaus-Brahm, 2010). The general implication has applicability in the wider context than in Bangladesh. In incomplete transitions, the opposition will manifest, irrespective of how much the mandate represents the people. The desire to evade accountability will be opposed, unless there are mechanisms of amnesty, security sector dominance, and implementation instruments with political will (Teitel, 2000). Chapter 5 continues with the above constraints and the findings of the Commission, examining the effectiveness of truth-telling and accountability and the current gaps in the interim report.

Chapter 5: Evaluating the Commission's Findings

Introduction

In Chapter 3 and 4, I analyzed the areas where the Commission of Bangladesh struggles and how it is threatened by resistance from the government. It seems that this could potentially make the Commission fail. However, the Commission was still very successful at forming the truth and facilitating accountability, even with its challenges and fear of the security forces. This chapter will critically analyse the interim report, *Unfolding the Truth*, of December

2024. I will analyze the findings of the Commission, the believability of the findings, and the accountability formed through prosecutions. The message is very clear that the Commission is very good at looking backward, indicating violations and facilitating prosecutions, and very poor at looking ahead and providing conclusive reparations to the victims.

To assess how well the Commission is doing, it is essential that we distinguish between what the Commission could potentially do within the framework of the transition and that which it cannot do because of larger structural shortcomings. The interim report not only reveals patterns of enforced disappearance, holds senior authorities (including former Prime Minister Sheikh Hasina) responsible, and goes so far as to recommend the dissolution of the Rapid Action Battalion (RAB) itself. By October 2025, the International Crimes Tribunal (ICT) announced the arrest warrant for former Prime Minister Hasina and 29 other codefendants for crimes against humanity on the basis of Commission findings.

However, large gaps also exist. The interim report provides very little insight into how the victims can be repaid, very little analysis regarding the effects on women, and patterns that reflect not much more than the evidence destroyed, reasons for which are discussed in Chapter 4. Effectiveness also entails the evaluation of the good along with the bad. Partial successes at truth-telling and prosecutions do not add up to achieving transitional justice.

What the Interim Report Reveals Regarding Patterns and Responsibility

The interim report, ‘Unfolding the Truth’, marks the very first time the government of Bangladesh officially declared that the practice of forced disappearance was a state policy. For fifteen long years, the Hasina administration had been blaming the disappearance of people for leaving on their own or getting involved in criminal activity (Fortify Rights, 2025).

This report proves the disappearance of people was a systematic, state-supported, and security agency-led practice.

The document highlights patterns that correspond with the truth-telling conceptual framework proposed by Freeman. Forensic truth refers to the specifics of particular cases, including names, dates, locations, and parties. This is demonstrated by the fact that from January 2010 until August 2024, the security forces systematically made people, politicians, journalists, representatives of civil society, and critics of the regime disappear. Of the 1,752 complaints and 1,350 cases investigated by the Commission, the document does not provide the details of the victims nor the findings of each case. This is probably because the document is only an interim report and that some data was deliberately destroyed (Chapter 4).

Narrative truth is the personal experiences of victims and their families. There is very little of this experience contained within the interim report. It does not contain accounts of victims or their families who searched for relatives. This is because the Commission did not stage public hearings, and the accounts of victims remained for the most part unseen. This is very different for the Truth and Reconciliation Commission of South Africa.

What is meant by contextual truth is the pointing out of the systemic patterns of the occurrence of the violations. The report also identifies the major actors who committed the violations: the Rapid Action Battalion (RAB), Directorate General of Forces Intelligence (DGFI), and Detective Branch of Dhaka Metropolitan Police. Identifying these actors helps shift the attention from persons to the system that enabled the violations, indicating that the issue of disappearance is not merely the doing of a few individuals.

The report also invokes the issue of responsibility, pointing the finger at senior government authorities, including former Prime Minister Hasina, for authorizing these incidents of disappearance. This is important because the government has used the media, insisting that

these incidents of disappearance are the actions of some influential army officers. It is difficult to attribute the issue of command responsibility, but the Commission appears to have enough cases on the issue.

It appears that the report only uses the accounts of victims and complainants, accounts of people who filed complaints, and patterns that are consistent with coordination on the part of the institution. There is no mention of access to secret documents of the intelligence services, military communications, or other internal security documents that actually reveal direct chain of command. This is a natural consequence of the fact that the mandate lacks the authority of declassifying documents. This is because the reports on the issue of command responsibility are not grounded on hard documentary evidence.

Prosecutions as the Main Accountability Path

The best accountability outcome is support for prosecutions through the referral of evidence to the ICT. By October 2025, the ICT had ordered the arrest of Hasina and 29 other accused persons for crimes against humanity, relying on Commission evidence. This is a major milestone in transitional justice because leaders rarely face trial for human rights violations committed when they were in power.

This reflects the “justice balance,” wherein the effectiveness of truth commissions is better when they support prosecutions than when they operate alone. The Commission in Bangladesh collected evidence and identified the culprits, which helped prosecutors. This dispels the impression that truth commissions merely provide symbolic apologies.

However, the Commission had some loopholes regarding the flow of evidence between the Commission and prosecutors. There are no guidelines for the use of the Commission’s evidence in courts, the applicable standards, or how Commission witnesses can give their

testimonies in courts. Some of the evidence collected using the lower standard of the Commission might not meet the higher standard of “beyond a reasonable doubt.”

Arrest warrants issued in October 2025 have large symbolic and legal significance, but their implementation becomes difficult. Hasina is presently living in India, where she is protected by the asylum scheme, and hence Bangladesh cannot arrest her. The Commission also learned that it does not have the authority to summon witnesses overseas or collaborate with foreign administrations. Without extradition and cooperation, arrest warrants will remain pending implementation. Co-defendants had escaped Bangladesh or enjoyed the benefits of a security shield.

However, arrest warrants also provide accountability beyond imprisonment. Naming the culprits affects their reputation, reducing their freedom of movement, and it will not be easy for them to return to active politics. It will also serve as a warning against any other abuse that may happen in the future.

The Commission also recommended dissolving RAB in order to prevent the institution itself from facilitating abuse. This is very good institutional accountability. However, the arrangement lacks any forceful mechanism. The interim government can simply disregard the arrangement, and the next government can prioritize the security forces over the need to dismantle problematic institutions.

What Is Still Not Documented

Despite the good progress, the interim report highlights large gaps. These results emerge because of the limits of the method and the political realities of the incomplete transition.

Some of the detention facilities were rid of their records, with the victims’ names painted out, along with the removal of documents, before the Commission could view them. This brings

challenges in compiling the exact number of victims, the treatment, and the ultimate whereabouts of the disappeared persons. This report can only document whatever survived the destruction.

Time limits are also a matter. The mandate will cover the period between January 2010 and August 2024. This will result in inequality since the victims will not get equal treatment.

The gender issue is not analyzed for the ways that gender, ethnicity, religious affiliation, or sexual identity factored into the problem of victimization. The economic, death certificate, search-related violence, and gender-based abuse of women are mentioned, but not analyzed. This impacts the possibility of addressing gender-based grievances.

Moreover, Even though senior authorities are identified, the document fails to document the issuing of orders and the authorizing of disappearance cases. This is because of the restrictions imposed by the mandate on the document's classification and the destruction of documents. It is difficult to verify the issuing of orders without access to classified documents.

Reparations and Prevention

There are no clear delineations of reparations. International norms state that there should be five types of reparations: restoration, compensation, rehabilitation, satisfaction (apologies and monuments), and guarantee of non-repetition (structural reforms). The interim report only provides for acknowledgment of the truth and a sense of reforms with the dissolution of the RAB.

This is important because families require not only recognition. They require compensation, assistance regarding death certificates, healthcare and psychological support, and legal aid.

Without a comprehensive scheme of reparation, the Commission is faced with the problem of “truth without justice.”

For example, if the final report is submitted by December of 2025, the authors could aim for repair at that time, or it simply might not be in their budget or they are playing it safe.

Nonetheless, this particular report tends toward punishment, or prosecution, rather than repair, according to Olsen.

The closing down of RAB is a very important preventative measure, but it does not have specifics. There is no time frame, process for transferring or screening staff, or monitoring for the implementation of the winding down of the force. It simply provides for other security responsibilities.

It also failed supervision of intelligence services, and the monitoring of detention facilities.

This could indicate the Commission's narrow approach or the delicacy involved in preparing reforms that the interim government will not support.

Public Impact

The Commission's societal impact is constrained by the presence of poor public engagement and communication, discussed in Chapter 4. Truth commissions can make a difference, through public hearings, reports, education, monuments, and civil societal engagement. The Commission in Bangladesh operated significantly in a vacuum of public engagement, hence not having much societal impact. The interim report received some media coverage. But because the Commission made the investigation private - findings, the victims' accounts of the experiences and the confrontation of the perpetrator will not reach the people. This is why the interim report is more of a legal document compared to the other countries' processes that involve shared learning moments. It appears that the Commission is also distant from the

grassroots organizations that sustained accountability efforts prior to the existence of the Commission. This level of distance causes accountability to happen parallel to each other instead of happening together. Being visible can force governments to take actions. This is because, without actively participating, governments can disregard recommendations without worrying about political repercussions.

The Commission has had a mixed record. It identifies patterns, promotes large-scale accountability, and assists with prosecutions, which is significant given what the Commission is. However, it fails on the achievement of comprehensive historical justice: the destruction of evidence, failure to address victims prior to 2010, failure to conduct gender and intersectional analysis, poor reparations strategies, and poor preventive reforms. It also fails on the issue of societal relevance for the broader public. This lends support to the concept of the “conditionally strong mandate.” The Commission performs well when it can collect data, trace culprits, and facilitate prosecutions. It fails where it lacks resources, teeth, and will for comprehensive changes. Chapter 6 will proceed from evaluation, drawing recommendations regarding how the remaining work can be improved, and how new mechanisms of accountability can better take into account the limitations that have been identified.

Chapter 6: Strategic Recommendations for Building Accountability Beyond the Commission

Introduction: From Analysis to Action

Chapters 3-5 analyzed the conditional strength of the Bangladesh Commission. This showed it is successful at backward accountability but not at forward prevention, victims’ reparations, or public participation. The Commission’s legal mandate is structurally flawed. Security forces deliberately hampered the investigation efforts of the Commission. They destroyed

evidence, intimidated witnesses, and alienated the Commission from grassroots justice initiatives. The limitations of the Commission are not arbitrary but the logical aftermath of incomplete transitions. Because, perpetrator institutions retain state power despite the turnover of governments.

This chapter transitions from analysis to prescription, suggesting recommendations for improving accountability in the remaining period of Bangladesh's transitional regime and structuring the Commission's mechanisms for the long term regarding the Commission's structure. For these purposes, the recommendations will be divided on the basis of their time scale and targeted actors, since the different phases of transitional justice need different institutional frameworks. Short-term recommendations will provide strategies for the interim government for legislative and procedural reforms until the elections of 2026. Long-term recommendations will target the cultural transformation that will go beyond the time scale of analysis of this thesis. Every recommendation will discuss the feasibility of the strategy and means of implementation, avoiding prescription that is not realistic regarding political possibilities, as discussed by Freeman (2006) and Martín et al. (2022).

Immediate Interventions - The Commission's Remaining Operational Window

The following recommendations will aim at what can realistically be accomplished within the existing framework of the Commission's legal authority and capabilities, where it can excel: documentation, preservation of evidence, and civil society integration.

Recommendation 1: Organize coordinated efforts with Mayer Daak and victim organizations

The Commission fails to connect with civil society despite the existence of organizations like Mayer Daak, which has maintained awareness about accountability for numerous years prior

to the initiation of the investigation (Al Jazeera, 2024). Such a failure signifies both loss of legitimacy and inefficient delivery of services. Mayer Daak has recorded cases of disappearance, supported the family of the victims, and retained the contact details of the witnesses that Commission investigators could use (Mookherjee, 2015).

The commissioners should meet with the Mayer Daak leadership and other victims' organizations to: (1) discuss the results of the investigation with the victims' families prior to releasing the results, thus integrating grassroots documentation efforts; (2) gather the contact details of the potential witnesses identified by Mayer Daak victims of violence themselves; (3) communicate with victims' families regarding the status of the complaint filed with the concerned authority; (4) allow representatives of the victims' organizations to participate in discussions of preliminary findings prior to the write-up of the final reports.

This entails no legislative intervention, nor budget, only movement of the commissioners' time. Mayer Daak has specifically asked for the coordination of this. The independence of the Commission gives it the liberty to initiate this without government intervention.

Facilitated access for witnesses, enhanced victim engagement, legitimation of the process through grassroots support, and integration of formal and informal justice systems (Balasco, 2022). Potential risk is the time constraints because of the tight deadline.

Recommendation 2: Implementation of protocols recording the perpetual obstructions

Chapter 4 covered the destruction of evidence. Such obstruction of investigation is expected to continue until the last date of the submission of the Commission's findings. The Commission must systematically record the date of the destruction of the investigation for each location involved, together with the involved officials.

Develop forensic documentation processes for Aynaghar and other detention centers by documenting the patterns of evidence destruction through photographs prior to and following Commission visits. In the reports, refused document requests, intimidation of witnesses, and timely delays attributed to obstructions. This will serve as evidence of the defiance of the security forces in the final reports. Involves coordination of forensic experts, which, with the current budget, is manageable. Major risks involved is intervention of the security force during site visits.

The final report will show that there is obstruction of justice, despite the investigation being ongoing, where the existence of evidence gaps is used as the institutional strategy instead of evidentiary gaps (OHCHR, 2015). This will help the prosecution since it will show the consciousness of the perpetrator regarding the crime by destroying

Security forces may intimidate the inspection teams. Mitigation strategy should be witnessing the process, presence of international observers (international NGOs), and the presence of the police.

Recommendation 3: The Commission is aware of the gap in gender analysis and recommends that it should be investigated in

Analysis on gender is not given in the interim report, despite the fact that enforced disappearance gives rise to secondary gender-based victimization (Chapter 5). It takes victims, expert knowledge, and analytical capacity beyond what the Commission can provide for a deep gender analysis. Instead of having a superficial gender discussion, the Commission should admit the limitation of the analysis and propose that a new body examine gender specifically.

The final report should contain the visible section: “Gender Dimensions of Enforced Disappearance: Gaps and Recommendations.” This section will recognize: (1) women left by disappearances of male breadwinners suffer economic ruin, (2) female family members were victims of sexual violence during searches, (3) women survivors of detention were victims of gender-based torture, (4) minorities and the LGBTQ community were doubly vulnerable. It will recommend: that gender expertise should be integrated into future investigation, that specific consulting sessions for women survivors take place, and that patterns of intersectional victimization should be investigated.

This entails no new research, only the honest assessment of analysis. The commissioners could write this section with the help of gender studies consultants.

The end result of the study offers sound methodology, recognizing the limitations. Admitting gaps will enhance rather than damage Commission integrity.

Recommendation 4: Website, Social Media, and Civil Society Online Information Dissemination

Communication deficiencies were identified, Chapter 4, as a significant hinderer of societal effectiveness. The Commission lacks documented online, social media, and public information strategies other than the occasional media releases, even though the construction of accessible pathways for information prior to the final report is indispensable for the dissemination of findings, ultimately creating implementation pressure (Chapter 4).

Develop commission website (simple design, lowest budget ~\$5,000) featuring: summary of interim report in Bengali & English, FAQs on complaint mechanism, updates, links of victim organizations, sneak peek of final report. Develop social media platforms (FB, X, TikTok) sharing summaries of findings, survivor accounts (with permission), case details. Collaborate

with international organizations (Human Rights Watch, Amnesty International) and local news outlets (Prothom Alo, The Daily Star) for spreading the findings. Prepare documentary (10-15 minutes) on interim findings for telecasting & sharing on social media platforms (Bakiner, 2016).

Technical expertise and development of content needed. This is doable within the current Commission budget, if it can forego other operations. Expected outcome will be increased public awareness of Commission findings, better access of victim families for information, civil society engagement with Commission recommendations, findings documented beyond the life of the Commission.

The government limits the use of social media; although there is no prohibition, political resistance exists. The risk factor is that Cybersecurity standards are not very stringent.

Short-Term Legislative & Institutional Reforms

The lifespan of the interim government will last until around January 2026, when the caretaker government is ready for the parliamentary elections. During this period, legislative reforms will have the opportunity to live beyond the life of the current government, if passed by the Parliament. The next recommendations will need the backing of the interim government.

Recommendation 5: Revise the Enforced Disappearance Prevention

Chapter 3 identified that the draft ordinance had several legal inconsistencies on major aspects: the death sentence clause violated international norms, trial by proxy defied judicial norms of criminal proceedings, and the disappearance law was not consistent with the international convention (OHCHR, 2015). Such loopholes give the prosecution a weakness

that allows the defense representative to plead guilty on procedural irregularities. This is important for making Commission findings valid convictable sentences.

The ordinance needs amendment on three important aspects:

First, Removal of the Death Penalty. The proposed ordinance provides the death penalty for persons guilty of enforced disappearance, which is beyond the international obligations of Bangladesh. The International Convention for the Protection of All Persons from Enforced Disappearance does not provide the death penalty, and the international community shows that life imprisonment will provide the same level of deterrence (Kim & Sikkink, 2010). The proposed law should: replace the death penalty with life imprisonment, introduce a graduated scale of sentences with a minimum term of imprisonment.

Second, trials in absentia elimination. The ordinance allows for trials in absentia, which goes against the defendant's right of defense, thus also posing challenges for the international enforcement of the law, given that extradition conventions do not recognize trials in absentia. The proposed amendment should allow the defendant's physical presence or video link for the trial, allow for trial postponement for the defendant to get legal representation, allow the trial only if the defendant is actively avoiding the law, not if they simply live abroad.

Third, definition alignment. Ensure that the ordinance definitions are consistent with the international convention definition of enforced disappearance, state responsibility, and command responsibility. It must state that command responsibility does not need direct orders, but it will also include knowledge of the violations and failure to prevent/punish (Rome Statute, 2002).

There is commitment on the part of the interim government to accountability, and the proposed amendment fits well into their promise to the international community. It will take 2-3 months.

There will be legal consistency, the viability of prosecutions will enhance, the international enforceability of the ordinance will increase, and the challenges of defenses will reduce. It will provide a consistent legal environment for prosecutions in the future. This will enhance legal consistency, and the viability of prosecutions will also enhance.

Security forces will pressure parliament not to adopt the law, opposition parties may exploit the debate for accountability. Mitigation pathways are Secure diplomatic support (UN, external aid donors), enhance civil society campaigns.

Recommendation 6: Implement comprehensive Witness Protection Act

Chapter 3 found the absence of witness protection a definite gap in the mandates. The Commission does not have the legal mandate to provide witness protection and guarantee confidentiality, thus providing the incentives for survivors not to speak out and for witnesses to be intimidated (Chapter 3). The International Crimes Tribunal will need the testimony of witnesses, and the prosecution will not work if witnesses face threats of retaliation (Hayner, 2011).

For Bangladesh, the Witness Protection Act should provide the following: (1) Witness secure relocation when threatened directly, government fund for safe housing, new identity, and economic support; (2) Protection of witness confidentiality, prevent criminal access to witness identity & details of testimony; (3) Security officers for witnesses at high risk of harm (security personnel, monitoring of communications); (4) Counseling services for abused survivors of violence; (5) Grievances for when protection is violated; (6) Legal accountability of government for failure of protection.

The Witness Protection Act of South Africa, passed in 1998, offers a successful model that could well be applied in the Bangladeshi context. The model developed by India, relying on the Supreme Court directive, presents a different example.

Legislation needed (2-3 months), and budget provided (\$5-10 million per year for operational costs). Political will among the interim government and external donors exists for the support of prosecutions. A major challenge is resistance from the security institution, who fear testimony by witnesses.

With this, witness testimony becomes possible for prosecution trials, confidence among survivors in the accountability system rises, and the families of disappeared persons feel that witnesses can testify without fear. ICT trials become possible with protected witnesses.

The implementation of the bill or law can face bureaucratic red-tape, and the witness program can potentially get politicized. The plan for mitigation should be to ensure independent administration of the law with multi-party support and international monitoring.

Recommendation 7: Create independent transitional justice monitoring body with parliamentary mandate

Chapter 5 saw that implementation is the decisive factor for effectiveness. This requirement for the disregard of Commission recommendations will not be implemented until mechanisms of government accountability for non-implementation are provided (Martín et al., 2022). It can independently monitor the status of the recommendations and make public reports, hence using civil society pressure for implementation (Wiebelhaus-Brahm, 2010).

Parliament should follow these steps for the enactment of the Transitional Justice Monitoring Commission Act: (1) Monitor the implementation of the Commission's recommendations by the government. (2) Make quarterly reports of implementation public. (3) Conduct public

hearings where government representatives discuss the implementation of the Commission's recommendations. (4) Propose legislative reforms that make implementation of recommendations possible. (5) Engage the international community for cooperation on implementation. (6) Ensure the participation of victims' organizations in the monitoring process.

It should consist of seven members, appointed through a consultative process. One representative of the victim organization, one representative of the government, one representative of civil society, one legal expert, one international observer (ICTJ-type), one researcher, and one representative of the commissioners.

Legislation should be passed by the interim government during the current window, creating a *fait accompli* situation for the next government. International pressure through conditionality of donors will help.

Accountability for non-implementation of recommendations, civil society engagement, government incentives for compliance. International evidence suggests monitoring mechanisms ensure higher adoption of recommendations (Martín et al., 2022).

Future governments may not contribute to, or support, the entity. Mitigation pathways are legislation by parliament, with specific funding arrangement: sourced from court budget, not subject to government discretion. International monitoring and financial support.

Recommendation 8: Commission-ICT Tribunals should codify coordination mechanisms.

In Chapter 5, the relationship between the prosecution and the commission was recognized as being underspecified, leaving unspecified protocols for the transferring of evidence, alignment of the standards of evidence, and the handling of witnesses' testimony. This will

ensure that the results of the investigation are effectively conveyed for prosecution (Freeman, 2006)

Commission and ICT are to co-author the operational protocol on the following: (1) Standards for classification of evidence (within which, admissible vs. documentary prosecution findings); (2) Witness testimony processes (can Commission testimony replace trial testimony or do witnesses give testimony separately?); (3) Information sharing guidelines (ICT vs. Commission on what to share with the defendants, what not to until prosecution time); (4) Timeline synchronization (prosecution deadlines vs. Commission investigation completion); (5) Responsibility sharing (commission vs. investigation of which cases, not doing duplicative work); (6) Procedures for conflict resolution (when Commission, prosecution, and defendant disagree on sufficiency of evidence).

It Requires only Commission and ICT coordination, without need for new legislative work.
Can be finalized within months. Both sides have motives for clarification.

It will help Functionality of investigation-prosecution pipeline, standards of adequacy of evidence, management of witnesses, and prosecution timelines. Proof that the mechanisms of both formal and informal justice systems have the ability to coordinate well (Balasco, 2022).
The main problem lies in administrative coordination, not political dispute.

Medium-Term Transformation – Government-Level Institutional Reforms

The medium-term recommendations will need fresh commitment on the part of the new elected governments. Even success cannot be guaranteed because, again, civil society will need to maintain the momentum of accountability.

Recommendation 9: Develop and adopt a comprehensive framework for the dissolution of RABs and personnel accountability

The interim report suggests the dissolving of the RAB after it is identified as the primary perpetrator institution. However, dissolving the institution will need a specific implementation plan for: where will the personnel of the RAB be reposted, how will the abusive personnel not get reposted elsewhere, what role regarding security does the RAB play that will need to be filled, how will the dissolving of the institution be validated.

Dissolution may follow three-phase process:

Stage 1: Screening and Human Resource Management

Appoint a vetting commission independent of other organizations and identify the involved personnel of the RAB. Involved personnel to go through four different routes: (1) prosecution for the guilty; (2) discharge for those with prima facie of rights abuse, but less for prosecution processes; (3) shift for civil administrative positions for those not involved in disappearance cases; (4) retain and reschool for the not accused of abuse. This is because disappearance abusers will not join the Police, Navy, or the military because they will continue with their abuse.

Stage 2: Function Replacement (6 months)

What the RAB actually does is counterterrorism and serious crime investigation. This work will need to be redistributed into the civilian police forces, with training on how to ensure that it is under civilian control. International police advisors, Indian, Malaysian, or international, will need to oversee the transition to ensure that the counterterrorism capability is maintained, but not the culture of disappearance.

Stage 3: Institutional Dissolution

Formal dissolution only happens after the evaluation process is finished and the functions are reassigned, filling any institution void. It must be verified that the following are independently checked for the offices that are closed, the equipment moved, the documents archived, and the personnel repositioned. It cannot happen if there are any unmanaged functions.

Needs the will of the elected government, resource investment (\$50-100 million for personnel management), and cooperation of the international community. Key risk here are security forces will not submit to screening, especially when their officers will face prosecution. Best estimation for the will of the politicians: if the will of the government of 2026 is focused on stability, this recommendation will go on the shelf.

Institutional framework where disappearance is eradicated, accountability of personnel integrated, counterterrorism capacity shifted into a civilian-controlled framework.

Effectiveness of preventive strategies enhanced through institutional transformation (Martín et al., 2022).

Risk factors came from resistance of security forces, political costs of comprehensive screening, resource limitations. Mitigation pathways are International financial support, civil society engagement, international monitoring to prevent regression.

Recommendation 10: Develop and implement a five-pillar reparations plan for all categories of victims

The interim report provided proposals for minimal reparations. Chapter 5 identified the absence of reparations, a very important gap, leaving families without support. Full

reparations need the development of programs for the five sectors according to the Basic Principles of the UN (General Assembly, 2005).

Return victims to their situation prior to the violation. For the disappeared, this includes: issuing a death certificate (for the purpose of inheriting, marrying, receiving pensions), return of seized property, homes or businesses confiscated by the state during the time of disappearance, regaining their work or educational situation for those rendered unable to work because of trauma.

Monetary compensation for losses. To calculate compensation, the following aspects need consideration: loss of earning capacity (for families of the disappeared), medical expenses (torture victims), educational expenses (children not attending schools because of the trauma they faced), counseling expenses. The minimum level of compensation standards will be recommended at around \$50,000-100,000 per person for the disappeared. This will be provided for through the reparations budget.

Provision of medical, psychological, and legal support for survivors. Opening trauma centers within Dhaka and other cities that offer: Psychological counseling, Legal assistance for claiming compensation, Medical facilities for treatment of torture-related injuries, Skill development help for survivors to get back into the workforce.

The return of dignity through recognition. This should include: a formal government apology, a Prime Ministerial acknowledgment of the disappearance, the Commission's findings published naming those responsible, the erection of monuments, remembrance days annually, the history of disappearance taught in schools.

Institutional measures for non-repetition. Include: legislative provisions on criminal law that make enforced disappearance a crime, independent monitoring of places of detention,

security forces training on human rights, cooperation agreements between countries that allow prosecution of the perpetrator.

Framework for reparations demands heavy government expenditure (\$500 million to \$1 billion for a comprehensive project for 3,500 victims). Political will is key issue. It can perhaps be supplemented by external donations. Time: 3-5 years for complete implementation. Depends on commitment by the government. Otherwise, the issue of reparations will not take off.

Victims get material support for harm, dignity returned through recognition, institutional change to prevent harm from recurring. Reparations offer "justice balance" that integrates prosecution with the restoration of victims (Olsen et al., 2010; Sikkink, 2011).

Risk factors here are budgetary limitations, changing priorities of the government, demands for resource allocation.

Recommendation 11: Declare the Aynaghar Detention Facility a national memorial site and memory archive.

Aynaghar was the central torture facility of the state where numerous victims were forcibly disappeared and brutally tortured. It continues to have both evidentiary meaning, imprinted traces of violence, and symbolic meaning, collective memory. The transformation of the site into a national memorial, like the Apartheid Museum in South Africa, Tuol Sleng Genocide Museum in Cambodia, will have truth-telling, restitution of dignity, and preventive purposes (Bakiner, 2016).

Govt. must retain the Aynaghar facility (present site of DGFI headquarters) and open the National Memory Archive with: (1) Memorial exhibition on the history of disappearance, recording testimonials of survivors and investigation results, offering findings for public

access. (2) Documentation and study library of Commission files, cases, and archives, open for access by researchers and the public. (3) Survivor services of counseling and legal assistance accessible on site. (4) Commemoration programs of the annual National Disappearance Memorial Day on May 16. (5) Educational support for visits and comprehension of recent history.

It requires the transfer of a government facility and budget of between \$20-50 million. International funds will readily be available for such a memorial, given the support of UNESCO and various organizations that support human rights. The feasibility of this project among politicians will depend on whether the administration of 2026 finds the memorial useful or embarrassing.

Physical location transforms into space for creation of collective memories, recovery of survivors, and awareness about the history of disappearance. Memorialization allows results of the Commission to transcend the lifetime of the Commission, thus eliminating the denial of the state in the future. Societal effectiveness is enhanced by the physical memorial (Bakiner, 2016)

Risk factors here are projects interrupted by government regime change. Budget not prioritized. To mitigate: project partnership with international NGOs (UNESCO, international foundations), civil society advocacy, management by survivors.

Long-Term Prevention: Maintaining Accountability Over Political Cycles

Effectiveness in the long run will require institutionalization of norms of accountability independent of the current level of political commitment. This set of recommendations deals with cultural transformation, keeping in mind the uncertainty about the continuation of political momentum beyond the medium term.

Recommendation 12: Incorporate the history of disappearance cases and the country's responsibilities for human rights into the national curriculum.

Prevention's ultimate mechanism is norm change. Societies that view the violation of human rights as stigmatized and face institutional resistance are less likely to disappear. Education is essential for the internationalization of these norms for the next generation. The subjects that the curriculum of Bangladesh should include are: disappearance of persons, the violation of the right of persons, the history of disappearance in Bangladesh, resilience, and justice-seeking for disappearance victims (Bakiner, 2021).

The Education Ministry should prepare learning materials for secondary school civics classes, and for higher education human rights courses. The learning materials should include: summary of Commission findings, extracts of testimony, documents, discussion questions. They should include training for teachers on how they can discuss state violence appropriately.

It involves curriculum overhaul (relative expense of \$2-5 million), but entails no controversial political choices. International cooperation (various international bodies involved in education, international human rights organizations) will help. Will work regardless of political majority.

Expected Outcome is generational norm change regarding the view that "disappearance is seen as a severe violation"; the internalization of human rights responsibilities among the youth; the effectiveness of society enhanced by the construction of collective memories (Teitel, 2000).

Recommendation 13: Develop bilateral extradition agreements and international cooperation treaties that make it possible to prosecute culprits overseas

Sheikh Hasina is living in India on political asylum, and other culprits are also fleeing Bangladesh. Absence of international cooperation makes the prosecution of these criminals only partially complete. What Bangladesh needs: (1) Extradition agreements with countries sheltering the culprits (India, Saudi Arabia, and other countries); (2) Legal assistance mechanisms for sharing of evidence and coordination of witness testimony; (3) International cooperation for judicial purposes (INTERPOL, International Criminal Court) that allows the prosecution of culprits abroad, if extradition is not possible.

The Foreign Ministry will coordinate with the countries of residency of the culprits, informing them about the Bangladesh prosecution system and seeking extradition or cooperation on prosecutions. Pressure can also come from international countries (USA, EU member states). International courts (ICC, regional courts of human rights) can serve as backup options when extradition fails.

Involves diplomatic efforts and international cooperation. India's extradition will not happen (Hasina politically sensitive about it), but other countries will. Best-case estimate: Some will get prosecuted. Some will not. This fits well into other truth-telling processes (Argentina got 20-30% prosecution, Chile lower, truth-telling commissions rarely follow through on prosecutions).

Some form of accountability of the perpetrator that goes beyond prosecution within their own country, proving that Bangladesh has the capability of seeking justice through international channels, and that the perpetrator knows that accountability will follow them beyond their national boundaries.

Though feasibility of diplomatic intervention is unclear, especially with regards to India.

Successful prosecution of some offenders is possible, but not comprehensive accountability.

Recommendation 14: Ensuring the independence of judicial, prosecutorial, and oversight bodies, avoiding state capture of accountability mechanisms

These institutions must ensure that the future governments will not use the security forces for disappearance. This will require an independent judiciary that will check the powers of the government, an independent prosecution, and a parliament that will not allow the security forces to become autonomous. This argument applies not only to the realm of transitional justice, but also to the construction of democratic systems (Teitel, 2000)

The implementation of the state of emergency regime must provide: (1) Independence of the judiciary, guaranteed by secure tenure, merit-based recruitment, and immunity against dismissal by the administration; (2) Independence of prosecutors, guaranteed by merit-based recruitment, financial security, and immunity against political interference; (3) Parliamentary control, guaranteed by obligatory reports of the security forces, visits to places of detention, and the legislative investigation of allegations; (4) Integration of international human rights, guaranteed by the primacy of international treaty law over national law; (5) Civil society engagement, guaranteed by access to information, participation in law-making, and legal standing to sue for the enforcement of human rights.

Feasibility is low-medium. This is because the government prefers their security apparatus not to be controlled. Realistic assessment is that some reforms are possible, but radical changes at the institutional level are not.

Expected outcomes here are prevention through institution building, democratic norms internalized, and security force autonomy reduced. This will avoid the problem of

disappearance by transforming the structure rather than relying on the commitment of the government (McAuliffe, 2023).

Though it requires political will, which is not necessarily present, and the existence of better-off institutions that thrive on having no checks on their authority.

Conclusion

The recommendations of this chapter have integrated strategies that will take place in phases, not independent policies. To achieve success, it is important that the theory of change of the recommendations is well understood, including the following phases: (1) Immediate phase will enhance the existing Commission effectiveness, focusing on better documentation and the integration of civil society; (2) Short-term phase will formulate the legal and institutional frameworks for prosecution and for accountability that will take place in the future; (3) The medium-term phase will institute the transformation of the system, including security sector transformation, the establishment of reparations, and memorialization, integrating accountability within the state institution's structure; and (4) Long-term phase will foster accountability norms through education, transformation, and international integration that will prevent recurrence. (Martín et al., 2022, p. 4)

Key assumptions that support these recommendations:

Firstly, civil society exerts pressure. Without continued activism on the issue of victims, governments will sideline accountability for other demands. The strength of civil society in Bangladesh is what brought the transition of August 2024, and it is critical that this alliance is sustained beyond the current situation.

Secondly, international support is also continuing. The governments of countries that provide economic support, together with international organizations, need to make progress on transitional justice conditional on their assistance.

Third, the political leadership emphasizes accountability regardless of the costs incurred. This is because accountability not only means confronting the security forces, but it also means using resources. This attracts political costs, which only committed leadership is ready to take. The commitment shown by the current interim government is visible, but the commitment of the government elected for the period of 2026 is not clear.

Fourth, perpetrator institutions embrace accountability (partially). Fully non-cooperative perpetrator institutions make recommendation impossible. Realistic evaluation expects partially cooperative perpetrator institutions. Some offenders will be prosecuted, and some reforms will happen, but not all will. This approach aims for partial justice, not accountability, which happens often in transitional justice systems.

This, although not comprehensive, is a major improvement over the status of disappearance, where impunity and denial pervaded. The fact that the Commission was formed, evidence was collected, cases for prosecution were facilitated, and recommendations were formulated is a substantial shift forward on the front of accountability progress, especially where there is only incomplete transition.

The Bangladesh Commission of Inquiry embodies neither the logic of success nor the logic of failure, but the logic of a conditionally strong institution whereby success can only be realized through political will, civil society engagement, and international commitment to the implementation of recommendations beyond the Commission of Inquiry's jurisdiction.

Conclusion

The thesis demonstrates that the Bangladesh Commission of Inquiry on Enforced Disappearances, established in August 2024, has “conditionally strong powers.” This commission is sufficiently strong in relation to the investigation of enforced disappearance cases from 2010 to 2024 to contribute to uncovering truth as well as prosecuting enforced disappearances.

Conditional strength involves examining beyond a mere “strong” or “weak” classification. There can be a body that looks robust on paper as it has been able to command witnesses, seek documents, assume responsibility, and mobilize cases. But it all depends on how political it becomes. As in, will those who carried out repression remain in office, will governments remain committed to their goals, and will civil society maintain momentum in a post-transition period. The strength of Bangladesh’s Commission rests with having a robust mandate, but it seems to exist in a political setting in which security forces believe that resistance costs little, that this caretaker government will not survive, and that civil society keeps pressures on until 2026.

This conditional strength requires a thesis that integrates three components: mandate design (Chapter 3), political economy of obstruction (Chapter 4), and mixed results of effectiveness (Chapter 5). None of these components by themselves captures the role of the Commission. Focusing solely on mandate design indicates success, since the Commission has judicial powers, investigative powers, 1956 Act status, and the referral of cases for prosecution. This neglects Ayneghar evidence destruction and lack of cooperation from security forces. The political economy understanding explains the supply side of obstruction, where security forces are charged with Crimes against Humanity but lack access to amnesty, and explains why this survival mechanism for security forces involves obstruction. But this perspective does not address how, in this limited realm, the Commission has brought actual benefits. The

perspective of effectiveness indicates patterns of abuse, identities of high-level officials, and then arrest warrants, a lack of delivery in implementation and reparations. Together, these reveal conditional strength, since the Commission operates in defined bounds but lacks for a successful transition without proper political support for prevention, reparations, and social transformation (Hayner, 2011).

Theoretical Contributions to Transitional Justice

This thesis contributes three findings to transitional justice literature on mandate design.

Firstly, this thesis has demonstrated that mandate design operates in a political context, in which the preservation of perpetrator institutions has a significant bearing on transition.

While previous studies highlight mandate design as a key mechanism for successful transition, this thesis confirms that this plays a role but also contends that mandates are insufficient in cases where perpetrators perceive cooperation as a worse outcome than opposition. In cases of incomplete transition, threats of prosecution, potential dissolution, as well as incentives of conditional amnesty, are seen as important in influencing a perpetrator's calculation of costs and benefits, rather than mandate design.

Secondly, it showed that communication and a lack of societal legitimacy are important handicaps. This is evident in Chapter 4 and Chapter 5, where a lack of communication and lack of societal engagement undermines success. Without societal visibility and engagement, investigations remain legality-right but lack political potency. Public scrutiny of implementation with a voice that cries out non-compliance ensures that recommendations are taken seriously (Martín et al., 2022). The Bangladesh Commission operated in a shut down manner, which lacks momentum in further actions (Chapter 4). Thus, commissions operating in contested politics require effective communication as part of their fundamental function (Bakiner, 2021; Freeman, 2006).

Third, it promotes the idea of “justicecraft” suggested by Balasco, that formal and informal justice needs to be linked, rather than operate as dual phenomena. This particularly refers to a “living” form of justice, which “takes shape” through activism, online archives, art, and memory projects. While Bangladesh has a robust alternative justice network, this Commission was left “isolated” from it, as described in Chapter 4. To make it successful, especially in a contested transition, it needs to effectively incorporate “formal” and “informal” notions of justice, rather than seeing these as countervailing forces.

Policy, Practice, and Future Transitions

In the case of Bangladesh, practical recommendations are found in the findings. The Commission has produced tangible outcomes, namely processing 1,752 complaints, investigating 1,350 cases, identifying patterns, and issuing arrest warrants. However, truth-telling and prosecution cannot result in either prevention or reparations. With elections in 2026, priority should be given to those recommendations that are most feasible and effective. Outlined in Chapter 6 are immediate actions, which consist of cooperation with civil society, preservation of evidence, recognition of a gender perspective, enhanced communication, as well as medium-term legislative changes, including witness protection, amendments, and a body for implementation oversight, followed by longer-term actions requiring an elected government, outlined below.

This thesis argues that commission design should be informed by how much the perpetrators are able to hinder, that in turn affects how much of a mandate to design. Instead, ICTJ’s eight-component mandate guide has been found to help, but it has to be ensured that there are practical limits to how much perpetrators are able to hinder, rather than merely blocking outcomes. While in some successful military defeats, a normal mandate design can be used. In cases of incomplete transition, such as in Bangladesh, Nepal, and Guatemala, parallel

prosecutions, protecting civil society, and using international monitoring with a sequential design to avoid missing initial steps can be incorporated. Communication and involvement of grass roots are to be strongly highlighted as being fundamental components of a mandate design.

For researchers, this thesis points out a number of important gaps in research. These questions are: Can recommendations of the Commission be followed in 2030? Can immediate steps result in total transition? Will the 2026 government keep immediate transition commitment? A longitudinal analysis would examine if conditional strength results in outcome, with implications for other commissions in the future. A comparative analysis of commissions with incomplete transition commissions in Nepal, Guatemala, and Tunisia would identify which characteristics are most important. An analysis of people-based to formal transition of justice in Myanmar, also in survivor networks in Bangladesh, would examine Balasco's JusticeCraft model.

Limitations

This research has a forward-looking approach. It assesses the Commission in action rather than after it completes. This sets a limit on how long it takes for a complete report, as it won't be until December 2025, so no comprehensive report can be given. Uncertainty surrounds this upcoming period, as 2026 government policies and foreign cooperation would make everything different.

The key argument remains that there is a conditional strength of the Bangladesh Commission, which has been impacted by an incomplete transition. This can be proved by analyzing the mandate, obstructions, and findings. However, true accountability in situations of incomplete transition remains challenging. The next few months are critical in keeping the promise of August 2024.

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