

THREE-MONTH HUMAN RIGHTS MONITORING REPORT ON BANGLADESH

01 January -31 March 2009

**Try Pilkhana killings in an open court under existing laws
Concern about deaths of BDR members in custody
Interference in freedom of thought and expression hinders
Constitutional guarantees
Government imposes strict conditions for registration of
political parties**

1. Odhikar is committed to uphold the civil, political, economic, social and cultural rights of the people and as part of its commitment, monitors the human rights situation in Bangladesh. Odhikar presents below a human rights monitoring report covering the last three months from 1 January to 31 March, 2009.

Try Pilkhana killings in an open court under existing laws

2. The BDR mutiny and resulting killings at the BDR headquarters at Pilkhana should be tried in an open court under the existing laws. The Ministry of Law, Justice and Parliamentary Affairs approved the proposal made by the Ministry of Home Affairs that the Pilkhana killings be tried in Court Martial under the Army Act. Legally speaking, the trial of this brutal event cannot be done under Court Martial as the BDR members are not part of the military. Odhikar expresses deep concern regarding the approval of the Ministry of Home Affairs, both as an issue of human rights as well as the possible consequences of this deviation from the constitutional provisions and existing laws. Such approval is beyond the jurisdiction of the Ministry of Home Affairs. The BDR Pilkhana incident occurred on 25th & 26th February 2009. A notification is necessary in order to bring the incident to trial under the Army Act, which contradicts Article 35 of the Constitution.
3. Given the political and national security issues that have emerged after the brutal event, Odhikar urges the government to ensure absolute transparency and accountability while investigating this matter in order to keep the elected government above all debate, for the stability of the country. Odhikar urges the government to identify those responsible for the killings and prosecute them in open civilian courts, fully recognising the constitutional and human rights of the accused and providing them scope to defend themselves.
4. The Home Ministry Probe Committee investigating the BDR carnage has been granted a 30 day extension to submit its report. This is the fourth time the deadline to submit the report has been extended. In the absence of clear terms of reference for the investigation, such extension of the probe period will reduce the credibility of the Committee.

Deaths of BDR members in custody

5. Nine BDR members have reportedly died during the investigation of the BDR mutiny. Among those who died in custody, three were BDR members and one was the Imam¹ of the BDR mosque. All were detained at Pilkhana. Three other BDR members died outside Dhaka. BDR member Raisuddin of 44th Rifles Battalion, Habildar Solaiman of 45th Rifles Battalion, Lance Nayek AHM Wahiduzzaman of 3rd Battalion in Joypurhar, BDR member Mizanur Rahman of Marishar 9th Battalion in Rangamti and BDR member Sheikh Waliullah of 38th Akhalia Battalion in Sylhet died on 9, 16, 24, 25 and 26 March 2009 respectively. Of the deceased, three committed suicide and six died due to heart attack, according to the BDR authority. However, family members of deceased BDR members Monir Hossain and Mobarak Hossain, alleged that they died due to torture in custody. BDR Sepoy Monir Hossain and Lance Nayek Mobarak Hossain died on 17 and 22 March 2009 respectively, while in RAB custody. Relatives of Mobarak Hossain have alleged that he was tortured to death. They informed Odhikar that marks of physical assault were visible on his body. Blood was seen under his fingernails. Sources at the Dhaka Medical College morgue have told Odhikar that Mobarak's wrists, arms, knees, and shoulders were swollen and badly bruised. He was taken to the hospital after death, hospital source said.
6. Odhikar would like to recall that obtaining of a confession through torture is a grave violation of human rights. Bangladesh ratified the Convention against Torture on 5 October 1998. Odhikar expresses its deep concern about the allegations of torture and death of detained BDR members in custody. Odhikar urges the government to ensure that the BDR jawans are not tortured in custody. The deaths in custody or during investigation may constitute a serious hurdle in doing justice, since it may be linked to the elimination of evidence and potential witnesses.
7. Odhikar is concerned that a complete list of arrested and fugitive border guards has not been published to date and this will seriously jeopardise the credibility of the investigation. We urge the government to officially publish the list and create an opportunity that allows all the detained BDR members to meet their families.

Interference in freedom of thought and expression hinders Constitutional guarantees

8. Odhikar expresses concern over the suppression of freedom of thought and speech. Members of Hizb ut-Tahrir Bangladesh distributed leaflets with the headline "Resist the Indian Plot to Destroy the Army-BDR and Protest against Government Inaction". This was to articulate their own analysis of the BDR events and their right to protest against the alleged 'Indian plot', as they see it, in the massacre. At least 31 members of Hizb ut-Tahrir were arrested from different areas across the country including Dhaka, while distributing leaflets on 1 and 2 March 2009.
9. Odhikar believes that any citizen or group of citizens can make a comment and publish an opinion on any topic under the fundamental rights guaranteed by the Constitution of Bangladesh. This is, indeed, a constitutional right of every citizen. According to Article 39 of the Constitution, the right of every citizen to freedom of thought and conscience, speech and expression are guaranteed. As a political organisation, the Hizb ut-Tahrir should have the right to an opinion on the BDR mutiny and killings at Pilkhana BDR Headquarters. However, the members of Hizb ut-Tahrir were shown as arrested under Section 54 of the Code of Criminal Procedure and later cases have been filed under sections 153(ka) and 505 of the Penal Code after police remand. On the other hand, the government has given permission to the relevant authority to file a sedition case against them under the Special Powers Act,

¹ Leader of prayers in a mosque

1974. Meanwhile, on 27 March 2009, police baton charged on members of Hizb ut-Tahrir, who had gathered near Baitul Mokarram mosque to demand the release of their detained members. More than 50 members were wounded and 10 were arrested. Odhikar believes that every citizen should have the right to assemble and participate in public meetings and processions peacefully and without arms under Article 37 of the Constitution.

10. On 21 March 2009, former Deputy Speaker of the Parliament, Akhtar Hamid Siddiqui, was arrested by Naogaon district Detective Branch (DB) police over an allegation made by the Officer in Charge (OC) of Mohadebpur Police Station Ilias Ali Fakir. In a general dairy, OC Ilias Ali Fakir stated that the former Deputy Speaker had threatened him. He was given a one month detention order under the Special Powers Act of 1974. Odhikar believes that if a person commits a crime, he should be brought to justice under a specific case. Odhikar is alarmed at the imposing of the Special Powers Act to restrain Opposition leaders and activists. This repressive Act has been used frequently to oppress political activists and for violating human rights. Odhikar demands that this repressive law be revoked.

Government imposed censorship on websites

11. The government has recently imposed a rigid censorship on the browsing of some websites, including youtube.com, for Bangladeshi nationals. The Bangladesh Telecommunication Regulatory Commission prohibited the visiting of some of websites on the pretext of protecting 'national security'. However, the government did not officially specify what kind of content and information should be forbidden in the name of 'national security'.
12. It has been assumed that the government wanted to impose a ban on the citizen's use of audiovisual information relating to the BDR mutiny and its consequences. If this is true, and if the audio-visual information contains very sensitive matter, which could cause threats to country's security, then why it is only to be restricted for Bangladeshi people? The Government's justification regarding this matter, that Bangladeshi citizens can emerge as a threat to national security, is not acceptable. What about foreign entities? Odhikar expresses deep concern about the censorship and control over public opinion through imposing restrictions in receiving information via the internet. Odhikar demands that the government should make a public explanation regarding the censorship imposed in the name of 'national security'.

Imposition of strict conditions for the registration of political parties

13. The government has imposed strict conditions for the registration of political parties. The Cabinet has approved the process of registration for political parties with rigid conditions, which was passed in Parliament as the Representation of People Order (Amendment) Act 2009. According to this new Act, each and every potential political party should have 200 voter-members in each Upazila in order to get registered as a political party.
14. Odhikar considers that the registration of political parties may be a positive approach if the Government's intention is to ensure the fundamental rights of the citizens enshrined in Article 37 of the Constitution of Bangladesh and at the same time if it provides a legal framework to strengthen internal democratic practices, transparency and financial accountability.
15. Every citizen has the right to form any kind of association including a political party, subject to 'reasonable restrictions' and in the interest of 'public order' and 'morality'. The new Act goes beyond the constitutional parameters. Odhikar is concerned that the new Act might curtail the rights of the citizens in order to meet the requirements

of registration as a political party. The provision to have 200 voter-members in each Upazila curtails the fundamental rights of citizens. As a result, a large majority of the political parties will be deprived from registration. Internal democratic processes of the political parties should be strengthened and transparency should also be reflected in financial matters through this registration process.

Cabinet approves Anti-Terrorism Bill

16. The Cabinet has given a final approval to the Anti Terrorism Bill in order to enact it as law on 19 February 2009, without any public consultation or scrutiny. The Anti-Terrorism Ordinance 2008, was first promulgated by the military backed 'Caretaker' government on 11 June 2008 where the definition of 'terrorism' and a list of 'terrorist acts' had been widely defined by the then military backed regime.
17. The definition given is so wide and vague, it may create opportunities of abuse. Odhikar expressed its concern immediately after the promulgation of the Anti-Terrorism Ordinance in 2008, because such a serious Ordinance had been made by an unelected and unconstitutional government without soliciting the views of the public.
18. The Cabinet of the newly elected government approved the said Ordinance as a Bill without any review or change to its earlier version. Odhikar strongly demands and urges the Parliament to thoroughly examine the Bill to ensure that human rights are upheld in counter terrorism provisions, and that there is no scope for abuse of the law.

Political violence continues

19. According to Odhikar's documentation, 62 persons were reportedly killed and 4258 were injured in political violence in the last three months. Most were killed due to clashes between the supporters/activists of Awami League, BNP or intra party clashes. Among them the incidents of post election² violence, in particular, are mentionable.
20. In most cases, the violence involved students, who were mainly activists and supporters of the Awami League (AL) and were from different educational institutions across the country. The BCL³ activists were involved in violent, intra party, and armed clashes in Govt. Titumir College, Comilla University, Kushtia Govt. College, University of Dhaka, University of Chittagong, University of Rajshahi, RUET, Sylhet Govt. College, Rangpur Medical College, Jahangir Nagar University, DUET.
21. During the 61st Founding Anniversary of the Awami League's student wing, the Bangladesh Chattra League (BCL), the BCL was locked in intra party clashes, where 9 activists were reportedly injured. The Prime Minister came to the meeting afterwards and asked students to refrain from violence and crime.
22. Another intra party clash among BCL students of Dhaka Medical College occurred on the night of 30 March, centered on who would gain 'control' of DMC. One student was killed and 25 injured. At the same time, a fight broke out among BCL supporters at Shamsunnahar Hall⁴.

² Parliamentary election held on 29 December 2008 and Upazila Parishad (local government institution) elections held on 22 January 2009.

³ BCL: Bangladesh Chattra League, student wing of the Awami League

⁴ Women's hall of residence at Dhaka University.

India-Bangladesh border violence

23. Human rights violations continue in the border areas by the Indian Border Security Force (BSF). The BSF reportedly killed 31 Bangladeshis, 37 were injured and 5 Bangladeshi nationals were allegedly abducted by them during this reporting period.
24. Despite the continuous reporting of incidents of human rights violations, no appropriate measures have so far been taken to stop cross border violence or to offer adequate compensation to victims or their families. Odhikar urges the Government of Bangladesh to seriously and effectively engage with the Government of India, to implement the Indira-Mujib agreement signed in 1974 and also to resolve such issues on the principles of the UN Charter, international law and bilateral agreements.

Extra-judicial killings

25. From 1 January to 31 March 2009, 11 persons were reportedly killed by law enforcement agencies. Among them 2 were killed by RAB, 6 were killed by police, 1 was killed jointly by RAB-Police, 1 by the Detective Branch (DB) of Police and another 1 was killed by forest guards.

Circumstances of death

26. It was reported that of the 11 persons killed, 2 were killed in RAB crossfire/ encounter/ gunfight/ shootout⁵, 3 were killed in police crossfire/ encounter/ gunfight, 1 by RAB-Police joint crossfire, 1 by the crossfire of DB police and 1 was shot by forest guards. During this time, three persons were allegedly tortured to death by police.

Political identity of the victims

27. Among those killed 11 persons, 1 was reportedly from Gono Mukti Fouz (GMF) and 1 from the Biplobi Communist Party.

Other characteristics of the victims

28. It was reported that of the 11 persons who were killed one was a labourer, one a petty trader, one was a youth, one a 14-year-old boy, 3 were alleged criminals and 2 were alleged robbers.

Death in jail

29. During this reporting period 8 persons reportedly died in prison due to illness.

Freedom of the press

30. Journalists were harassed and intimidated in various ways during this reporting period. Among them, it is reported that 18 journalists were injured, 5 were threatened, 3 reportedly attacked and 4 were assaulted. Furthermore, journalists are allegedly being obstructed from publishing informative reports, which is contrary to national and international laws.

⁵ Reports in the press have increasingly used more than one of the terms “crossfire”, “encounter”, “gunfight” and “shootout” in one article to describe the same incident. It is, therefore, no longer possible for Odhikar to determine which of these descriptions best describes an incident of extra-judicial killing. Odhikar has, therefore, grouped these incidents together.

Condition of the Ready-Made Garment workers

31. In the last three months, worker's unrest was observed in many ready-made garments factories. Most of the incidents occurred due to demands of proper wages and dues.
32. A total of 418 ready-made garments (RMG) workers were injured during this reporting period. Most of the violence took place due to the non-payment of the workers by factory owners.
33. Odhikar demands that the BGMEA authority take initiative for canceling the license of those factories that are not following the tripartite agreement and thereby have contributed in continuing the workers unrest.

Rape

34. During the last three months, a total of 75 women and girls reportedly became victims of rape. Among them, 36 were women and 39 were children, aged below sixteen. Out of 36 women, 14 were reportedly killed after rape, 15 were victims of gang rape while out of the 39 girls, 8 were reportedly killed after rape and 9 were victims of gang rape.
35. In this period, an ethnic minority woman was gang raped by 4 police constables Prasad Garo, Sumon Chakma, Sanchay Chakma and Rabi Chakma at Chittagong Metropolitan Area.
36. Odhikar believes that the actual figures are likely to be higher, since all such violations are either not reported to police or that the police sometimes do no file rape cases and favour the perpetrators. Another reason is associated with social stigma towards rape.

Dowry related violence

37. The most common reason for domestic violence occurs due to dowry⁶ demands. A total of 51 women reportedly became victims of dowry demands during this reporting period. Due to dowry related violence, a total of 32 women were reportedly killed and 18 were tortured and 1 allegedly committed suicide.

Acid violence

38. During the period 1 January to 31 March 2009 reports show that a total of 17 persons fell victim to acid violence. Of them, 11 were women, 5 men and 1 girl.

Recommendations

1. Trial of Pilkhana killings should be conducted in an open court under the existing laws and not under the Army Act.
2. An independent and proper investigation is needed into the deaths of BDR members who were in custody.
3. The conditions imposed upon the political parties for registration need to be reconsidered.
4. Odhikar demands the re examination of the Anti Terrorism Bill by the Parliament, which must seek extensive public opinion before making it a law.

⁶The Dowry Prohibition Act 1980 makes the giving or taking/demanding of dowry an offence, punishable with imprisonment and/or fine.

5. The government should take immediate steps to stop political violence. Those who are engaged in such violence must be brought to justice. Law enforcement agencies should be strengthened to stop the violence.
6. The government should take immediate and effective steps to stop killing, injuring and abduction of Bangladeshi citizens by the Indian Border Security Force (BSF).
7. The Government should take effective measures to stop violence against women. It must be pro-active in bringing perpetrators under the law and offer practical assistance to victims/survivors. It must ensure that victims and witnesses are protected so that perpetrators cannot intimidate and re-victimise them. In this regard, Odhikar calls upon the government to set up a special fund to give both physical and psychological support to victims of gender violence and to offer adequate compensation.
8. The garment factory workers must be paid their wages and dues regularly. The BGMEA must monitor the garments owners regarding pay, bonuses and increments and payment times and uphold the tripartite agreement.

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Notes:

1. Odhikar seeks to uphold the civil, political, economic, social and cultural rights of the people.
2. Odhikar documents and records violations of human rights and receives information from its network of human rights defenders and monitors media reports in twelve national daily newspapers.
3. Odhikar conducts detailed fact-finding investigations into some of the most significant violations.
4. Odhikar is consistent in its human rights reporting and is committed to remain so.