

Challenges of Energy Regulatory Arrangements in Bangladesh: An Appraisal

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Abstract: This article addresses the challenges of energy regulatory arrangements in Bangladesh. It understands regulatory arrangements as a complex interactions of public, private and societal actors within a given regulatory policy process. The study primarily relies on qualitative data from official sources, legal and regulatory documents, and previous research findings, employing a descriptive mode of analysis. The study reveals that, in addition to the energy regulatory commission, many actors with varying levels of responsibility interact to make and enforce regulatory decisions within the energy regulatory framework. Major challenges in regulating the energy sector include maintaining the decision-making power of the Bangladesh Energy Regulatory Commission, appointment and removal of commission, quality of procedural coordination between public authorities and private actors, increasing ministerial intervention in commission decisions on energy price setting, government grants verses financial autonomy, and oversight of commission activities through constructive parliamentary debate, independent judicial review, and consumer complaint resolution. Policymakers must address these challenges to establish a robust energy regulatory framework in Bangladesh.

Keywords: Energy, Regulatory, Appraisal, Arrangements, Sustainable

1. Background

The regulation of liberalized energy sector in Bangladesh has received attentions from the government, prospective investors and the consumers. It is noticed that a sound energy regulatory framework is essential for continuing economic growth of a country and ensure energy security for the present and future generation. Under the Bangladesh Energy Regulatory Commission Act 2003 the Bangladesh Energy Regulatory Commission (BERC) has established to create an atmosphere conducive to private investment in the generation of electricity, and transmission, transportation and marketing of gas resources and petroleum products, to ensure transparency in the management, operation and tariff determination in these sectors; to protect consumers' interest and to promote the creation of a competitive market (GOB, 2003). Another organization namely Sustainable and Renewable Energy Development Authority (SREDA) which is responsible for efficient energy consumption,

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energy conservation and development of renewable energy sector in the country (GOB, 2012). The BERC is functioning as a “non-majoritarian” (Majone, 1999) independent regulatory agency (Gilardi, 2008) of the Ministry of Power, Energy and Mineral Resources (MoPEMR). Despite the regulatory initiative of the BERC the energy sector in Bangladesh is not developed enough and it is a growing policy concern to impress the prospective national and foreign direct investors to improve the energy infrastructure and fulfill the demand of the consumers.

With a population of 17.47 billion, a GDP growth rate of 5.8%, and a per capita income of 2,529.1 USD, the ever-rising economy in Bangladesh demands that the energy and electricity sector be efficient, clean, and uninterrupted (The World Bank, 2023). As on 30 June 2023, the power generation installed capacity of Bangladesh amounts to 24,911 MW (BPDB, 2023). Natural gas is the dominant source, contributing to around 45.65% of the country's total energy supply. Other sources include oil (26.06%), coal (10.81%), and hydroelectricity (0.92%), with renewable energy sources (solar, wind, biomass) contributing around 1.84 % and foreign import (10.66%). As of recent estimates, the peak electricity demand is around 14,000 MW, with projections suggesting it could exceed 25,000 MW by 2030. The industrial sector is the largest consumer of electricity, followed by residential, commercial, and agricultural sectors.

Hence, Bangladesh's energy sector is at a critical juncture, with growing demand necessitating significant improvements in supply infrastructure, diversification of energy sources, and a shift towards sustainable and renewable energy. Therefore, the sector needs a well-functioning and effective regulatory arrangements to encourage investment in the energy sector crating a level playing field for public and private sector entrepreneur for country's economic growth and social development. In this perspective, this study is intended to map the stakeholders involved within energy sector regulation and appraise the challenges of the energy regulatory arrangements in Bangladesh.

2. Objectives of the Study

The main objective of the study is to find out the challenges of the energy regulatory arrangements in Bangladesh. The specific objectives are:

- To map the public authorities and private actors involved in energy regulatory arrangements in Bangladesh;
- To appraise the key challenges of the energy regulatory arrangement in Bangladesh.

3. Concepts and Study Method

Energy refers to the electricity, gas and petroleum product, and the gas include the natural gas, natural liquid gas (NLG), liquefied natural gas (LNG), compressed natural gas (CNG), synthetic natural gas, or such mixture of natural hydrocarbon, which transforms into gaseous elements at ambient pressure and heat (GOB, 2003). As the energy sectors has liberalized and the public and private sector licensee are providing energy to the consumers, quality of regulation of this sector is essential for securing the interest of the consumers.

For a valid analytical framework of the study now it is important to understand the concept of regulation, the label ‘regulatory arrangements’ and the effectiveness of energy regulatory arrangements. As classical function of the convectional state, the concept of regulation refers to control, direction and sanctions. The classical meaning of regulation has changed and redefined in times of the changing role of state in market economy. The idea and propositions

of new public management across countries forwards and diversifies the concept of regulation. Now regulation means more than control of the external behavior of the ruled. One could argue for regulation that necessary focus on the rule making and application to protect public interest from the activities of the private entity. Here, regulation is defined as “the public administrative policing of a private activity with respect to a rule prescribed in the public interest” (Mitnick,1980). Within market economy and the interactions of multiple stakeholders of a given policy, the idea of regulation has diversified again (Minogue and Carino, 2006). The regulatory regime has to consider both the public and private actors with a liberalized policy sector According to Koop and Lodge (2017) “prototype regulation” is about interventions which are intentional and direct – involving binding standard-setting, monitoring, and sanctioning – and which are exercised by public-sector actors on the economic activities of private-sector actors”. Besides, “regulatory arrangement” to refer to this complex web of actors whose interventions and interactions sustain the regulatory process in a given policy field” (Mathie, Verhoest and Matthys, 2017). Therefore, the paper understands regulatory arrangements as a complex interactions of public, private and societal actors in a given regulated policy process.

Notable scholar Majone (1999) argues that the effectiveness of the regulatory arrangements mostly depends on some variables, such as : (i) “The extent to which decisions are delegated to an independent agent rather than taken by the principal himself, with the choice ranging from “no delegation” to “full delegation; (ii)The governance structure, which includes both organisational form – single-headed agency, multi-headed commission, self-regulatory organisation, and so on – and methods of appointment of key personnel. The nature of the governance structure to a large extent determines the degree of independence of the agency from the political process; (iii) The rules that specify the procedures to be followed in agency decision-making. Examples are reason-giving requirements (see below), and rules defining the rights of various groups to participate directly in the decision-making process; (iv) The procedures to be followed when principals wish to overrule agency decisions. (v) The allocation of resources, in particular the agents’ employment conditions, and the extent to which the agency is to be financed by government or by the sale of its services, (vi) The extent of ex post monitoring through ongoing legislative and executive oversight, the budgetary process, judicial review, citizens’ complaints, and peer review”. Considering these six variables, now we could assess and analyze the major challenges of the energy regulatory arrangements in Bangladesh.

Now we could discuss the study method- the justification of the case of Bangladesh energy regulatory arrangements, sources of data for the study and the mode of the analysis of the collected data. The theoretical arguments to select Bangladesh energy regulatory argument is clear. First, the creation of regulatory agency- BERC and the delegation of the notice regulatory competence to the commission for overall development of the energy sector in Bangladesh. Second, the visible independence of the BERC from the political principle-government. Third, legal framework of consultative process and reason-giving requirements, Fourth, the scope of ministry to overrule the decisions of BERC; Fifth, financial autonomy of the BERC, and finally, scope of legislative oversight, judicial review and citizens’ complaints process on the decisions and activities of the BERC. The substantive arguments include the public and private sectors involvement in the energy sector in Bangladesh, the available official data, law, rules and regulation and online resources on the activities of BERC.

This is basically a qualitative research in which data have been collected from the secondary sources. We collect energy market data and information from the relevant annual report,

official document and the international database. The concerned law, rules and regulation have been collected for the official sources. The study also used the previous articles, books, journal and research report to collect secondary data. It follows descriptive analysis method to verify theoretical arguments robustly and make generalization. As we have selected the case of Bangladesh energy regulatory arrangements comprising theoretical and practical arguments we could make more acceptable generalization on the challenges of the energy regulatory arrangements in Bangladesh.

4. Energy Regulatory Arrangement in Bangladesh: An Analysis of Stakeholders

In order to regulate the energy sector, the BERC was established in 2004 under the BERC act, 2003 enacted 13th march 2003 with the objective of ensuring smooth and affordable energy supply, setting fuel and electricity tariffs, monitor quality of energy and power infrastructure and equipment. This is an independent, quasi-judicial and regulatory institution. Along with BERC, other political, co-regulators, public providers, private consumers and the interest group are interacting within the regulatory arrangements. The next table analyses the stakeholders of the energy regulatory arrangements in Bangladesh.

Table-1: Stakeholders of Energy Sector Regulatory Arrangements in Bangladesh

Types of actors	Name of Actors	Responsibilities
Sector Regulatory Agency	Bangladesh Energy Regulatory Commission (BERC)	BERC established in 2003 under the Bangladesh Energy Regulatory Commission Act, BERC is the main body responsible for regulating the electricity, gas, and petroleum sectors. Its key functions include: <ul style="list-style-type: none"> • Issuing licenses for energy generation, transmission, and distribution. • Setting tariffs and prices for energy products and services. • Ensuring the quality of energy supply and services. • Promoting competition and preventing monopolistic practices. • Protecting consumer interests.
Political Authorities	Ministry of Power, Energy and Mineral Resources (Power Division)	Responsible for making policy and governing other state-owned departments and corporations relating electricity generation, transmission and distribution from both non-renewable and renewable energy sources as well as import, distribution, exploration, extraction, pricing, and other policy related details of the fuels.
	Parliamentary Standing Committee on Power, Energy and Mineral Resources.	Oversee the functions of Ministry of Power, Energy and Mineral Resources in order to ensure accountability and transparency in this sector.
Co-Regulators	Sustainable and Renewable Energy	Under Sustainable and Renewable Energy Development Authority Act 2012, this authority is responsible to prepare renewable energy tariff proposal

	Development Authority (SREDA)	to BERC.
	BERC Tribunal	The tribunal will enact as quasi- judicial board under the BERC act 2003. The tribunal have the most common mechanisms comparing to the regular courts to run any case. It could suggest the commission on any amendments to acts and laws related to the sector and any topics regarding licensing, tariff, regulation, policy of the companies related to this sector.
	Department of Environment (DoE)	Under Bangladesh environmental Conservation Act 2005 (amended in 2010) Act and Rules under this Act the DOE provides the environmental clearance certificate of the development projects including projects related to the energy and mineral resources.
	Judicial Court	Dispute resolution and rule adjudication in the sector as per Bangladesh constitution, BERC Act 2013, and other legal arrangements in the country.
Parastatal Service Authorities (supply side)	The Bangladesh Oil, Gas and Mineral Corporation (Petrobangla)	Petrobangla is responsible for the exploration, production, and distribution of natural gas and other mineral resources. It operates under the Ministry of Power, Energy and Mineral Resources.
	Bangladesh Petroleum Corporation (BPC):	BPC is responsible for the import, refining, and marketing of petroleum products. It operates under the Energy and Mineral Resources Division of the Ministry of Power, Energy and Mineral Resources.
	Rural Electrification Board (REB):	REB is responsible for expanding electricity access in rural areas. It works with rural cooperatives to develop and maintain rural electrification infrastructure.
	Bangladesh Power Development Board (BPDB):	BPDB is involved in power generation and distribution. It operates several power plants and manages the national grid.
	Dhaka Electric Supply Company Limited (DESCO)	These company are responsible for electricity distribution in Dhaka and its surrounding areas.
	Dhaka Power Distribution Company Limited (DPDC)	These company are responsible for electricity distribution in Dhaka and its surrounding areas.

Interest groups (supply side)	The Bangladesh Energy Companies Association	The association is a Category A member of the Federation of Bangladesh Chamber of Commerce and Industry. The association brings together companies and other business entities that are involved in the extraction, transmission and distribution of natural gas, petroleum and related products, as well as the generation and distribution of electricity.
	Bangladesh LPG Autogas Station & Conversion Workshop Owner's Association	We are the only Government approved trade organization to manipulate the activities of all Autogas stations and conversion workshops all over the country. Hassle-free and investment-friendly.
	Bangladesh Independent Power Producers Group (BIPPA)	To protect, promote, represent and safeguard the occupation, trade and the business of Independent Power Producers who are engaged in commercial power production in Bangladesh.
	Bangladesh Solar and Renewable Energy Association (BSREA)	largest association of business houses and NGOs working for promoting the clean energy industry in Bangladesh To promote the renewable energy sector through the facilitation of sustainable market uptake with partners, achieving the sustainable development goals (SDGs) for the country.
	Bangladesh Coal Importers' Association	The Bangladesh Coal Importers' Association (BCIA) is an organization representing businesses involved in the importation of coal into Bangladesh.
Interest group (demand side)	Consumers Association of Bangladesh (CAB)	CAB was established in 1978 as a non-government and non-profit voluntary organization. It is solely working for the promotion and protection of consumers' rights and interests in the country.

Source: Compiled by Author, June 2024

3. Challenges of Energy Regulatory Arrangements in Bangladesh

It is evident that the energy regulatory arrangements in Bangladesh are a multi-actors and multi-level regulatory activity. Its effectiveness depends on multiple factors related to the making regulatory decisions, its enforcement, and political as well as social accountability of regulatory commission. The following part of this paper analyses the energy regulatory challenges using the lenses of conceptual and theoretical arguments.

3.1 Decisions Making Competence of Regulatory Commission

The extent of delegation to a sector specific regulatory agency is an important factor of the effectiveness of the regularity initiative. Taking decision from any kind of external pressure is only possible when the decision making competencies is clearly delegate to the sector specific agency under a specific law. In utilizes regulation, many stakeholders and providers are involved with the regulation and it is the soul responsibility of regulator to deal with conflicting interest of many different stakeholders. It is very challenging to make a label playing filed for incumbent provider, private investors and the interest of the consumers. Hence, as ‘non-majoritarian institution’ the success of the regulatory regimes is mostly related to ensure “credible commitment” to the respective sector (Majone 1999).

BERC Act 2003 provides clear mandate to the commission to setting gas, electricity and fuel tariff structure, issuing licenses for producers and overseeing price related disputes for the consumers in Bangladesh (GOB, 2003). For example, major providers of the electricity market in Bangladesh include Bangladesh Power Development Board (BPDB), Other Public Plants, import from India, Individual Power Producers (IPP), Quick Rental (BPDB 2023). Therefore, electricity tariff regulation requires careful consideration of the cost of public and private sectors producers and the purchasing power and welfare of the consumers. However, despite having clear mandate the high propensity of ‘regulatory capture’ (Dal Bo. 2006) through business and political nexus could influence the decisions of the BERC and that is the real challenge of the energy regulatory commission.

3.2 The Governance Structure of the Regulatory Commission

The structure of the governance of the regulatory agency refers to the appointment, termination and basic qualification of the commission head and members, the terms of reference of their works, the level of the authority, such as single phase or multiphase systems of regulation. In the case of BERC, the commission is a statutory body having perpetual succession and a common seal. The commission consists of one chairman and four members. The chairman and members appoint by the President of Bangladesh as per recommendation of the ministry of energy and mineral resources for three years (GOB. 2003).

The chairman is the chief executive officer of the commission and all the members are the full time officers to the commission. The qualification of chairman and members must be a graduate from a recognized university in the fields of the mineral resources, electricity, natural gas, or petroleum products, geology, law, economics, accounting science, business administration, management, finance and marketing, statistics and public administration. They must have 12 years professional experience in the respective field.

The removal of the commission members is subject to the investigation by an enquiry committee. The committee consists of one judge of the Supreme Court of Bangladesh who is appointed by the President, and the President of the Bangladesh is responsible to take decision on the basis of the enquiry committee report (GOB, 2003). Therefore, the job security is good enough for the commission chairman and members. The functions of the commission are clearly mentioned in the respective law. They can take their decisions and have authority to execute their decision. The commission can appoint secretary and other officials to carry its business. Overall, the structure of governance and the provision of judicial inquiry for misconduct is notable for the effectiveness of the commission.

3.3 Coordination and Consultative Procedure

As we know many actors such as, sector regulatory commission, political authorities, co-regulators, interest group of the service providers and the interest group of the consumers are active partner of the regulatory regime, the cooperation between actors and the formal procedure to include the opinion of the actors and veto players is noticeably important. Clear procedural framework of the reason –giving and consultation processes is key to the success of the regulatory regime (Majone, 1999). For example, cross cutting policy actor- the department of environment (DoE) enjoys veto playing authority as all the major energy and mineral resources projects require environmental clearance from the DoE (GOB, 1997).

The coordination and consultation may vary as per the intensity of the decision. It could be providing on way information, taking advice form the other actors, active participation or co-creation of the decision or the binding opinion from the other regulatory actors. The BERC law and detail rules provide active participation of the public authorities and the private companies, public producers and the consumer to actively participate in the coordination procedure. Besides, BERC need to cooperate with information commission (GOB, 2009), competition commission (GOB, 2012), consumer rights directorate (GOB, 2009a). BERC conducts public hearings where industry representatives, consumer groups, and other stakeholders can explain their views on proposed regulations, tariff adjustments, and other critical regulatory decisions (GOB 2021). Inviting written comments and suggestions from private sector entities on draft regulations and policy documents is another coordination strategy. Overall, this coordination is crucial for aligning regulatory decisions with national energy policies, goals and interest of the industry and the consumer interest groups.

3.4 Scope of Ministerial Overrule on Commission Decision

The scope of ministerial overrule of the agency decisions is another aspects of the effectiveness of a regulatory regime. The rules of business of the commission and the role of ministry are clearly mentioned in the law. So, as per legal framework the scope of the ministry to overrule the decision of the BERC is limited. However, recently an amendment approved in cabinet meeting in 27 November 2022 and the president of the Bangladesh promulgated the ordinance on December 1 tilted The Bangladesh Energy Regulatory Commission (Amendment) Ordinance, 2022 on the authority of energy division to take decisions about gas, electricity and fuel prices (Tamim, 2022a). As per the new ordinance the ministry can fix the energy price in exceptional circumstances without any consultation with BERC and the consumers.

Before that it was the jurisdiction of the BERC and they use to consult with the consumers and companies and announced its decisions within 90 days. However, “the role of BERC is often questioned. They are supposed to be an independent state-run organisation that is not under the control of the party in power or the government. Unfortunately, BERC has never been able to exercise that independence when setting rates. Typically, the hearings and price discovery have taken place but BERC has had to consult the government before setting prices due to government subsidies” (Tamim, 2022b).

In the new amendment, the government has reduced the time to 60 days to declare the decisions of the energy prices changed. Finally, as replacement of the BERC (Amendment) Ordinance 2022 the Bangladesh Energy Regulatory Commission (Amendment) Bill 2023 was passed in parliament on 29 January 2023, paving the way for the government to fix gas and electricity prices without holding a public hearing (GOB, 2023). Though the act doesn't

totally bypass the BERC, this legal reform initiative defiantly opens up the scope of the over rule of the ministry on the discretion of the BERC as well as the interest of the consumers.

3.5 Autonomy of Financial Resources

Financial autonomy is crucial for BERC to function independently and effectively. The Bangladesh Energy Regulatory Commission Act, 2003, outlines the financial provisions for BERC, aiming to provide it with the necessary autonomy to fulfill its regulatory duties. According to Section 25, BERC fund consists of grants made by the government, Fees and charges including fines and penalties collected under the provisions of the regulation (GOB, 2004), loans taken with the prior approval of the government, other sums received from various sources approved by the government. Section 26 mandates that BERC shall prepare its annual budget showing the estimated receipts and expenditure (GOB 2003). The BERC can utilize its fund and keep records as per financial regulation (GOB 2004). However, the annual accounts of BERC are subject to audit by the Comptroller and Auditor-General. The audited accounts must be submitted to the government, ensuring transparency and accountability. While BERC can receive funds from various sources, a significant portion comes from government grants and subsidies.

This could potentially limit its financial independence if the grants are not sufficient or are subject to political influences. To sum up, the ability to collect fees provides BERC with a direct and potentially significant source of revenue. This enhances financial autonomy, as the commission can generate funds independently of government allocations. On the other hand, the provision to take loans with government approval provides a means to finance large projects or cover deficits. However, the requirement for prior approval can be a constraint, potentially limiting responsiveness and flexibility.

3.6 Legislative Oversight of BERC Activities

The Bangladesh Energy Regulatory Commission (BERC) is governed by the Bangladesh Energy Regulatory Commission Act, 2003, and subsequent amendments. Any amendments to the Act are made by the Parliament, reflecting legislative control over BERC's foundational legal framework. Legislative oversight of the executive through parliamentary committee are integral part of our constitutional framework (GOB 1972). Parliamentary Standing Committee on Power, Energy, and Mineral Resources, play a crucial role in overseeing BERC. These committees review BERC's activities, budget, and policy implementations. BERC is required to submit reports to these committees, which can then hold hearings, call BERC officials to testify, and request additional information as needed. These reports provide a basis for legislative review and oversight. The budget for BERC is approved by the Parliament.

This process involves scrutinizing the proposed expenditures and ensuring that funds are allocated efficiently and in line with legislative priorities. Members of Parliament can pose questions to the Minister of Power, Energy, and Mineral Resources about BERC's activities and policies. These question and answer sessions are a direct way to hold BERC accountable for its actions and decisions. Section 26 of the BERC act mandates the submission of annual reports to the Government, which are then laid before Parliament.

To sum up, the legislative oversight of BERC activities by the Bangladesh Parliament is comprehensive and multifaceted. It involves reviewing and approving regulations, budgetary controls, parliamentary committees' scrutiny, and direct questioning in parliamentary sessions.

This oversight ensures that BERC operates transparently, efficiently, and in alignment with national energy policies.

3.7 Judicial Review of Commission Activates

Judicial review of the activities of the Bangladesh Energy Regulatory Commission (BERC) is a significant aspect of the checks and balances system within Bangladesh's governance structure (Khan & Islam, 2019). The BERC Act, 2003, provides a framework for such judicial oversight to ensure that BERC's decisions and actions comply with the law and do not overstep its legal authority. Section 41 of the BERC Act, 2003 explicitly provides for judicial review of the Commission's decisions and actions. It states that any person aggrieved by a decision or order of the Commission may appeal to the High Court Division of the Supreme Court of Bangladesh. The ground for judicial review include actions or decisions of BERC that are outside its legal authority (*ultra vires*) can be challenged.

If any decision or action infringes upon the fundamental rights guaranteed by the Constitution of Bangladesh, it can be challenged in court. Section 30 provides mechanisms for resolving disputes related to the energy sector under BERC's purview. Section 44: General provisions related to legal proceedings involving BERC. In summary, the BERC Act, 2003, provides a clear legal pathway for judicial review of the Commission's actions and decisions. This judicial oversight is crucial for maintaining the rule of law, ensuring that BERC operates within its legal boundaries, and protecting the rights of all stakeholders in Bangladesh's energy sector.

For example, The High Court has issued a rule asking why the inaction of the Bangladesh Energy Regulatory Commission (BERC) in fixing the price of solar electricity should not be declared illegal (The Business Standard, 2021). High Court bench issued the rule following the hearing of a writ petition filed by the Bangladesh Consumer Association (CAB). The writ has been filed to prevent arbitrary pricing of solar power by the BERC. According to the SREDA Act, 2012, the government agency is supposed to send a proposal to BERC to set the price of solar electricity on due time.

3.8 Consumer Complain Disposal

The consumer complaint disposal process of the Bangladesh Energy Regulatory Commission (BERC) is governed by the BERC Act, 2003, which outlines the procedures for addressing grievances related to the energy sector. The BERC Act, 2003 does not explicitly detail the complaint filing process, but it provides a framework for addressing consumer issues. However, Section 30 provides mechanisms for dispute resolution, including complaints related to the energy sector (GOB, 2003). Again, Section 41 allows for appeals to the High Court Division, ensuring that decisions made by BERC can be challenged if deemed unfair or unjust. To be specific, the process is typically detailed in BERC's rules and operational guidelines. In the fiscal year 2022-23 a total of 83 disputes raised tot eh BERC and the commission declares 102 award in this respect (BERC 2023).

In 2024, “electricity consumers across Bangladesh are facing significant challenges due to inaccurate and inflated billing, leading to widespread confusion and financial hardship” (Shishir, 2024). A group of consumers filed a complaint against the Dhaka Electric Supply Company Limited (DESCO) regarding an unexplained increase in electricity tariffs. The consumers alleged that the tariff hike was implemented without proper approval or notification. In another case, “the high court ruling asked the authorities concerned to explain in four weeks why it shall not declare the decision of Bangladesh Energy Regulatory

Commission (BERC) taken in November, 2017, to increase the price of power, illegal” (The Dhaka Tribune, 2018). The national newspapers reported on this case, highlighting BERC's role in rectifying the issue and ensuring consumer protection.

For financial year 2022-23, the BERC receives 210 consumer complaint for the disposal (BERC, 2023). In 2023, complaints were lodged against the Titas Gas Transmission and Distribution Company Limited (TGTDC) regarding frequent gas supply interruptions and poor service quality (Rahman 2023). BERC reviewed the service records, conducted field inspections, and consulted with TGTDC. BERC directed TGTDC to improve service quality and provide compensatory measures to affected consumers. Coverage in newspaper provided details on BERC's intervention and the actions taken to address the service quality issues. These sources provide insights into how BERC handles consumer complaints and its role in maintaining fair practices within the energy sector in Bangladesh.

4. Conclusion and Policy Recommendations

4.1 Conclusion

This article investigates major challenges of the energy regulatory arrangements in Bangladesh with reference to the role of the energy regulatory commission. It argues that a well-functioning energy regulatory framework depends on the extent of competence of the sector regulatory agency, its structure of governance, procedural coordination, scope of overrule by the political principle, financial autonomy and the quality of ex-post monitoring. The study mainly relies on the qualitative data from official sources, legal and regulatory documents, and previous study findings, and it follows descriptive mode of analysis.

The effectiveness of BERC's regulatory functions is deeply intertwined with its governance structure, financial autonomy, and judicial oversight. The Commission's ability to function impartially is bolstered by its statutory role and the detailed qualifications required for its members. However, its financial independence is somewhat constrained by reliance on government grants and the requirement for prior approval for loans. This financial dependence can limit BERC's responsiveness and operational flexibility. Judicial review serves as a crucial mechanism for holding the Commission accountable, ensuring that its decisions are made within legal boundaries and respecting fundamental rights. This oversight is essential for maintaining transparency and protecting stakeholder interests.

Consumer complaint disposal procedures highlight BERC's role in addressing grievances and ensuring fair practices within the energy sector. The Commission's ability to manage and resolve complaints effectively is vital for maintaining consumer trust and ensuring regulatory compliance. Cases reported in the media illustrate BERC's involvement in resolving tariff disputes and service quality issues, underscoring its role in enforcing standards and protecting consumer rights. Overall, while the regulatory framework provides a solid basis for BERC's operations, ongoing challenges and recent legal reforms underscore the need for continuous evaluation and adaptation to maintain effective and independent regulation in Bangladesh's energy sector.

4.2 Recommendations for Policy Reforms

(i) Strengthen Regulatory Independence:

Reinforce legal safeguards to protect BERC's autonomy by revising recent amendments that let the government set energy prices without consultation. Policymakers should restore BERC's tariff-setting authority and limit government intervention to exceptional cases with

transparent justifications, establishing clear guidelines on ministerial overrule to maintain regulatory integrity.

(ii) Enhance Financial Autonomy

To strengthen BERC's effectiveness, reduce reliance on government funding by diversifying revenue streams, implementing a more robust fee structure, and developing a self-sustaining financial model. Streamlining the loan approval process will also enable quicker responses to emerging needs and support necessary improvements.

(iii) Improve Transparency in Decision-Making

Enhance transparency by implementing rigorous public consultations, including regular hearings, detailed explanations of decisions, and actively seeking stakeholder feedback before finalizing regulatory changes. This approach will strengthen public trust, improve accountability, and enable stakeholders to better understand and engage with regulatory outcomes.

(iv) Reinforce Procedural Fairness

Refine BERC's procedures for handling complaints to ensure fairness, efficiency, and accessibility. Improve clarity in the complaint submission process, expedite resolution times, and enhance communication with complainants. Establishing an ombudsman or independent review body can provide additional oversight and address potential biases.

v) Strengthen Judicial Review Mechanisms

Enhance the judiciary's capacity to handle regulatory cases by training judges in energy sector regulations and providing additional resources. Improving the High Court's ability to address appeals promptly will further strengthen judicial oversight and ensure effective review of BERC's decisions.

(vi) Enhance Coordination Among Stakeholders

Strengthen collaboration among governmental bodies, regulatory agencies, and interest groups by establishing frameworks for regular inter-agency meetings, joint working groups, and formal consultation processes. Improved communication and cooperation will ensure regulatory decisions align more effectively with national energy policies and stakeholder interests.

(vii) Promote Capacity Building and Training

Invest in ongoing training and professional development for BERC staff to stay updated on industry trends, regulatory practices, and technological advancements. This will enhance their decision-making, adaptability, and ability to handle complex regulatory challenges, supporting BERC's mission of effective and independent regulation.

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