

Consequences and Challenges of NPL Recovery in the Banking Sectors of Bangladesh

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Abstract: A large number on the subject of delinquent loans have put banks and other financial organisations in Bangladesh in a precarious position, posing serious problems for the banking sector. This paper takes a look at the nonperforming loan (NPL) recovery in Bangladesh's banking system, the problems it caused, the steps taken to fix them, and the ways it could be improved. Commercial banks, non-bank financial institutions, microcredit organisations, and others have played crucial roles in Bangladesh's financial sector's evolution over the years. Nevertheless, the stability of the sector and, consequently, the economic well-being of the nation are gravely threatened by the increasing nonperforming loans.

There has been a concerning trend in nonperforming loans (NPLs) despite numerous initiatives, as specified by both worldwide norms and special laws set by Bangladesh Bank. Compared to regional and international standards, Bangladesh's nonperforming loan ratio to total gross loans has been substantially higher. As a result, strict recovery procedures and legislative initiatives to lower the NPL load have been required.

The study demonstrates that nonperforming debts typically include a detrimental impact on a economy and financial stability due to decreased bank profitability, higher lending costs, and a limited availability of credit. Nonperforming loans (NPLs) exacerbate the problem since they encourage a default culture and economic inefficiency. The effective implementation of the various legal frameworks that have been put in place to address non-performing loans (NPLs) continues to be a concern.

Finally, although Bangladesh has taken a number of steps to recover nonperforming loans, more work needs to be done to make these programmes even better. Improving the non-performing loan recovery process requires effective risk assessments, real-time monitoring, and strict legal proceedings against defaulters. This study sheds light on the present situation of nonperforming loans (NPLs) in Bangladesh and offers practical solutions to fortify the banking sector's ability to withstand NPL-related difficulties.

Keywords: non-performing loans, NPL recovery, banking sector, financial stability, Bangladesh, economic impact, default culture, legislative initiatives, risk assessments, real-time monitoring, legal proceedings, financial institutions.

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1. Introduction

Due to the presence of a significant number of loans that are not being paid back, the banking system in Bangladesh is currently in a precarious condition. In order to address these concerns and ensure that the sector continues to contribute to the economy, financial institutions are adopting a variety of actions against borrowers who fail to repay their debts. It is essential for steadiness of the nation's market for banking and financethat the economy overall, nothing

changes. In light of this, the government and regulatory authorities that are in charge of the banking industry have designated recovering nonperforming loans (also known as NPLs) a critical priority.

2. Background of the Financial Sector in Bangladesh

Bangladesh's banking sector has improved its financial position in recent decades, as the country's economic success is linked to

commercial banks' loan portfolios¹. After Bangladesh gained its independence in 1971, the government and the Central Bank began to closely monitor the country's financial industry. Therefore, all segments of the banking, non-banking, and insurance sectors are vital in contemporary economies such as Bangladesh's². Since November 2019, the financial industry in Bangladesh has grown to include 56 institutions, including the Bangladesh Bank, the country's national bank². It controls more scheduled banks. Out of the 56 banks, 4 are SCBs, 4 are state-owned specialised banks, 39 are private US-based banks, and 9 are foreign banks. A grand total of 32 market participants are present. In conjunction with thirty-one non-banking organisations and four unscheduled banks³. As of November 2019, the Microcredit Regulatory Authority (MRA) has also issued licenses to 724 micro-credit organisations. It has⁴ many of which also get discounts for members. A couple of stock exchanges, 77 insurance companies, and a handful of cooperative banks make up the financial system.

According to the law, the Bangladesh Bank—the central bank of the country—is responsible for overseeing and regulating all types of financial institutions operating within the country. Prudential rules include things like minimum capital requirements for member banks, loan rescheduling and write-off procedures, disclosure requirements for banks, credit ratings, and protection for bank deposits

3. Rationale and Objectives of the Research

3.1 Rationale of the research

It goes without saying that a strong financial sector is crucial to a country's economic prosperity⁵. Nevertheless, a heavy burden of

nonperforming loans is impeding the expansion of the banking industry⁶.

Due to the lengthy and laborious process of retrieving non-performing debts through Artha Rin Adalats, borrowers can rest easy even after suing in these courts, according to Islam⁷. The increasing dependence on Artha Rin Adalats is causing an increase in the cumulative amount of nonperforming loans, according to "The Daily Star" (which cites an academic from the Bangladesh Institute of Bank Management). Nonperforming loans (NPLs) are already a problem for the banking industry in Bangladesh⁸. This section examines nonperforming loans (NPLs) in Bangladesh, including what they are, how widespread they are, and what the Bangladesh Bank has done to deal with them and their aftermath.

3.2 Objectives of the research

After providing some context and justification for the study, the goals of this investigation are as follows:

- 1) to determine the extent to which the recovery of nonperforming loans (NPLs) has affected the banking sectors of Bangladesh and
- 2) to assess the efficacy of the current recovery efforts.
- 3) Make some recommendations for how to enhance the recovery of non-performing loans.

4. Non- Performing Loans: An Overview

4.1 Definition of 'non-performing loans' (NPLs)

4.1.1 Definition in general

A non-performing loan, or "NPL," is one that is either not making payments or is about to default. In the event of a loan going into default, the likelihood of its full repayment decreases significantly⁹. As observed by the International Monetary Fund (IMF)-

If the interest and principal payments are less than 90 days past due but other circumstances cast doubt on their complete repayment, or if at least 90 days of interest payments have been capitalised, refinanced, or delayed by agreement, then the loan is deemed nonperforming¹⁰.

[1] Non-Performing Loans, European Central Bank Is the economic cycle the only thing that counts? The 2013 report was released by the European Central Bank in Frankfurt am Main, Germany. 4.

[2] Muhammad M. Rahman, "Banking Sector Reforms in Bangladesh and Its Impact" (Professional Master in Banking and Finance, Asian Institute of Technology School of Management, Thailand, 2012), 1. See also, Annual Report (Sri Lanka: Central Bank, Sri Lanka, 2012), 191; see also, R Gandhi, "Role of Non-Banking Finance Companies (NBFCs) in Financial Sector: Regulatory Challenges," BIS central bankers' speeches, Text of the Frank Moraes oration lecture by Mr. R Gandhi, Deputy Governor of the Reserve Bank of India, (Chennai: BIS central bankers' speeches, 2014), 3.

[3] Bangladesh Bank, Bank & Financial Institutions, <<http://www.bangladesh-bank.org/fnansys/bankfi.php>, accessed on 01.12.2019

[4] *Ibid*.

[5] Microcredit Regulatory Authority, List of Institutions Primarily Selected for Obtaining a License for Microcredit Activities, https://www.mra.gov.bd/images/Licensed_NGO_MFIs/lic30062019bn.pdf, viewed on October 15, 2014.

[6] Abdulsalam Abubakar and Ibrahim M. Gani, "Impact of Banking Sector Development on Economic Growth: Another Look at the Evidence from Nigeria," *Journal of Business Management & Social Sciences Research (JBM&SSR)* 2, no. 4 (2013):47, accessed March 13, 2016. Url: <http://borjournals.com/a/index.php/jbmssr/article/view/202/pdf>.

[7] Mohd Z. A. Karim, Sok-Gee Chan, and Sallahudin Hassan, "Bank Efficiency and Non-Performing Loans: Evidence from Malaysia and Singapore," *Prague Economic Papers*, 2 (2010): 120.

[8] Muhammad R. Islam, "What is to do with non-performing loans?" *The Financial Express*, July 26, 2013, 4.

[9] Muhammad A. Islam, Nur M. Shipon, Effectiveness of Bank Audit in Bangladesh: A Comparative Study of Public Sector Commercial Banks and Private Commercial Banks," *Bangladesh Research Foundation Journal* 2, no. 1 (2013): 162, See also Bangladesh Bank, Annual Report, 2015–2016 (Dhaka: Bangladesh Bank, 2017). 32–33. NAOSITE: Nagasaki University's Academic Output Site, Effect of Higher Financial Leverage on Corporate Borrowers in Bangladesh (Nagasaki: Nagasaki University, 2004), 13. See also: Shafiqul Alam, Md. M. Haq, "Nonperforming Loan and Banking Sustainability: Bangladesh Perspective," *International Journal of Advanced Research* 3, no. 8 (2015): 1197, accessed on June 20, 2017. Url: <http://www.journalijar.com>

[10] "Nonperforming Loan-NPL," Investopedia, Url: <<http://www.investopedia.com/terms/n/nonperformingloan.asp> Investopedia.htm, accessed May 20, 2014.

[11] International Monetary Fund, The Treatment of Nonperforming Loans, Eighteenth Meeting of the IMF Committee on Balance of Payments Statistics (Washington, D.C.: International Monetary Fund, 2005), 8 See also <<http://www.imf.org/external/np/sta/npl/eng/discuss/index.htm>.

The World Bank uses the ratio of nonperforming loans to the total value of a loan portfolio (including nonperforming loans before specific loan loss provisions are deducted) as its definition of nonperforming loans (NPLs). Thus, not only should the past-due principal amount be considered non-performing, but the entire loan amount, including interest, as reported on the balance sheet.¹¹

The World Bank has not established a target date for the reduction of nonperforming loans (NPLs), in contrast to the IMF. This is because, although generally speaking, loans are no longer regarded as nonperforming after 90 days.¹² If the loan, or part of it, or the interest on it has been late for six months, as defined by the Bangladesh Bank, any individual or organisation that has been issued with prior notice is considered a "defaulting debtor" under Section 5(c) of the Bank Company Act 1991¹³.

According to the Third Edition of the Oxford Dictionary of Finance and Banking, a negligible loan balance is one that has interest or principle payments that are past due. The term "non-performing" is applied to any debt with an amortisation duration beyond 90 days¹⁴.

Those that hold loans that aren't paying back are known as Rin Khelapi in our country. We use the phrases "Rin Khelapi" and "Ku Rin" quite a bit in our financial circles. 'Rin Khelapi' means a borrower who has failed to pay back the loan in accordance with the terms of the agreement, and the loan is categorised as 'Ku Rin' meaning bad debt.

4.1.2 Definition of NPLs as provided by Bangladesh Bank

The Bangladesh Bank has instituted stringent rules in an effort to rein in non-performing loans. A nonperforming debt is one that cannot be repaid on the due date. Loan classification and provisioning is a policy that Bangladesh Bank has put in place to ensure that non-performing loans are identified quickly. The Bangladesh Bank will label a loan as nonperforming if the bank ceases collecting payments for the principal and interest on it. Since the bank is no longer making any money off of them, we call them non-performing loans. The policy of the Bangladesh Bank mandates that all commercial banks in the country set up reserves to cover their nonperforming loans. There are four separate types of nonperforming loans, and the provisioning requirements for each are different, according to Bangladesh Bank¹⁵. A one percent

provision of the outstanding amount is applied to any loan that is less than three months overdue, regardless of whether it is a continuous, demand, or fixed-term loan. Thirty to sixty days after the due date is when a loan is considered "sub-standard," and financial institutions must reserve twenty percent of their credit for this category. Lending institutions are required to hold aside 50% of their total loans as "doubtful" if they are six to nine months past due¹⁶.

Any balance that is overdue by nine months ought to be classified as a "bad loan," and the appropriate financial institutions ought to conserve one hundred percent of the loan loss for such instances. In the event of long-term loans, an extra three months are necessary for provisioning. It follows that long-term loan payments are considered late until the sixth month. Just as outstanding balances are categorised as substandard, doubtful, or bad loans after six, nine, and twelve months, respectively, the same logic applies¹⁸. According to Choudhury et al., who contend that NPLs are not a "uniclass" but a "multiclass" concept, there are various ways to classify nonperforming loans (NPLs), usually based on the "length of overdue" of the loans in issue¹⁹.

4.2 The extent of NPLs in Bangladesh

4.2.1 Current status of NPLs in Bangladesh: Global vs national perspective

Worldwide, different banking systems have different percentages of nonperforming loans. Nonperforming loans accounted for 4.3% of total global loans in 2015. There has been considerable improvement in both developed and developing Asian nations from 1999 to 2015 when comparing the percentage of nonperforming loans to total loans (Table 1.1). Even if other East Asian countries have achieved more progress, Bangladesh has done enough compared to the rest of the world. The percentage of nonperforming loans to gross loans went down from 41.1% in 1999 to 9.3% in 2015.

[12] Bank nonperforming loans to total gross loans (%), The World Bank, <http://data.worldbank.org/indicator/fb.ast.nper.zs>, Accessed May 27, 2014.

[13] The World Bank, Bank Loan Classification and Provisioning Practices in Selected Developed and Emerging Countries (Washington, D.C.: The World Bank, 2003), 9–10. Url: <http://info.worldbank.org/etools/docs/library/154927/financeforum2002/pdf/bankloanclassification.pdf>, accessed May 24, 2014.

[14] The Bank Companies Act of 1991, Act No. XIV (1991)

[15] Bank for International Settlements, Guidelines for Prudential Treatment of Problem Assets: Definitions of Non-Performing Exposures and Forbearance (Thailand: Bank for International Settlements, 2016), 8. Also available is the BIS website (www.bis.org).

[16] Bangladesh Bank, *Field Survey Report of Study on Credit Risk Arises in the Banks from Loans Sanctioned against Inadequate Collateral* (Dhaka: Bangladesh Bank, 2017), 11.

[17] BRPD Circular No. 19, dated December 27, 2012, Banking Regulation & Policy Department, Bangladesh Bank Head Office, Dhaka.

[18] Bangladesh Bank, *Master Circular: Loan Classification and Provisioning, Banking Regulation & Policy Department* (Dhaka: Bangladesh Bank, 2012), 1–10 (BRPD Circular No. 14 dated September 23, 2012), accessed May 26, 2014. Url: <http://www.bangladesh-bank.org/mediaroom/circulars/brpd/sep232012brpd14e.pdf>.

[19] Toufic A. Chowdhury and Bishnu K. Adhikary, "Loan Classification, Provisioning Requirement, and Recovery Strategies: A Comparative Study on Bangladesh and India." Bank Parikrama 27, no. 2 and 3 (2002): 134–184.

Table 1.1: Status of NPLs: A comparative global perspective

Name of the Country	% of a Total Non-performing loan of the Gross loan in 1999	% of a Total Non-performing loan of the Gross loan in 2015	GDP in 2015 (Trillion)
World	8.95%	4.3 %	73.50
Bangladesh	41.1%	9.3%	0.19
China	28.5%	1.5%	10.86
India	14.7%	5.9%	2.07
Japan	5.8%	1.6%	4.12
Malaysia	16.6%	1.6%	0.30
Thailand	38.6%	2.7%	0.40
Indonesia	32.9%	2.4%	--

Source: World Bank data on non-performing loans as a percentage of total gross loans¹⁷

There is no discernible relationship between nonperforming loans as a percentage of gross loans and GDP, according to data collected in 2015. In 2015, both Japan and Malaysia achieved a nonperforming loan-to-gross loan ratio of 1.6%, despite the fact that Japan's GDP was more than fourteen times greater than Malaysia's. In contrast to Japan, whose GDP is half that of India, the ratio of nonperforming loans to gross loans in India is more than 3.5 times higher. When looking at the nonperforming loan ratio (NPLs to gross loans) in comparison to other East Asian Tiger the government of Bangladesh has taken the admirable step of ensuring that neither public nor commercial countries, it is evident that Bangladesh still has a ways to go. Moreover, it is worth noting that banks' gross nonperforming loans exceed 10%¹⁸.

Also, there has been an alarming uptick in nonperforming loans (NPLs) in the banking sector, which bodes poorly for the expansion of any nation's economy.

Table 1.2: Amount of NPLs in Banking sector of Bangladesh (Taka in billions)

Bank types	2008	2009	2010	2011	2012	2013	2014	End June 2015
SCBs	127.6	117.5	107.6	91.7	215.2	166.1	227.6	224.0
(%)	56.76%	52.27%	47.38%	40.89%	50.36%	40.93%	45.37%	42.65
DFIs	37.3	42.1	49.7	56.5	73.3	83.6	72.6	58.3
PCBs	57.0	61.7	64.3	72.0	130.4	143.1	184.3	223.5
FCBs	2.9	3.5	5.5	6.3	8.5	13.0	17.1	19.4
Total	224.8	224.8	227.1	226.5	427.3	405.8	501.6	525.2

Source: Annual Report 2014-15, Bangladesh Bank¹

Even though the percentage of SCBs contributing to NPLs has been decreasing over the last year, it still exceeds 40%, according to Table 1.2. There is a high amount of nonperforming loans at SCBs because, in addition to having more loans than PCBs and FCBs, they also have less control over the ratio of their nonperforming loans to their gross lending.

While SCBs make up less than 20% of the overall loans in Bangladesh's economy, they are responsible for approximately 50% of all classified loans in the banking sector (Table 1.3). Another indicator of this lacklustre performance was the high gross default rate of SCBs. The gross default rate for SCBs is 25.74%, which is much higher than the rates for PCBs (5.44%) and FCBs (8.33%) (Table 1.3). This imbalanced proportion of nonperforming loans was the primary cause of the SCB loan provisioning shortfall, which exceeded 50%. The administration is contemplating tax increases or market borrowing to cover the shortfall, both of which would harm the economy overall.

[20] Bank nonperforming loans to total gross loans (%). <http://data.worldbank.org/indicator/FB.AST.NPER.ZS>, accessed May 15, 2017.

[21] General Economics Division, Planning Commission Ministry of Planning, Government of the People's Republic of Bangladesh, *Seventh Five-Year Plan FY2016-FY2020, Accelerating Growth, Empowering Citizens* (Bangladesh: Planning Commission Ministry of Planning, Government of the People's Republic of Bangladesh, 2015), 182.

Table 1. 3: Outstanding loans and classified loans in billions of Tk. As on June 30, 2016

	SCBs	SBs	PCBs	FCBs	All Banks
Outstanding	1168.61	222.64	4649.64	259.30	[6300.19]
(%)	18.55%	03.53%	73.80%	04.12%	100.00%
Classified	300.80	58.20	253.20	21.60	633.70
(%)	47.47%	09.18%	39.96%	03.41%	100.00%
Gross Default (%)	25.74	26.14	5.44	8.33	10.06
Net Default (%)	11.76	10.81	0.58	0.90	2.81
Provision for bad debt	114.60	28.50	158.00	16.30	317.30
Provision Shortfall/surplus	-55.10	-2.00	11.80	0.80	-44.50

Source: *Banking Regulations and Policy Department, Bangladesh Bank*

Consequently, we need to prioritise the recovery of nonperforming loans from SCBs. Given the importance of SCBs to the government's economic growth plans, it is remarkable that they outperform private commercial banks in terms of financial stability and nonperforming loans.

5. Consequences of NPLs and Challenges of NPLs Recovery in Bangladesh

There have been efforts to promote the recovery of nonperforming loans all across the world, including in Bangladesh. It has been observed that non-performing loans can be repaid rapidly with the following strategies: early risk assessments; motivation; peacekeeping; enlisting recovery agencies' aid; reduced relaxation; situation-specific model creation; real-time training; regular progress monitoring; and sacrifices¹⁹. The main objective of these schemes is to stop nonperforming loans (NPLs) from hurting an economy.

Because of the global nature of the economy, nonperforming loans (NPLs) have certain far-reaching consequences for every economy. Since no two economies or banking systems are identical, some effects may be more noticeable to one than another and require more attention.

5.1 Consequences of NPLs in general

There has been a shift in emphasis in the last several decades towards nonperforming loans (NPLs). Too many nonperforming loans in the banking system lead to bank failure. Poor asset quality is a strong predictor of financial devastation, according to multiple studies that have examined the causes of bank collapses. Additionally, failed banks routinely have high percentages of non-performing loans soon before they collapse²⁰. It was also determined that non-performing loans play a major role in the economy's lack of growth. Every single non-performing loan in the banking industry is a reflection of a sick, unprofitable company. Eliminating non-performing loans is the sole way for a country's economy to improve, if this notion is to be believed. Indefinite carryover of non-performing loans and resource trapping in inefficient industries will hinder economic growth and efficiency²¹.

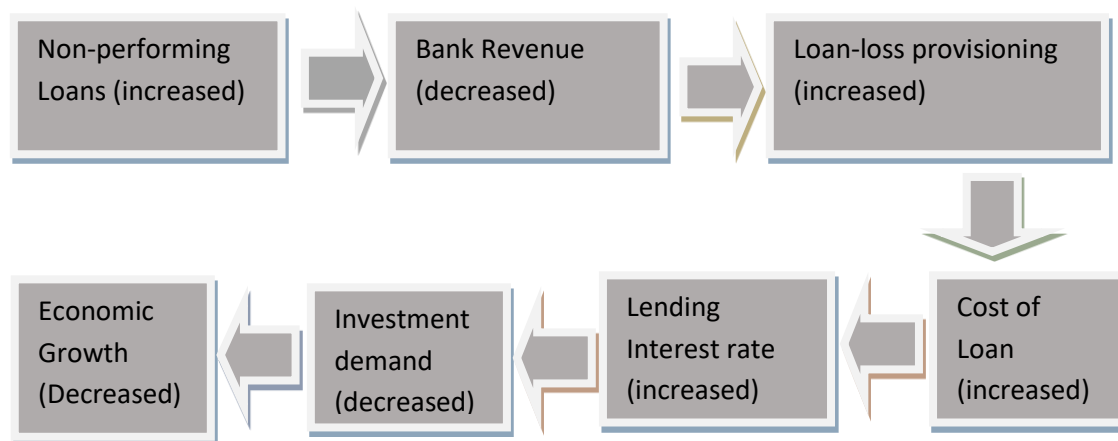
The stability of a country's financial system is directly tied to its GDP growth. The following figure illustrates one possible way in which the accumulation of nonperforming loans (NPLs) and the poor performance of the banking industry impede total economic growth²².

[22] Muhammad S. Islam, Nikhil C. Shil, and Md. A. Mannan, "Non-performing loans: their causes, consequences, and some learning," *Stamford Journal of Business Studies*, no. 2 (2005): 100–116, accessed January 15, 2014. Url: <http://mpira.ub.uni-muenchen.de/7708/>.

[23] Demirguc-Kunt, Asli, and Enrica Detragiache, "The Determinants of Banking Crises in Developing and Developed Countries," *IMF Staff Paper* 45 (1), 1998, pp. 81–109.

[24] Yixin Hou and David Dickinson, "The Non-Performing Loans: Some Bank-Level Evidence," *Research Conference on Safety and Efficiency of the Financial System*, organised with the support of the EU Asia-Link Programme Asialink/ASIE/B7-3010/2005/105-139, coordinated by the University of Limoges (France: University of Limoges, 2007), 6.

[25] Unnayan Onneshan, *Banking Sector Caught in Trap Bangladesh* (Dhaka: Unnayan Onneshan, 2014), 13.

Figure 1.1: Consequences of Non-performing Loans in the economy

Source: developed by the researcher through literature review

Figure 1.1 shows that when non-performing loans rise, a bank's revenue seems to have moved to loan loss provisioning. This makes the interest rates that banks charge for loans more likely to be higher. As a result, investment demand drops, which slows down economic growth. Nonperforming loans also contribute to higher unemployment rates in financial institutions and other companies as a whole, which in turn dampens economic activity²³. An increase in nonperforming loans causes borrower companies to lay off workers, which in turn reduces their savings and investment²⁴. Nonperforming loans also inhibit entrepreneurial activity, which slows down the economy and contributes to banking industry malpractices²⁵.

5.2 Consequences of NPLs in Bangladesh

The banking sector in Bangladesh loses money on both principle and interest due to its high proportion of categorised loans in comparison to international standards²⁶. The economic impact of nonperforming loans (NPLs) is multi-faceted and detrimental. The most crucial of these is the fact that it annoys legitimate business owners while simultaneously cutting into their profits and destroying their cash²⁷. A large number of provisions linked to Bangladesh's classified loans have an effect on the country's overall financial performance, which in turn affects the banking system²⁸.

The increasing number of nonperforming loans (NPLs) and the subsequent rise in write-offs are another cause for concern in Bangladesh. Below is a table that shows an example of a loan that has been written off in Bangladesh.

Table 1.4 Writing-off bad debts in different bank categories (Taka in billions)²⁹

Bank types	30 June 08	30 June 09	30 June 10	30 June 11	30 June 12	30 June 13	30 June 14	30 June 15
SCBs	48.4	64.5	70.5	82.4	72.9	107.2	154.8	210.3
DFIs	31	31.8	31.8	32.0	24.5	32.6	34.2	5.6
PCBs	49.4	54.7	69.6	77.1	64.9	109.7	127.7	155.5
FCBs	1.7	2.0	2.1	2.4	2.6	3.7	4.4	5.1
Total	130.5	153.0	174.0	193.9	164.9	253.3	321.1	376.5

Source: Bangladesh Bank Annual Report (2014-2015) (Dhaka, Bangladesh: Bangladesh Bank, 2016), 35.

[26] Shafiqul Alam, Md. M. Haq, and Abdul Kader, Nonperforming Loan and Banking Sustainability: Bangladesh Perspective," *International Journal of Advanced Research* 3, no. 8 (2015): 1207, accessed June 20, 2017. Url: <http://www.journalijar.com>.

[27] Id. at 1207.

[28] CPD, *State of the Bangladesh Economy in FY2017 (First Reading)* (Dhaka: CPD, 2017), 26–27.

[29] Dr. Ramoni M. Debnath, *Banks and Legal Environment* (Dhaka: Nabajuga Prokashani, 2009), 185.

[30] Qazi M. Rahman, "All about Non-Performing Loans: The Bangladesh Scenario, Views, and Opinion," *The Financial Express*, November 15, 2012,

[31] Bangladesh Bank, *Financial Stability Report, 2012. Issue, 3* (Dhaka, Bangladesh: Financial Stability Department, Bangladesh Bank, 2013), 24.

[32] Bangladesh Bank Annual Report (2014–2015) (Dhaka, Bangladesh: Bangladesh Bank, 2016), 35.

Table 1.4 shows that, compared to other banks, SCBs have a higher and fast-increasing volume of written-off loans. By the end of June 2015, the total amount of written-off loans for SCBs, PCBs, and FCBs was 210.3 billion Taka, 155.5 billion, and 5.1 billion, respectively. After deducting all provisions, a bank is considered troubled if it has written off all of its loans within the past five years or longer due to bad or lossy credit³⁰. The inability of banks to expand their operations due to nonperforming loans is another factor contributing to the high unemployment rate in Bangladesh's banking and related industries³¹. In addition, dishonesty in the banking industry is the root cause of nonperforming loans (NPLs), which have an effect on profitability and the ability to extend loans³².

While Bangladesh's lengthy recovery process aids repeat defaulters, it discourages honest borrowers and makes them consider defaulting again. The long-term effects on our economy's finances could be disastrous if this leads to an increase in loan defaults³³.

In addition, according to figures from the Bangladesh Bank, ADB (2009) points out that large nonperforming loans have a negative impact on profitability and capital adequacy ratios. Additionally, a high level of nonperforming loans limits the availability of credit for economic development³⁴. This is in line with what Islam et al. (2014) found. The authors found that the ratio of nonperforming loans to total loans had a negative effect on bank profitability. Put

simply, when the ratio of nonperforming loans to total loans increases, the interest revenue that banks receive starts to fall³⁵. Banks with greater levels of nonperforming loans had substantially poorer capital adequacy ratios and return on equities, according to the report³⁶.

In Bangladesh's banking sector, nonperforming loans (NPLs) of all kinds have a negative effect on banks' bottom lines, leading to reduced profitability and capital³⁷. Nonperforming loans (NPLs) are a major drag on economic growth generally, not only in the banking sector. In a policy document, the Bangladesh Bank indicated that when nonperforming loans (NPLs) are significant, the interest rate spread—the gap between the rates that banks borrow and lend—rises³⁸. By increasing lending interest rates and decreasing deposit interest rates, banks can increase their IRS. Raising loan interest rates discourages private investment and capital formation since they prevent economically viable projects from being funded, even though they would have been financially viable had the rates been lower. In contrast, when interest rates are low, fewer people will save and put their money in the bank³⁹.

Several measures have been implemented to enhance the recovery of nonperforming loans due to the fact that these loans negatively impact the productive sector of the economy in both directions. The following section details the important initiatives that were taken to improve the recovery of non-performing loans in Bangladesh.

6. Few legal measures already taken to promote the in-house recovery of NPLs

Several restrictions aimed at discouraging nonperforming loans have been passed by legislators in response to the danger they pose to the national economy. For example, Section 8(2)(j) of the Sub-district Council Act of 1998 states⁴⁰, On the day their nomination papers are due, candidates cannot run for the position of Upazila Chairman if they still owe money on any loans (except home loans or modest agricultural credits). The Local Government (Municipality) Act 2009, specifically Section 19(2)(i)(j), also prohibits the same thing⁴¹, the City Corporation Act of 2009, subsection 9(2)(i)(j)⁴², Together with subsection 26(2)(h) of the 2009 Local Government (Union Council) Act⁴³.

Moreover, subsection 27(AA) of the Bank Companies Act of 1991⁴⁴ limited a borrower's access to additional loans from any

[33] Id. at 34.

[34] Shafiqul Alam, Md. M. Haq, and Abdul Kader, Nonperforming Loan and Banking Sustainability: Bangladesh Perspective," *International Journal of Advanced Research* 3, no. 8 (2015): 1206–1207, accessed June 20, 2017. Url: <http://www.journalijar.com>.

[35] CPD, *State of the Bangladesh Economy in FY2017 (First Reading)* (Dhaka: CPD, 2017), 26–27.

[36] Bishnu K. Adhikary (Bangladesh Institute of Bank Management (BIBM) (unpublished paper), "Non-performing loans in the banking sector of Bangladesh: Realities and challenges," Ritsumeikan Research Repository, 91, accessed April 20, 2012. Url: http://rcube.ritsumei.ac.jp/bitstream/10367/283/1/RJAPS21_Nonperforming%20Loans%20in%20the%20Banking%20Sector%20of%20Bangladesh.pdf.

[37] Asian Development Bank Institute: *What is the impact of the global financial crisis on the banking system in East Asia?* (Tokyo: Asian Development Bank Institute, 2009), 21.

[38] Md. A. Islam, Mahmudul H. Siddiqui, Kh. F. Hossain, and Luthful Karim, "Performance Evaluation of the Banking Sector in Bangladesh: A Comparative Analysis," *Business and Economic Research* 4, no. 1 (2014): 105, accessed March 30, 2016. Url: <http://dx.doi.org/10.5296/ber.v4i1.4672>.

[39] Id. at 97,102.

[40] Muhammad A. Islam and Nur M. Shipon, "Effectiveness of Bank Audit in Bangladesh: A Comparative Study of Public Sector Commercial Banks and Private Commercial Banks," *Bangladesh Research Foundation* 2, no. 1 (2013), 167.

[41] Bangladesh Bank, *Rationalising interest rate spread in the banking sector: some policy suggestions* (Dhaka: Policy Analysis Unit, Bangladesh Bank, 2008), 6.

[42] Id. at 1.

[43] Upazilla Parishad Ain of 1998, Act No. XIV (1998).

[44] Local Government (Municipality) Act of 2009, Act No. LVIII (2009).

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[49] 21 BLD HCD 484 (1991).

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[51] Artha Rin Adalat Ain of 2003, Act No. VIII (2003), Section 6(5).

[52] 17 MLR AD 273 (2012).

bank by requiring that—1) The Bangladesh Bank must get a list of all defaulting debtors from all financial institutions on a regular basis. 2) All of the financial and banking institutions in the nation will be notified by the Bangladesh Bank of the list it receives under subsection (1). 3) Borrowers who have defaulted cannot be granted loans by any financial institution. 4). Regardless of the laws that are currently in existence, the lending banking corporation or financial institution will pursue legal action against the borrower who defaults in accordance with the law.

As an additional measure to prevent loan default, as stated in Articles 43 and 45 of the Bangladesh Bank Order, 1972,⁴⁵ The Credit Information Bureau (CIB) report is prepared by Bangladesh Bank, which in turn distributes pertinent information to all member banks. Banks and other lending organisations can use CIB reports to determine if a borrower is creditworthy before extending credit. Furthermore, as the court in *Paul & Co. v. Bangladesh Bank* determined⁴⁶, The Bangladesh Bank has the authority to disclose aggregated data on overdue loans and advances whenever it deems it necessary for the public good to do so. The Bangladesh Bank may provide information on loan defaults through the CIB report in accordance with established precedent.

For example, consider the case of *Sultana Jute Mills Ltd. et al. v. Bangladesh Bank et al*⁴⁷, "The Respondent Agrani Bank submitted the credit information that the Bangladesh Bank used to create the CIB report in compliance with the provisions stated in Chapter IV of the Bangladesh Bank Order, 1972," the Hon'ble High Court Division explained in its finding that the rule was discharged. "The bank extended a loan to the company making the petition, but only under certain circumstances. Due to the petitioner's company's violation of the loan agreement, the debt was not repaid. Respondent No. 3 Bank supplied the data used to generate the aforementioned credit information report by the Bangladesh Bank. Respondent No. 3 legitimately furnished Bangladesh Bank with credit information in compliance with Section 27 of the Bank Companies Act, 1991, as the petitioner company failed to repay the loan. Since respondent No. 1 did not violate any laws or statutes by including the petitioners' corporate name in the CIB report, it was upheld.

Since company owners are always working to maintain high credit scores, new reporting requirements will put even more pressure on them to make their loan payments on time. In the event that the borrower fails to return the loan, the bank has the right to pursue legal action against both the borrower and the guarantor in accordance with the rules of *Artha Rin Adalat Ain, 2003*, which pertain to the recovery of debts⁴⁸.

Political leaders have an outsized influence on loan default, and the court is taking a tough line against them. When considering cases such as *Md. Abul Kashem v. Major General Mahmudul Hasan (Rtd.)* and others⁴⁹ It was discovered that the appellant was in default on a bank debt at the time that he submitted the

documentation for his nomination. A bank loan was taken out in the appellant's company's name, not his own, and the appellant was found guilty of failing to return the loan. This meant that the court's decision effectively linked an individual's and their company's individual liabilities. This meant that the appellant couldn't run for office because of clause (n) of the RPO's proviso to Article 12(1).

Part 28A of the Banking Companies Act of 1991 is analogous⁵⁰ states that:

"It shall not be barred from pursuing legal action to recoup any written-off loans, advances, or debts from Bank Company, notwithstanding anything contained in this Act or any other law."

Despite these successes, *Artha Rin Adalats* still face problems with procedural errors and lack of ADR for managing court cases. There is a growing backlog because specific legislative regulations inhibit the mutual resolution of disputes involving non-performing loans. In order to ensure a swift resolution of disputes, courts are unable, for example, to lower the interest rate. This case is governed under section (30) of the Banking Companies Act, 1991⁵¹ states that:

"No transaction between a banking company and any of its debtors shall be triable by a Court on the mere ground of high profits and rates of interest in the commercial business of a bank conducted in accordance with Islami [Shariat] excessiveness of the interest rate taken by the banking company," according to the document.

Regarding cases concerning debt recovery, the relevant law is the Code of Civil Procedure, 1908⁵², The postponement of civil processes is due, in part, to the attitudes and practices of lawyers, which include delays, an increase in the volume of cases, and inefficient judicial administration⁵³.

7. Challenges of NPLs recovery through *Artha Rin Adalats* (ARAs) in Bangladesh

Despite several strategies for accelerating the recovery of non-performing loans, several scheduled banks in Bangladesh continue to face the challenge of increasing non-performing loan levels. Banks face a number of procedural and legal hurdles that prevent them from fully utilising legal remedies when internal processes fail to recover nonperforming loans (NPLs). Think of a troublesome loan: you can't find out how much interest has built up on it unless you get a court order. These interest payments are not taxable to the lending bank either⁵⁴. As stated in sections 34 and 35 of the *Artha Rin Adalat Ain, 2003*, suing a valid borrower for a money loan can discourage them from repaying the debt (12). This provision states that during subsequent execution processes, a debtor who has previously served their entire time in civil court for the execution of a judgement against nonperforming loans (NPLs)

[57] Syed A. Ali, *Banking Law and Practice* (Banglabazar, Dhaka: Agamee Prakashani, 2005), 430.

[58] Article *Rin Adalat Ain* of 2003, Section 34(12).

[59] Yixin Hou and David Dickinson, "The Non-Performing Loans: Some Bank-Level Evidence," Research Conference on Safety and Efficiency of the Financial System, organised with the support of the EU Asia-Link Programme Asialink/ASIE/B7-3010/2005/105-139, coordinated by the University of Limoges (France: University of Limoges, 2007), 6.

[60] Ekrami, M. & A. Rahnama Eski, 2009, "Investigating effecting factors in NPL creation," *Economic Research*, 6: 195-216.

[53] The Bank Companies Act of 1991.

[54] *Id.*

[55] Article *Rin Adalat Ain*, 2003, Section 5(2).

[56] Melvin M. Belli, "The Law's Delays: Reforming Unnecessary Delay in Civil Litigation," *Journal of Legislation* 4, no. 1 (1981):16–29.

under this act cannot be detained and confined again with the intention of recovering the same debt⁵⁵. Nonperforming loans (NPLs) are causing problems for banks, and these rules are making it harder for them to recover NPLs before going to court. The final consequence of nonperforming loans is that banks no longer want to lend money to people⁵⁶.

The banking sector is extremely susceptible to credit risk due to the high amount of nonperforming loans (NPLs), which in turn increases the risk of market and liquidity instability for banks. Banks can only do so much to mitigate this risk and its possible future consequences⁵⁷. As previously mentioned, the nonperforming loans (NPLs) in Bangladeshi banks are escalating due to corrupt practices and political meddling⁵⁸.

In addition to its previous rulings, such as in the civil case Janab Md. Asalat Zaman v. The State, this is the latest⁵⁹. The bank rate is determined by the Bangladesh Bank, which is responsible for regulating all banks. It is determined periodically under Article 21(3) of the Bangladesh Bank (Nationalisation Order) 1972 (P.O. No. 26 of 1972). Therefore, the interest rate at which the Bangladesh Bank rediscounts the first-class bills of exchange from the Commercial Bank is known as the bank rate, and it is a fixed and specific rate that is in effect on the date of realisation.

Plus, the Code of Civil Procedure, 1908, is the applicable law in matters involving loan recovery⁶⁰. However, owing to ineffective judicial administration, a surge in cases, lawyers' attitudes towards and strategies, including delay, and the work of defence attorneys, civil cases have been postponed⁶¹. Furthermore, as indicated in this part, legal gaps are further complicating the recovery procedure. However, looking into problems caused by corrupt political forces is beyond the purview of this examination.

8. Further Recommendation

In light of the fact that Bangladesh's banking sector is trying various regulatory, non-regulatory, and legal strategies to cut down on non-performing loans (NPLs), this study suggests the following:

- First, we need to figure out where the Artha Rin Adalat Ain, 2003 process falls short;
- Second, we need to figure out how to make Artha Rin disputes go away quickly so that we can get our NPLs back; and
- Last but not least, we need to figure out how to make users happier with the results of Artha Rin cases when it comes to effectively recovering NPLs.

[61] Mustafa K. Mujeri and Sayera Younus, "An Analysis of Interest Rate Spread in the Banking Sector in Bangladesh, The Bangladesh Development Studies 32, no. 4 (2009): 13; see also Helal U. Ahmed, "Impact of corruption in the financial market of Bangladesh," *The Daily Financial Express*, July 22, 2017, accessed July 22, 2017, <http://www.thefinancialexpress-bd.com/2017/07/22/77702/Impact-of-corruption-in-the-financial-market-of-Bangladesh>.

[62] 3 ALR AD 205 (2014).

[63] The *Artha Rin Adalat Ain* of 2003, Section 5(2).

[64] Melvin M. Belli, "The Law's Delays: Reforming Unnecessary Delay in Civil Litigation," *Journal of Legislation* 4, no. 1 (1981):16–29.

9. Conclusion

In order to speed the recovery of non-performing loans (NPLs) through Artha Rin Adalat Ain, it is vital that Artha Rin cases be resolved in a timely and effective manner. Therefore, the research would not only assist in the improvement of the country's financial sector by reducing the number of non-performing loans, but it would also assist in clearing the backlog of cases in the formal judiciary, thereby making the system more efficient and able to recover non-performing loans from Bangladeshi banks, which would strengthen the country's financial position.

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