

The State of Human Rights in Bangladesh :2006

An Odhikar Report

• INTRODUCTION

The current human rights situation in Bangladesh reflects an increasing global erosion of the gains achieved by the socio-political struggles of the people against repression at various levels - family, community and the state. Violations of human rights in Bangladesh are challenges faced by the country routinely every year. Unfortunately, old issues remain largely unresolved and new ones crop up to add to the existing list of violations, due to political and partisan considerations.

The year 2006 will remain significant in the political history of the country. Constitutionally, a neutral caretaker government headed by the immediate past Chief Justice of Bangladesh was supposed to take over from the elected government and arrange the Parliamentary Elections within 90 days after the end of tenure of the previous parliament in October 2006. The position of Chief Adviser would have gone to Justice K.M. Hassan. However, the 14 party alliance's non-acceptance of the immediate past Chief Justice for the position of Chief Adviser, allegedly for being associated with the BNP before becoming a Judge, initiated Justice Hassan's declination to the post. The senior most Judge of the Appellate Division, who was constitutionally another option to head the caretaker government, was disqualified to become so because he was already employed as the Chief Election Commissioner and was also not acceptable to the 14 party alliance either. Due to the fact that the President did not have any individual acceptable to all the political parties represented in the 8th Parliament to head the caretaker government, he took the position of Chief Adviser of the caretaker government, as per the last option under the Constitution. This has created a new precedent in the history of the caretaker government and was again criticized by the 14 party alliance, which alleged that the President was a BNP-nominated President. However, the President claimed that he took over only after exhausting all other constitutional options.

The Chief Adviser formed his advisory council after consulting both major political camps. This was also a new precedent in the history of the caretaker government. Previous caretaker governments did not seek a list of persons or consult political parties for nominating advisers. Thus, instead of a non-party caretaker government, "an all-party caretaker government" was formed with advisers nominated by major political parties. However, the 4 party alliance and 14 party alliance both accepted the formation of the caretaker government on condition that the voter list would be updated and corrected, deleting ghost voters; the Election Commission would be reconstituted with neutral and credible individuals; and the Chief Election Commissioner and partisan Election Commissioners would be removed. Accordingly, the Chief Election Commissioner and one other Election Commissioner were sent on leave; process of updating the voters list was initiated and a reshuffle of public servants in administration and law enforcement agencies took place. However, in the face of the 14 party alliance's continuous political pressure for the resignation of the Chief Adviser for being partisan, the President and the Chief Adviser called in the armed forces to maintain law and order in aid of civil administration. This prompted the resignation of four advisers. The President appointed four new advisers and after much political negotiation, the opposition agreed to take part in the parliamentary elections in a grand coalition of some dissident BNP leaders who formed the Liberal Democratic Party (LDP),

former military dictator Lt.General Hossain Mohammad Ershad's Jatiya Party and a few 'Islamic' parties. The caretaker government is still facing challenges regarding holding of the 9th Parliamentary elections on 22 January 2007.

Comparative scenario of reported human rights violations in 2005 and 2006 (taken from 12 newspapers scanned daily by Odhikar)

2005	2006
396 persons died at the hands of law enforcement agencies	355 persons died at the hands of law enforcement agencies
Due to political violence, 8997 persons were injured, 310 killed, 1216 arrested and 93 were abducted	Due to political violence, 21265 persons were injured, 374 killed, 2358 arrested and 48 were abducted. Additionally 28651 people were arrested en masse during political movements and change of government.
<u>Violence against children</u> Injured: 130 Killed: 308 Raped: 319 Suicide: 36 Kidnapped: 205 Acid victims: 37 Arrested: 19 Missing: 85 Victims of trafficking: 96	<u>Violence against children</u> Injured: 139 Killed: 366 Raped: 227 Suicide: 52 Kidnapped: 93 Acid victims: 20 Arrested: 12 Missing: 134
907 women were raped out of which 126 women were killed after rape and 14 committed suicide after rape, three (3) women were raped by members of law enforcement agencies	Total number of rape victims was 639. 126 women were killed after rape and 13 committed suicide after rape, three (3) women were raped by members of law enforcement agencies.
Due to dowry related violence, 227 women were killed, 19 women committed suicide, 123 women tortured, 13 women became victim of acid burn and no divorce was reported.	Due to dowry related violence, 243 women were killed, 8 women committed suicide, 64 women tortured, 5 women became victim of acid burn and 3 were divorced.
The number of victims of acid violence was 196. Of them 104 were female, 55 were male and 37 were children.	The number of victims of acid violence was 161. Of them 105 were female, 36 were male and 20 were children.
76 persons died in jail custody and 6 persons died in police custody	62 persons died in jail custody and 12 persons died in police custody
71 people were injured, 25 killed, 35 arrested, 81 abducted, no missing and 2 raped in the Chittagong Hill tracts region	361 people were injured, 29 killed, 42 arrested, 22 abducted, 3 went missing and 3 were raped in the Chittagong Hill tracts region
<u>Violence against journalists</u> Injured: 142 Killed: 2 Arrested: 11 Abducted: 4 Assaulted: 53 Threatened: 249 Attacked: 15 Cases filed against: 130	<u>Violence against journalists</u> Injured: 183 Killed: 1 Arrested: 6 Abducted: 0 Assaulted: 53 Threatened: 114 Attacked: 28 Cases filed against: 111

• **BOMB BLASTS**

One of the newest violations that were faced is the series of bomb blasts that occurred in 2005. Along with this came acts of militancy carried out by an underground group calling themselves

Jamaa'tul Mujahideen Bangladesh (JMB), who also claimed responsibility for the blasts. They launched the attack to institute their brand of 'divine law' and attacked most of the subordinate courts and the Supreme Court premises to carry home their message that the present man made laws did not give justice to the people and that the present judicial system did not follow 'religious' teachings/principles and thus failed to serve common people.

In 2006 the Government arrested almost all the leaders of JMB. After several trials various trial courts have found many of the JMB leaders guilty and awarded death sentences. Some of these cases have been confirmed by the Appellate Division of the Supreme Court and are pending for execution. The government also arrested their wives and young children, which raised the question of human rights violations from the other end.

- **IMPUNITY BY LAW ENFORCEMENT AGENCIES**

Torturing and killing people by law enforcement agencies are not an unfamiliar phenomenon in South Asia. Bangladeshis experienced such brutality and killing during its struggle for self-determination and liberation in the late 60's till its freedom in 1971, by the then Pakistani government. Unfortunately, this was repeated in the independent country against political opponents by the *Jatiya Rakkhi Bahini* (JRB), which came into force on February 1, 1972, just after the country was liberated on 16 December 1971 and continued operations until October 1975 after the killing of Sheikh Mujibar Rahman, the founder President of Bangladesh in a coup on August 15, 1975. The JRB became infamous for extra-judicial executions of about 30,000 leftist opponents (as claimed by the victim organizations) till its absorption into the Army by a gazette notification dated 4 October 1975.

In March 2004 the 'elite force' of the Rapid Action Battalion (RAB), was created by amending the Armed Police Battalions Ordinance, 1979 and enacting a new law, namely the Armed Police Battalions (Amendment) Act, 2003. As per the law, it is assigned to investigate any offence on the direction of the government and has exclusive jurisdiction in this regard. It can investigate and work for all security purposes. As an elite law and order enforcement agency it has a special focus on curbing organized crime and eliminating 'top criminals'. Since the inception of RAB in March 2004, some new words like 'Crossfire', 'encounter' etc. has been introduced in human rights vocabulary. The Government uses the term 'crossfire' to mean the death of the apprehended person during gunfights between a criminal group and RAB or police at the time of their intervening acts of duty. Thus the death of the alleged criminal is justified as a result of 'crossfire'. The term 'death in encounter' is used in other countries to mean the same thing, but the term 'crossfire' is preferred by law enforcement agencies in Bangladesh. The sinister connotation associated with the word demonstrates utter powerlessness in the face of extra judicial killings taking place in Bangladesh. There are also an alarming number of deaths in RAB custody and few of these can be interpreted as explicitly political. The police have also been killing people in the name of 'crossfire' for last several months. According to Odhikar's documentation, 738 people were reported killed in 'crossfire' between June 24, 2004 and December 31, 2006.

There is no legal definition for 'extra-judicial killing'. Death delivered by a member of the law enforcement agency that cannot be accounted by law or the Constitution and therefore, falls outside legal rules or judicial process may be termed 'extra judicial', or literally murder by the State agencies. Many of the killings occurred when the alleged criminal or the criminals were in

RAB custody. Some people argue that the extra-judicial killing of hardened criminals helps mitigate 'terrorism' and improves law and order. They argue that after the formation of RAB and other auxiliary forces like Cheetah and Cobra (of the police), the law and order situation has improved and common people are apparently happy with the outcome. However, there is no systematic study in this regard and the conclusions are drawn mainly from the perception of the urban population and information covered by media.

Torture and inhuman treatment by the law enforcers are rampant in the country. Some examples of torture by law enforcers may be quoted. On May 18 evening last, police arrested one Sajidur Rahman from the corner of Markaja Masjid near Gaibandha railway station. On May 21, police allegedly found his dead body hanging by a Lungi (traditional Bangladeshi dress worn to cover lower part of the body) from the bars of the window of the custody room. After the incident, a protest rally of the local people was instrumental in the arrest of Investigation Officer (IO) Abu Yusuf. Police beat an old woman to death at Savar in Dhaka on July 2, 2006. Sub-Inspector (SI) Mokhlesur Rahman kicked Nayan Banu to death as she failed to give information about the whereabouts of her son Badsha Mia, allegedly accused in an abduction case.

Around twenty people were killed by the law enforcers on January 4 and 23 and April 6 and 13, 2006 at Kansat in Chapainawabgonj as the deceased persons took part in a large demonstration demanding adequate supply of electricity to enable them to cultivate their lands for agriculture purpose. Later Officer-in-Charge (OC) Shahabuddin Khalipha of Shibganj Police Station (PS) was arrested on January 18 last for shooting at people and killing them.

Law enforcers made blanket arrests in connection with bomb blast cases and detained a large number of people. Besides, many men and women are in detention without trial. Mubarak Hossain bin Hashem was sent back home in December 2006 from Guantanamo Bay Prison by the US authorities after he was arrested in 2001 as a terror suspect from Afghanistan and detained there for five years. Immediately on his return to Bangladesh, he was arrested and put in remand for interrogation by the intelligence agencies. Odhikar expresses its concern at such detention in custody for interrogation of a person who spent five years in illegal detention abroad and was released due to efforts of the International Red Cross Society and the Bangladesh Red Crescent Society.

Section 54 the Criminal Procedure Code enables police to arrest without warrant on several grounds, one of which is the highly debatable 'reasonable suspicion'. According to an Odhikar documentation, 220 persons in Kotwali Police Station, 45 in Lalbagh, 33 in Newmarket, 24 in Kamrangir Char, 07 in Hajaribagh, 79 in Dhanmondi, 134 in Ramna and 15 in Shahbagh (New) in Dhaka City were arrested under this legal Section between 01 January – 31 August 2006.

It is a fact that criminality is not merely a vice of an individual but has deep social, economic, cultural (that includes law and constitution) and political roots as well. The neo-liberal economic policy of the State denies any role of the state in improving the social and economic reality of their citizens and instead installs market institutions over and above the welfare of the people. Therefore, State is hardly capable to undertake any social and economic policy that could undermine socio-economic basis of criminal behaviour. In the absence of such role, State justifies itself by ensuring 'security' of the citizens by dealing criminality in extra-judicial

manner. Extra-judicial killings can bring no peace and does not help to eradicate ‘terrorism’. For the human rights defenders it is not enough now to simply oppose extra judicial killings but raise the fundamental concern about the transformed nature of the state internationally, where Bangladesh is only a minor example mirroring the behaviour of the strong global and regional actors.

- **THE BANGLADESH – INDIA BORDER**

Another type of extra-judicial killing is going on in the areas covering Bangladesh-India border. On an average, one Bangladeshi is killed every four days by the armed and apparently trigger-happy *jawans* of the Indian Border Security Force (BSF). Indian miscreants and BSF personnel violated human rights of Bangladeshi nationals in a total of nearly 900 reported incidents between 2000 and 2006. The incidents, including murder, abduction and mugging, reportedly took place in the northern and southwestern border areas after the intrusion of members of the BSF and alleged Indian miscreants into Bangladesh. Most of the Bangladeshi victims were local farmers and agricultural workers, said the report.

There have been numerous incidents of the Indian border guards’ ‘push-in’ attempts to force Bangla-speaking Indian citizens into Bangladesh, and if such incidents continue, it might cause large-scale border conflict at anytime between the two neighbouring countries. Branding them as ‘illegal Bangladeshi intruders’, the BSF tried several times in the last seven years to push these people into Bangladesh through various parts of the border. Among the poor people who were to be pushed in, the majority were women and children whom BSF positioned in front of ‘push-in’ groups as shields against resistance from the Bangladesh Rifles (BDR) patrolling the Bangladesh border. Push-in attempts were made at the dead of night, early morning and in cold weather.

Reported Incidents of Human Rights Violations on Bangladeshi nationals by BSF 2000 – 2006

Incidents	2006	2005	2004	2003	2002	2001	2000
Killings	146	104	76	43	105	94	39
Injuries	144	66	35	82	54	244	38
Arrests	21	-	09	21	336	60	11
Abductions	165	26	73	120	118	45	106
Reported missing	32	14	-	07	30	-	0
Rapes	02	03	-	02	-	02	2
Snatching/looting	09	04	05	08	12	03	13

- **NATIONAL SECURITY LAWS**

The State of Bangladesh has put its people under the threat of national security laws enacted by various governments, which allow police to arrest without warrant in the name of curbing militancy and maintaining state security. To add to this, the immediate past government adopted Telecommunication Amendment Law 2006, a telephone tapping law, empowering the security agencies to overhear telephone conversations of ordinary citizens. This law is designed to affect the privacy of conversation and violate civil rights.

- **THE DEATH PENALTY**

This year, the imposition and execution of the death penalty was low. Granting of a death sentence is always a risk in Bangladesh, where due to lack of proper evidence, corruption within the police, bribery and the reluctance of doctors to issue proper medical certificates and a general

weakness within the Criminal Justice System sometimes work towards implicating the wrong person. Such an incident of miscarriage of justice took place in 2006 as one Sundar Babu was sentenced to death by the lower court of Dhaka instead of the 'real' culprit, Shah Alam Babu. Later the attention of the High Court was drawn to this incident by the human rights organisations. Sundar Babu has recently been released from the central jail at Gazipur in Dhaka following a High Court order. However, his position in society, his earning capabilities and his whole family has suffered socially and financially as a result. On the other hand, the death sentences of the JMB leaders who are the masterminds behind the killing of two assistant judges of Jhalakathi and killing of litigants, lawyers, police and journalists at the Gazipur Bar, Chittagong court and other places of the country are pending before the Appellate Division, after the approval of the High Court Division. There are allegations that a fair trial has been hampered in their case due to the difficulty in appointing lawyers to represent them. Furthermore, their wives and young children have been also detained and remanded as criminals, violating the norms of human rights and fair trial.

- **FREEDOM OF THE PRESS**

2006 was not a very good year for freedom of opinion and press. The Official Secrecy Act is still in operation, preventing reporters from collecting information from government sources. The government uses the court to restrict reporters and newspapers. The High Court issued contempt of court rule on the editors, publishers and concerned reporters for publishing a news item saying that "a High Court Judge, Faisal Mahmud Faizee does not have an LL.B. certificate." They were convicted in the case. Later, the Supreme Court stayed the execution of their conviction.

Eight journalists were hurt by police attacks in a procession in Satkhira on May 31, journalists Iqbal Sobhan Chowdhury and Farazi Azmol Hossain were injured in Kushtia on May 29 allegedly by ruling party cadres. Some 20 reporters were badly injured by police attack during Bangladesh-Australia cricket match in Chittagong stadium on April 16 last. In October 2006 the higher judiciary stayed the proceedings of the case involving the murder of a reporter, Mukul, in Jessore, following a prayer from the accused.

- **ECONOMIC RIGHTS**

No policy has recently been adopted to ensure people's economic, social and cultural rights. It is to be noted here that the part of the constitution that deals with guarantees to rights to shelter, recreation, occupation and development is not judicially enforceable. Several laws have been adopted to restrict small industries, shrimp cultivation and micro-credit activities etc. A large amount of tax of Tk 1200 has been imposed on every SIM card. This amount is directly or indirectly realised from the subscribers. The government also tried to make mandatory a trade license for lawyers. This, however, was not possible due to vehement protest. Some alternative systems exist to preserve social and cultural rights, which are implemented through different programmes undertaken by the NGOs.

The rights of agrarian households and agriculture labourers are one of the most vital factors for the economic growth of Bangladesh and pose interesting challenges for the human rights defenders way beyond the traditional trade union rights or collective bargaining. Unfortunately, this sector and these people are severely neglected. The apparent concerns of livelihood issues are not necessarily limited to purely economic concerns. They are directly environmental,

ecological and related to the more fundamental questions such as ways to ensure command of women in agrarian production. On an economic sphere the major concerns are rights of the share croppers, minimum wage, wages of the women labourers, ecologically sustainable agricultural input support, and subsidy to improve the agricultural performance both economically and ecologically without environmental degradation, issue of seed and ensuring no patent or intellectual property on life forms, etc. The link of local and indigenous lifestyles is recognized in international covenants such as Convention on Biological Diversity but has failed so far to be integrated into human rights activities. Similarly the community and customary rights over seed and genetic resources is being systematically denied by the promotion of intellectual property in life forms.

- **ACCESS TO WATER**

The issues related to water and irrigation is also major concerns. Privatisation of water and the need to defend community water rights is becoming pressing even for Bangladesh, which is known to be rich in sweet water resources. The deep tube well and irrigated agriculture has created severe environmental and ecological destruction and blamed for the arsenic poisoning of the large number of population. The margin where introduction of technology threatens life and livelihood has not been drawn in constitutional and legal terms

The different dams built in the Indian part of the regional rivers like Farakka and Tipaimukh, have created acute water shortage and drought in many parts of Bangladesh. These dams have cast a direct impact on the irrigation and production of Bangladesh's agricultural sector. These dams are responsible for an indirect economic war against the life and livelihood of poor and marginalized people in Bangladesh. The more alarming and threatening issue is – the Indian government has planned to build new dams on more rivers through a River Linking Project within the next couple of years. As a 'growing regional power' of the South Asia region, India is implementing these projects without consulting its neighbours like Nepal and Bangladesh and also violating the international river laws. This is also an issue of the security of Bangladesh and Nepal, as the small states of the region.

- **WOMENS RIGHTS**

The status of women's rights has never been even satisfactory in Bangladesh. Women in Bangladesh are exposed to the vulnerability of domestic violence, attacks with acid and other corrosive substances, trafficking, divorce, dowry violence and murder by their husbands and others. A majority of incidents of domestic violence are linked with dowry demands. The Government has encouraged negotiated settlements by amending the Code of Civil Procedure (CPC). Therefore, the possibility of punishment of criminals in cases of repression against women would be less in the future. Recently a High Court Division Bench has set free the accused husband for the murder of his wife, Nilufar, although the trial court earlier sentenced him to life imprisonment.

- **CHILD RIGHTS**

Child rights are another cause for concern. Children make up a significant part of the workforce, especially in the realm of bidi (indigenous cigarettes) making, in the tanneries, in welding factories and in brickfields. Children are exposed to vulnerability of trafficking and sexual harassment also. According to a 2006 report of the Home Ministry, a number of 228 trafficked

people were rehabilitated and returned to their guardians/parents of which 17 were male, 116 were female and 95 were children. NGO-run safe homes are rehabilitating 08 persons so that they can return to their families and 11 persons are staying at the government-run safe homes.

- **RIGHTS OF MINORITY GROUPS**

The legal status of minority groups is ensured by the Constitution of Bangladesh, which guarantees that the state shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth. It also states that ‘there shall be equality of opportunity for all citizens in respect of employment or office in the service of the Republic’ and that ‘No citizen shall, on grounds only of religion, race, caste, sex or place of birth, be ineligible for, or discriminated against in respect of, any employment or office in the service of the Republic’.

Article 41 of the Constitution says (1) Subject to law, public order and morality- (a) every citizen has the right to profess, practice or propagate any religion; (b) every religious community or denomination has the right to establish, maintain and manage its religious institutions. The Penal Code, 1860 provides measures to ensure freedom of religion and its manifestation. Sections 295 – 298 of this law provides for imprisonment and/or a fine, in the case of any attack on places of worship and sacred objects (for example, by acts of destruction or other damage); of any insult-whether actual or intended-directed against religious beliefs or feelings. The Sections also protect religious worship and religious ceremonies against attack; sanction in particular any act of desecration-for example of a tomb or a place of worship-with penalties; and provides for imprisonment of a maximum of one year, and/or a fine, in the case of any intention to offend. Besides, religious-based personal laws thus regulate specific questions of marriage, divorce, dowry, maintenance, guardianship, inheritance and restitution of conjugal life of each community and are unique to each community while civil and criminal law apply to everybody regardless of religious affiliation.

Land ownership rights are a major human rights concern in Bangladesh Land rights of the poor and the powerless (which may also include non-Muslims) are violated systematically by the powerful political elites and affluent people of the community. The introduction of the Vested and Non-resident Property Act 1974, resulted in land grabbing from the ethnic and religious minorities. The political party cadres of seating governments in last 35 years were directly involved with such incidents. For the human rights defenders the major issue in this regard is the demand for land reform, particularly Constitutional amendments to recognize ‘communal land’ or traditional land rights of the ethnic communities. This right has been denied from the day the Bangladesh Constitution was written in 1972 where community property is not recognized as an existing form of property. Another unresolved issue in this regard is the Constitutional recognition of ethnic minority communities. In November 2002, the Parliament passed an amendment to the Vested Property Return Act allowing the government unlimited time to return vested properties of the Hindu community. Earlier the Vested Property Act derived from the Enemy Property (Custody and Registration) Order II of 1965 and was proclaimed in Pakistan following a brief war between India and Pakistan in September 1965. This order was directed against the Hindu minority (perceived as enemy) and was used as an instrument for approaching land belonging to Hindus accused of supporting India.

According to some reports, the Puja festival of Hindus was disturbed as loudspeakers and microphones needed to relay religious chants to the crowds who flocked to the puja sites, were restricted in some area of country because of Ramadan. Besides, religious extremists on January 18, 2006 forced authorities to set up a separate graveyard for Ahmadiyyas to bury a woman of the sect in Nabinagar upazila. A brawl between the extremists - who are agitating for declaring Ahmadiyyas non-Muslim for long- and the Ahmadiyya sect delayed burial of woman Mortuzan Nesa,70, for 22 hours. Central leaders of the Ahmadiyya Muslim Jamaat Bangladesh protested against the obstruction to burial saying the authorities surrendered to the anti-Ahamadiyya elements.

Law enforcers foiled an attempt of the anti-Ahmadiyya zealots to capture Dhanikhola Ahmadiyya mosque at Trishal in Mymensingh on February 10, 2006. However, the religious extremists hung a signboard on a tree at Boilor Bazar about two kilometres from Dhanikhola asking Muslims not to say prayers in the Ahmadiyya mosque. No untoward incident took place. The religious extremists have been waging movements for two and a half years to press home their demand for declaring Ahmadiyyas as non-Muslim. “ We will mount pressure on the government in such a way that it will find no alternative other than to pass a law during the ongoing budget session to brand the Qadianis (Ahmadiyyas) non-Muslim”, Noor Hossain, president of the anti-Ahmadiyya outfit, told The Daily Star on June 20, 2006.

- **CONCLUSION**

The history of the human rights movement has strong roots in Bangladesh and is grounded in the liberation struggle. The human rights movement in Bangladesh has entered a critical and mature stage and engaged in dialogue in the spheres of political, civil, socio-economic and cultural issues and at the same time is engaged in interrogating the implicit and explicit biases and prejudices in the discourse of ‘human rights’ and its genealogies. There is no independent human rights institution in Bangladesh. In a press conference in October, the Law Minister said the Law Ministry forwarded a bill to constitute an ‘Independent Human Rights Commission’ but the long awaited and pending bill was not passed in the parliament by the last government.