

# BANGLADESH

## Lust for Power, Death of Dignity

### Introduction

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Four decades since its independence, the People's Republic of Bangladesh continues to struggle with legitimacy and maintenance of the rule of law. In 2013, human rights violations continued without relent, often under direct orders from the government and the police. The hands of Bangladeshi politicians, the military, and the Rapid Action Battalion (RAB) are stained with blood. Those ostensibly meant to protect Bangladeshi citizens, prey on them, all the while holding themselves above the confines of domestic and international law.

Political factions incite violent confrontation. Opposition leaders are silenced or thrown in jail. Limitations on freedom of speech, expression, and assembly are enforced by the ruling regime; journalists are jailed, threatened, and killed for discussing political or military matters. Human rights defenders face harassment, threats, ill-treatment, and arbitrary detentions for fabricated charges. This is exacerbated if their work conflicts with the interests of the government or big business.

Courts deliver guilty verdicts and hand out death sentences in the absence of appropriate investigative and judicial measures. Suspects, including the falsely accused, are repeatedly tortured by the police to satisfy conviction requirements, extract information, and obtain monetary bribes. Women, whose families are required to pay substantial dowries before marriage, are subject to abuse and then denied remedy for their ill-treatment. Enforced disappearance and extrajudicial killing occur with impunity.

Denial of human dignity has become part of the fabric of daily life in Bangladesh, and outright denial of this reality is the default setting of the Bangladesh government. For instance, in a 2006 correspondence and petition for entry to the UN Human Rights Council, Bangladesh claimed that it "has been at the forefront of promotion and protection of all human rights at national, regional, and international levels. This has been reflected in Bangladesh's adherence to all major human rights instruments."

Today, life in Bangladesh continues to deteriorate. Various factions fight for control in violent confrontations that consume lives of the innocent. An ineffective judiciary prevents access to justice for the majority of Bangladeshis and allows corruption to flow unopposed throughout the country. A government, which won a majority in the 2008 general election declaring a 'crusade' against corruption, has made the country's Anti-Corruption Commission, a paper tiger, and a toothless one at that. Draconian laws, like the Information and Communications Technology Act, 2006, have been made more regressive. The likes of the Anti-Terrorism Act, 2009, and the Mobile Court Act, 2009, are used shamelessly as a tool by state agents to repress any contrarian voice. Recent constitutional amendments serve only to increase the power of the government at the expense of citizens.

The credibility of the electoral process is itself in question. Democracy in Bangladesh is nothing but a pretense. It is a façade for the actual system of manipulation, influence, violence, and entrenched power. In this system, the wealthy gain special favors from the government, big businesses earn money at the expense of the people, and the government manipulates legislation and the constitution in order to maintain its grasp on power.

There are elements common to past and present regimes of Bangladesh. Every regime has weakened critical institutions of governance through nepotism, corruption, lawlessness, and impunity, among other methods which will find mention in this report. Every regime has hindered the exercise of democratic rights and fundamental freedoms of the people. Every regime has used the terms “constitutionality” and “democracy” for political or individual gains and have abandoned ordinary citizens, their rights and freedoms.

## **Illegal Arrest & Arbitrary Detention**

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As hired musclemen of the ruling regime, law-enforcement agencies have regularly been arresting opposition activists, detaining them in fabricated cases. There is no official statistic of the daily or monthly number of such arrests and detention, but those in the opposition, journalists, and human rights groups have informed the AHRC that around a thousand people, including opposition political leaders, activists, and innocent citizens are being arrested and detained every month across the country. Extortion of the detainees and their families by the police and paramilitary has risen during the political power-clash.

The meaning of the word “arrest” in Bangladesh is differs dramatically from the word’s meaning in countries possessing a functional criminal justice system. The ordinary folks of Bangladesh understand the term “arrest” as the picking up of persons by state agents, who are not answerable to anyone for their actions. These state agents never tolerate questions from the arrestees or their families about the grounds for arrest. Questioning state agents, challenging their lawful authority to arrest, or demanding an arrest warrant issued by a Court, is invariably met with retaliation. This ranges from abusive language to physical torture of the arrestees and their families. Cases where state agents produce a proper warrant of arrest at the time of taking the person into custody are rare.

Bangladesh police and other law-enforcement agencies, such as the RAB, are accustomed to arresting suspects without a warrant, regardless of the alleged crime being cognizable or non-cognizable. ‘Suspects’ are arrested without the collection of sufficient evidence about the involvement of the arrestee in the alleged crime. This keeps their personal coffers full with bribes, and maintains the façade of work being done. It helps the subordinates in the field show their superiors that they are serious about their responsibility of maintaining ‘law and order’ by arresting ‘crime suspects’. The entire policing system, and that of the parallel paramilitary forces, maintaining law and order, favours corruption. With such a bent, few bother to consider if an innocent is being arrested or a real suspect is getting away scot-free. More arrests only mean wider scope for grasping illegal income. This is the ultimate goal for the overwhelming majority who choose to join the police or paramilitary forces.

Certain political aspects are integral to the Bangladesh policing system. The politicians, those in power, in particular, want the police to arrest, detain, and torture the activists of the opposition. They instruct the police to crackdown on their rivals. This is done for the purpose of weakening competition in political contest. Such police crackdowns are treated as 'proper service' to their political masters. By rendering this service to the ruling regime, police officers not only keep their jobs, but also secure lucrative postings, promotions, and other rewards. In addition to overt official benefits, through an unwritten but well-established understanding between the ruling regimes and the police, broader impunity will be guaranteed to the police officers for serving their masters with such acts of loyalty.

The culture of impunity to the police for doing dirty work means there political and financially influential persons use the police to grab assets of others. Why risk crime, when that is what the police are for? The police are ever-ready to provide such service in exchange for reward and often use illegal arrest, arbitrary detention, and torture as the tools to fulfill their responsibility to their 'clients.'

In other instances, to protect actual perpetrators, the police implicate the innocent. For example, in an incident of gang rape, the police included the name of the boyfriend of the victim as an accused in the complaint, due to bribery and political pressures from the side of the rapists. Four persons have been identified as the main perpetrators of the gang rape; however, the police have not registered their names in the FIR. Documentation by a human rights fact-finding team asserts that the alleged perpetrators were supported by an influential leader of the ruling party, who is chairperson of a local governmental unit in Satkhira district, and that the police have allegedly received bribes from the rapists.<sup>1</sup>

Cases where the police do not have a vested interest are difficult to predict. To get any criminal investigation conducted by the police, the complainant has to pay bribes to the relevant police officers. The police seek out the offenders through their sources and demand bribes from those offenders; in exchange, they do not include their names in the investigation report. The police also compel the victim or complainant to pay bribes, with the assurance of making a 'true investigation report' that may lead to conviction of the perpetrators. When the perpetrators pay more money, and the victims/complainants fail to afford the demands of the police 'investigators', the police pressure the victims/complainants to withdraw the complaint. The perpetrators can so easily succeed in making the police biased in their favour and take advantage of this opportunity to intimidate the victims into settling the matter outside the purview of such criminal justice institutions. In cases that involve violence against women, the alleged perpetrators offer a proposal of marriage in exchange for the victims not filing any formal complaint or in exchange for withdrawing a case already registered.

## **Torture & Ill-Treatment**

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Torture is endemic in Bangladesh. Law-enforcement officers and criminal 'investigators' are often the perpetrators. They use torture at the time of arrest, from the scene of arrest to the destination of detention, and in the detention facilities of the law-enforcement agencies and security forces. The arrest of a person by the police or any law-enforcement agency of the

<sup>1</sup> [http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#\\_ftn5](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#_ftn5)

country is understood to mean torture and ill-treatment of the arrestee from the arrest onwards. The police rarely show a warrant of arrest issued by a court of law and practice of random arrests spares no one from the sprees of arrests constantly made by the country's law-enforcement agents. As alluded to before, there is a general public understanding that if a victim of an illegal arrest dares to ask any question challenging the legality of his or her arrest, the risk of sustaining instant and subsequent torture increases dramatically. As the period of detention in police custody is prolonged, the fear of death or being permanently or partially disabled from ill-treatment increases. As a result, citizens learn to maintain silence and accept as normal the illegal arrests and detentions to which they are subjected.

The Bangladesh police are institutionally corrupt. The police use torture for extracting bribes. People are forced to pay protection money to the police on a daily basis for maintaining their livelihoods. For example, street-hawkers, shopkeepers, traders, and industrialists all have to pay money to the police whenever it is demanded. Professional offenders of crimes—such as drug-peddlers, smugglers, thieves, robbers, snatchers, and illegal arms-dealers—have to pay money to the police regularly as well, some pay on a daily



Police seen ill-treating a person on a Dhaka street. (AHRC File Photo)

basis while the others pay weekly, fortnightly, or monthly, as per police demands. Other reasons for demanding bribes are: including or excluding any name in the list of accused in a criminal case, getting any tailor-made investigation report, arresting any person as accused of an alleged crime or releasing anyone from an accusation, increasing the degree of systematic torture or decreasing and stopping torture of a suspect, the price of the bribe is the only variable factor.

The police and other law-enforcement agencies, including the RAB – a paramilitary force dominated by officers of the armed forces enjoying blatant impunity for their crimes – keep their eyes on the successful for their financial gains. They target those with money, including traders, expatriate citizens, industrialists, and other businessmen. They raid houses and offices, arresting one or more people, and detain them for days, demanding ransom. Once the demanded amount is paid, the detainee can get release.

In Bangladesh, the officers of law-enforcement agencies shelter their illegal assets using the names of their wives, children, or in-laws, and thus there is no effective mechanism or institution for holding the police accountable for their disproportionate income and wealth. The political regimes and the institutions such as the Anti-Corruption Commission, which is obliged to curb corruption, constantly keep their eyes averted so that the rampant corruption can serve their mutual purposes. Subsequently, the chain of command is systematically replaced by a “chain of corruption” within law-enforcement agencies.



As mentioned before, torture is routinely used by the police and paramilitary forces for the purpose of extorting money in Bangladesh. Law-enforcement agencies regularly arrest citizens, including businessmen, and detain them arbitrarily for days without any accessible records or explanation of lawful grounds. During detention the detainees are intimidated and have charges fabricated against them. Often the detainees are threatened with death for their failure in paying bribes to the state agents. The police will even target persons from the upper-middle class having fair reputation in the society for these tactics. In addition to torture the police threaten to slander victims publicly with stories of scandalous extra-marital relationships or to brand them as members of Islamist militant groups, again for extortion.

People of different socio-economic backgrounds have been forced to pay bribes to police, from millionaires to hand-to-mouth marginalized people. Those from affluent backgrounds find more ways to cope. But the poverty-stricken, which comprise the majority of people who are subject to custodial torture and ill-treatment are destroyed, due to impunity, inaccessibility to the justice system, inadequate psychological treatment, and lack of support for reintegrating with social life.

Torture also changes the demographic picture of Bangladesh, as the majority of torture survivors suffer from the consequences of repressive cycles of torture by law-enforcing agents for generations. They drift in emptiness in all aspects of their life. The survivors' mental and physical capabilities are damaged in a way that negatively affects their personal, socio-familial and economic life. On the other side of the equation, the political and bureaucratic and criminal justice systems complement each other to patronize and solidify torture, and deny justice to the deserving. Many survivors see torture as the key pillar of the State, contradicting the theoretical definition of State from the perspective of political science.

After many years of struggle and continued infliction of torture and numerous deaths in custody, torture and custodial death have been criminalized in Bangladesh on 24 October 2013. The enactment of the *Torture and Custodial Death (Prohibition) Act, 2013*<sup>2</sup>, which makes torture and custodial violence a criminal offence in compliance with the UN Convention Against Torture (CAT)<sup>3</sup>, is a significant development in Bangladesh legislative history. There is no record available yet regarding the use of this new legislation to bring the perpetrators to book in cases of torture and extrajudicial killings.

Bangladesh policing is, however, a far cry from any concept of professionalism. So unless police reform buttress this new legislation, torture will not abate. While the police are officially responsible for conducting the criminal investigations they incorporate torture as an integral part of the investigative mechanism. Torture is the principal tool indeed used for criminal investigation or interrogation of crime suspects in Bangladesh. The law-enforcement agencies, which lack professional efficiency to investigate criminal cases, depend on torture

<sup>2</sup> Unofficial English Translation of Torture and Custodial Death (Prohibition) Act, 2013, Act No. 50 of 2013  
<http://www.humanrights.asia/countries/bangladesh/laws/legislation/Torture-CustodialDeath-ActNo50of2013-English.pdf/>

Official Bangla version of Torture and Custodial Death (Prohibition) Act, 2013, Act No. 50 of 2013  
<http://www.humanrights.asia/countries/bangladesh/laws/legislation/torture-custodialdeath-act-2013-act-no50of2013-bangla.pdf/>

<sup>3</sup> United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment  
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>

(called the “third degree method”). It is used for extracting confessional statements, in spite of the constitutional provision, as per Article 35 (4), which states: "No person accused of any offence shall be compelled to be a witness against himself".

The country's civil society, media, and scholars largely agree with the police view that torture is necessary for criminal investigations. There is a notion in the Bangladeshi national psyche that criminal investigation cannot be conducted without torture. Likewise, there is an expectation that the police will torture a crime-suspect immediately after arrest. This expectation is itself a part of the understanding, the belief, that trial in courts will ultimately fail to convict the alleged offender. In absence of an effective judicial system, torture is sometimes seen as the sole punishment for criminals who are able to buy their way out of extended jail sentences. If justice cannot be sustained through the courts, torture before and during trial, in the eyes of many, is the only way for justice to be done. Ironically, this only reflects the level of people's distrust in the criminal justice system of the country. Any discourse relating to the prevention of torture and the demand of criminalisation of torture, is termed as an ‘agenda of western society’, being propagated against the norms established in Bangladesh.

The passing of the aforementioned statute is, therefore, significant. First and foremost, it is one of few country-specific pieces of legislation that actually acknowledges the problem of custodial torture and enforced disappearances. A significant step given that in many Asian countries the problem of custodial torture is widely ignored and, in fact, accepted as part of society. Initiating anti-torture legislation shows that the Bangladeshi government acknowledges torture as a criminal activity.

At the same time it is urgent for the nation to understand that a torturous policing system and democracy with a functional rule of law system do not grow together, that the existing policing system is incompatible with democracy and the rule of law. Any commitment to the establishment of the rule of law, from the part of the government, must come with thorough police reform. Torture-free policing is a must to benefit from the legislation criminalising torture and custodial violence.

## **Extrajudicial Killing**

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Extrajudicial killing, one of the most appalling human rights abuses, still plagues Bangladesh. The practice of extrajudicial killings disproportionately affects the poorest and most impoverished in society. While torture is used to extract money, extrajudicial killing is used to terrorize families and communities. Because the murderers are members of the police force, army, or RAB, such killings prevent victims and their families from seeking justice, and often go on without investigations or even acknowledgement from the authorities. Extrajudicial killing is a tool used by governments that have such little actual power that they must resort to threats, coercion, and murder to maintain control.

The Bangladesh Government wasted five years to prove its “zero tolerance” for extrajudicial killings. A political party promised in its election manifesto in 2008 to stop extrajudicial killing and bring the perpetrators to justice, and thus won a majority in the parliamentary election. In the end, they proved that they bluffed the citizens for political gain. The government of Bangladesh Awami League have thereby added several hundreds more lives to the ever-growing list of extra-judicially-murdered victims. The country's administrative and criminal justice institutions routinely facilitate the process of covering up the murders. Nobody in Bangladesh believes that there is any chance that the families of those killed will find justice or redress.



Police often open fire, with live ammunition, at protestors attending opposition rallies in Bangladesh. (AHRC File Photo)

Human rights groups, such as the AHRC and its sister organization ALRC, have been reiterating the public demand of credible investigations of all cases of extrajudicial murders that are taking place in Bangladesh. Bangladeshi authorities have only upheld their hypocrisy in response to the calls of the rights groups. Criminal justice institutions are not only undermined but rendered functionally non-existent when a country adopts the practice of killing its citizens extra-judicially and guaranteeing impunity to the State's agents for such heinous crimes occurring on so large a scale. The Government, and the ‘professionals’ directly involved in the criminal justice institutions, have made people believe that murders committed by the State itself are not justiciable.

A large number of widows and orphans have been created by the State and this population grows, but there are no orphanage or widow homes to shelter them. There are no institutions or responsible people to listen to these victims and ensure they are treated with dignity. Moreover, the country's healthcare institutions and social security programmes are designed to cater to the needs of these victims whose mental health is in a delicate state. Victims suffer from multiple problems, including an incessant thirst for justice in a cruel State, financial hardships as a result of the unwarranted demise of key sources of income, continued harassment by various State-agents for being the successors of a person exposed as a ‘criminal’ by the murderers, social disassociation, and subsequent stigmatization in the society. These families carry the burden of multiple grievances, as a result of extrajudicial murder and the subsequent negation by the State and society. They face many other challenges in the process of keeping their lives moving forward; they face embarrassing questions in their academic, professional, and marital life, when they try to move on.



Rapid Action Battalion in their usual guise, which helps the authorities create panic in society and silence the people. *AHRC File Photo.*

Bangladesh's civil society is highly selfish in terms of caring about victims of State-orchestrated violence, with few exceptions. The majority of civil society organizations and people do not focus on the depth of the problems being created by the State. It will not be surprising to see certain segment of the civil society organizations start writing projects for NGO funding after the widows of extrajudicial killings form an association to make their voice heard in public.

## Enforced Disappearance

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Allegations of disappearing citizens have been frequently raised against law-enforcement agencies and the country's human rights groups often publish various statistics of enforced disappearance. The numbers of victims, according to rights groups, are increasing day by day.

Theoretically, there is legal remedy available for victims if any *Habeas Corpus* writ is filed according to Article 102 (2) (b) (i) of the Constitution of Bangladesh, which reads:

*"(2) The High Court Division may, if satisfied that no other equally efficacious remedy is provided by law - (b) on the application of any person, make an order - (i) directing that a person in custody be brought before it so that it may satisfy itself that he is not being held in custody without lawful authority or in an unlawful manner[...]"*

But practically, seeking remedy by filing a writ petition to the High Court Division of the Supreme Court, which requires fronting stiff lawyers' fees and facing entrenched corruption in the entire judicial institution, is not affordable for families of disappeared victims. Further, it is regrettable to see the role played by the Office of the Attorney General, which constantly objects to the petitioners' writ - as the AHRC has experienced in the case of Mohammad Salim Mian - in order to protect state-agents, instead of widening avenues of legal remedies for victims. Such actions of the Attorney General of Bangladesh undermine the very notion of administering justice.

Plunging into the rigmarole of the formal complaint mechanism is simply suicidal for families of disappeared victims: police refuse to register complaints alleging atrocities committed by any law-enforcement agency and instead proceed to intimidate the



complainants incessantly. This stonewalling and harassment of devastated families is over and above that which they face from individuals connected to the agencies accused, such as the Bangladesh RAB, which, at the very least, always, unfailingly, completely denies any disappearances.

It is this denial that pervades government at all levels. When the same matters have been discussed in the UN Human Rights Council, the government has used such opportunities to deny allegations of enforced disappearance outright. For example, Bangladesh's Foreign Minister Dipu Moni made a strange point during the 16th Session of Universal Periodic Review, held in Geneva in April 2013. In paragraph 66 of the UPR Report, the minister stated that she:

*"disagreed with the suggestion that enforced disappearance was frequently used by LEAs and clarified that the term did not exist in Bangladeshi laws, which recognized kidnapping or abduction as cognizable offences. She underlined that the association of LEAs or State machinery with such criminal acts was deliberately done to undermine their credibility and create misperception in the public mind."*

Can a government deny its obligation to ensure justice to those who complain against state-agents for disappearing their dear ones if the country's law does not criminalise this particular offence in its law books? Any responsible government should be happy to meet the vacuum of adequate legal provisions by enacting legislation in compliance with the International Convention for the Protection of All Persons from Enforced Disappearance, followed by immediate accession and implementation on the ground. That its Foreign Minister can make such an inane and shameless statement to the international community only betrays the government's sincerity in addressing the calamity besetting the lives of its citizens deprived by those acting on its behalf. This is nothing if not endorsement to the ongoing crime. It appears to be the adopted policy of the State to disappear its own citizens and to deny its own responsibility.

Continued disappearance will lead to multiple crises in the Bangladeshi society. Firstly, the professionals involved in the institutions of the country's criminal justice system will be utterly demoralised. Seeking judicial remedy even for them will be deemed to be nothing but a dark and twisted joke. Secondly, the number of widows, orphans, and aggrieved parents and siblings will swell. This population, and their relatives, will merely survive the passage of time with complete frustration and distrust towards the state. The state and society will face further withdrawal of people in terms of creative and productive public contributions quintessential for the fair development and future advancement of Bangladesh. This will in turn lead to manifold socio-economic hardships and further alienation of the state and the people.

Enforced disappearance in Bangladesh has been increasing during the past three years. This is due to the fact that the state does not exercise reasonable control over its agencies, engages in human rights abuses, and establishes no measures to prevent disappearances. The agencies include *inter alia*, the police, paramilitary units, the RAB, and other intelligence agencies working under the influence or directly controlled by the armed forces of Bangladesh. Additionally deep and rooted corruption facilitates and encourages state officers to abduct people for ransom (though they are also paid by private entities to undertake disappearances) often followed by extrajudicial executions.

Due to inaction, the executive government endorses these illegal activities by its agencies. The courts in Bangladesh are equally unable to address this issue. The judiciary is certainly not immune to corruption, and judges in Bangladesh, of all ranks, are also under threat from state agencies. This is so common in Bangladesh that there is a relevant vernacular saying: “if one person parts ways with another, either person could arrange for a disappearance or encounter [*implying extrajudicial murder*] of the other.” Also when writs of *Habeas Corpus* are brought before the court, the Office of the Attorney General of Bangladesh, routinely defends law-enforcement agencies, rather than cooperate with the court to enforce the writ, just as it does for similar crimes mentioned previously.

As noted earlier, abduction and disappearance caused by state agencies are on the rise in Bangladesh. In most cases state agents carry out abductions in plain-clothes. None of the police stations in the country register a complaint regarding allegations of abduction, particularly when the law-enforcement agencies are named in the complaints. All the police, paramilitary, and security agencies will, in chorus, deny involvement in abductions. Human rights defenders in Bangladesh who attempt to assist the victims in such cases face extreme forms of repression by the state agencies.

The AHRC has interviewed a number of families who alleged that their relatives have been abducted and consequently have disappeared, their whereabouts unknown. The victim families allege that their relatives have disappeared after armed men, dressed as civilians and claiming to be from the RAB, abducted them.

Those victims that return alive from undisclosed detention centers run by the RAB are extremely reticent in reporting a complaint since they fear for the safety of their relatives and their person; in each case disclosed to rights defenders, the victims have requested not to be named publicly. The pattern apparent is that all of victims have been picked up by plain-clothed armed men, introducing themselves as officers of the RAB or of the police. At the time of arrest, they are handcuffed and blindfolded. They are never informed about the reason why they are detained. They are taken into custody by the agents and detained for several months without bail, and without being produced before a court or formally charged with any offence. During their detention, which often ranges from four to eight months, they are subjected to violent forms of torture. After detention they are driven hundreds of miles and dropped off in isolated rural areas during the dark of night, still blindfolded. In some cases, the local police have arrested the person followed their prolonged illegal detention, and the families are informed to collect their relative now in police custody.

To restate the situation: relatives of the abducted persons are prevented from exercising their right to register a complaint regarding abduction or from learning the details about abduction. On the other hand, the abductors introduce themselves as officers of the RAB or as state officers, usually heavily armed and driving vehicles without registration numbers or license plates. It appears that these abductions are undertaken either at the instructions of higher authorities or to create an illegal but authoritative aura of legitimacy for such abductions. All of the cases documented and reported to the AHRC show the arresting agencies neither following the Criminal Procedure Code (which mandates the arresting agency provide the arrestee reason for arrest, produce them before a local court within 24 hours, and allow them to contact a lawyer). The authorities defend this by stating: there are no complaints about such incidents with the local police.

In addition to failing to take any visible action to investigate cases of enforced disappearance, the government also uses diversionary tactics. It regularly harasses and intimidates journalists and threatens to close down the media; all for asking questions to the Home Minister regarding disappearance of victims. Several journalists have received threats by telephone from high-ranking officers from the RAB and other intelligence agencies.

Deprivation of life continues unabated as the Bangladesh judiciary, including the Supreme Court, has utterly failed to ensure legal remedy for the victims or their families in cases of enforced disappearance. Neither the government nor the judiciary is engaged in discharging their constitutional mandate. The people's rights to life, liberty, and security are endangered by state-agents and they are denied all forms of redress. This keeps impunity entrenched. The political elite support this, excusing the crimes committed by state agencies, and in doing so, promoting and patronizing state-sponsored lawlessness.

## **Freedom of Expression & Opinion**

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Exercising the right to freedom of expression is a challenge in Bangladesh. There are draconian laws to deny this freedom rooted in a culture of self-censorship developed over decades. Conversely, there are extravagant freedoms of expression enjoyed by select groups that have government protection, especially when used against dissident voices. In this way the State is actively and systematically abusing right to freedom of speech and expression, especially by denying the right to those who are critical about the misdeeds of the authorities.

Culturally, freedom of expression is an unwelcome right in Bangladeshi family life, where the younger family members are, by default, discouraged from having their say, even when there is a valid point against an opinion or decision of the elders. The same custom of deference is applied in academic institutions, from primary school to university. Subordinates are expected to 'respect' the opinions of their superiors through silence. The lesson of non-confrontation with seniors remains a very important factor even in a professional career if one wishes to flourish and advance in his or her position. This is the practice in public and private institutions of the country. Expressing a different opinion that challenges the views of teachers or senior officers at the work place may bring with it risks of unfortunate, if not unexpected, consequences. Any ambitious advocate of freedom of expression is liable to pay the price by being identified as a 'radical', a trouble-maker', and may be neglected, dishonoured, sidelined, or even removed altogether.

In accordance with customary practice in family, academic, and professional fields, the government of Bangladesh legalized the suspension of freedom of expression in politics. The Constitution of Bangladesh in Article: 70 (1) has made provision banning voting against a parliamentarian's nominating political party. The Article reads:

*Vacation of seat on resignation or voting against political party:*

*70. A person elected as a member of Parliament at an election at which he was nominated as a candidate by a political party shall vacate his seat if he –*

- (a) resigns from that party; or  
 (b) votes in Parliament against that party;

*but shall not thereby be disqualified for subsequent election as a member of Parliament.]*

This provision was inserted in the 12<sup>th</sup> Amendment to the Constitution in 1991, which has been reasserted in the 15<sup>th</sup> Amendment in 2011. As a result, parliamentary voting has been reduced to a rubber stamp, used only to legitimize the decisions of the party's hierarchy; regardless of whether the party's combined acts provide any contribution to the welfare of the ordinary people in the long run. By denying the freedom of expression of parliamentarians, the Constitution has ultimately silenced the people, constitutionally.

There are other domestic laws in effect that challenge the freedom of expression in Bangladesh. The Telecommunications Regulatory (Amendment) Act, 2010, is one of the draconian laws that deny freedom of expression. Section 97A of this Act, which was inserted in 2006, allows the authorities to tap any conversation or communications of any person "for national security", while section 97 B allows the authorities to use the information obtained by State agents through tapping of communications, and use this as evidence against suspects. This provision excludes the Evidence Act, 1872, in trying the persons accused under the Telecommunications Regulatory Act, 2010. The police, paramilitary force, and intelligence agencies of Bangladesh have been allegedly tapping all possible means of communications of

private individuals and organizations as a part of a campaign of harassment and state-sponsored repression.



*Odhikar* Secretary Adilur Rahman Khan being taken to Dhaka Central Jail on August 11, 2013. Authorities are trying to silence him under the Information and Communications Technologies Amendment Act, 2013. (Courtesy: *Odhikar*)

'cyber crimes' under Sections 54, 56, 57 and 61, previously bailable, have now been made cognizable and non-bailable; the maximum penalty has been increased from ten years to fourteen years, with seven years as minimum penalty; and the police or other state agents have been empowered to file a case without permission from the government (it was previously mandatory for the police to seek permission from the relevant ministries). On August 21, the President imposed this amended version as an ordinance, which has, on October 6, been enacted in Parliament.

The Information and Communications Technology (Amendment) Act, 2013, has arrived as another blow to the people of Bangladesh. This law was originally introduced in 2006. It authorized law-enforcement agents to file cases against alleged suspects only with prior permission from the Government. On August 19, 2013, the Cabinet approved an amendment to this law. Some of the non-cognizable

These changes to law were hurried ones, made after the authorities arbitrarily detained Adilur Rahman Khan, Secretary to the human rights organization *Odhikar*, which has



consistently criticized the Bangladesh government against gross abuses of human rights. On November 6, ASM Nasiruddin Elan, Director of *Odhikar*, a colleague of Adilur, was also detained under the same law for publishing a fact-finding report which documents 61 deaths in an overnight crackdown against a pro-Islamist group of demonstrators in the early hours of May 6, 2013. Newspaper Editor Mahmudur Rahman was detained on April 12 under the same law for allegedly hacking into the conversation of a judge of the International Crimes Tribunal-1, who is trying cases related to the 1971 war crimes. The authorities also detained four bloggers for writing defamatory material against Prophet Muhammad (PBUH).

Print, wire, and visual media based in Bangladesh that carry news reports can hardly survive without repression or compromise with the authorities. The government, on one hand, has banned most pro-opposition media during its tenure and, on the other, has widened opportunities for its own allies to open new television channels and online portals. The old media outlets, less directly associated with the ruling regime, have reorganized themselves into incorporating more pro-government share-holders and journalists and showing the door to the more pro-opposition owners and journalists.

Some private television channels have been compelled to close down their critical talk-shows. The few newspapers that have continued publishing reality (as in, independent from government propaganda), have experienced continuous threat, intimidation, and constant surveillance by intelligence agencies. Even the members of the families of senior journalists face threat. Two pro-opposition television channels were shut-down in the early morning on May 6, 2013, for broadcasting the governmental crackdown on the demonstrators of *Hefazat-E-Islam*, a pro-Islamist non-political organization, which protested the blogs containing humiliating statements about Prophet Muhammad (PBH) and demanded lawful action against those responsible. These channels have not yet been allowed to resume their broadcasts to date. Those outlets that continue criticizing the authorities do so at risk to the lives of their personnel.

The culture of self-censorship rooted in society how flowered in Bangladesh politics. The 4<sup>th</sup> Amendment to the Constitution and subsequent military-dictatorships have provided nutrition to this blossoming. The journalist community, like all other professional groups in Bangladesh, is divided in two groups based on political ideology. Such divisions allow the influential leaders and flatterers of the pro-government group to enjoy all possible benefits, including advertisement, recruitment, postings in foreign diplomatic missions, public portfolios, allocations of lands in big cities at token prices, and ownership of media houses.

Currently, most print and electronic media are privately owned by corporations, and the owners set individual policies for the convenience of their business interests that are often met through “friendly-relationship” with the government. In order to get their business-agenda implemented, the owners recruit journalists capable of endorsing this purpose, particularly those already close to the government; professionalism in terms of ethical standards of journalism is not preferred by the owners. Anyone found to be “stubborn” in maintaining journalistic ethics risk losing their job at the very least.

From a criminal law standpoint, Bangladesh does not have any law to guarantee the protection of victims and other witnesses, let alone any mechanism to protect victims and other witnesses in Bangladesh, as there is no definition of 'victim', either in the Penal Code,

1860, or in the Code of Criminal Procedure, 1898<sup>4</sup>. 'Witness' is defined in Section 118 of the Evidence Act, 1872<sup>5</sup>. The State has an undeniable obligation to protect victims and witnesses, and should immediately create and implement a mechanism to enable this.

As pointed out, much of the media in Bangladesh is sponsored by the state, which leaves little room for dissident media. Members of the minority media are often targeted for their participation in exposing failures and wrong doings of the incumbent regime and journalists and bloggers face threat and harassment. Arrests for sedition continue to be common, despite freedom of speech being specifically protected under Chapter III, Article 39, of the Bangladeshi constitution, as well as under international covenants, through various national security laws, sedition, and criminal libel. Anti-government opinions are often considered seditious and can be punished with three years to life imprisonment.

The Special Rapporteur on freedom of expression, Frank La Rue, has warned that journalists and other members of the media faced elevated risk in Bangladesh, especially during protests and clashes with the military:

"The ongoing violence has threatened the safety of journalists in the country and led to the killing of at least one blogger, and injury of a large number of media workers. Twelve websites have also been shut down by the Bangladeshi authorities."

The daily *Amar Desh* is one publication that has been the target of harassment over the past several years. On April 11, 2013, the *Amar Desh* Interim Editor, Mr. Mahmudur Rahman<sup>6</sup> was picked up by members of the Detective Branch of the Bangladesh Police and taken to Kashimpur Central Jail, where he was held on three separate charges: the first, lodged by a prosecutor of the "International Crimes Tribunal" (ICT) at the Tejgaon Police Station in Dhaka, accused Rahman of sedition for reproducing a Skype conversation, between a Judge of the ICT and a person living abroad, concerning an ongoing trial. The second complaint, levied by the Tejgaon police, accused Rahman of destroying vehicles on the road. Rahman was in police custody on the day of the alleged attack on property, indicating that either Rahman is remarkably talented or the police are quite slow. Rahman has also been accused of having published an unverified letter along with a photograph.

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<sup>4</sup> [http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#\\_ftn7](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#_ftn7)

<sup>5</sup> [http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#\\_ftn8](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#_ftn8)

<sup>6</sup> <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-076-2013/>



*Amar Desh* Editor Mahmudur Rahman is seen escorted at the Dhaka CMM Court on November 9, 2013. (AHRC File Photo)

He was subsequently abused and tortured at the hands of the Detective Branch of the Dhaka Metropolitan. He was then transferred to Bangabandhu Sheikh Muzib Medical University (BMSSU) for treatment. Mahmudur has been targeted by state officials before for his involvement in journalism and has faced torture at the hands of the police on prior occasions. The AHRC is skeptical of the charges holding up in an impartial trial for Rahman<sup>7</sup>.

Further, the police shut down the daily *Amar Desh* on April 11 this year, without cause or justification. Mrs. Mahmuda Begum, the Interim Chairperson of the Amardesh

Publication Limited, made an alternative arrangement to print the newspaper at the Al-Falah Printing Press. However, a District Magistrate prohibited the printing; 19 workers

of the Press were arrested and complaints were levied against Mahmuda as well as the Editor and Publisher of the daily *Sangram*, another newspaper of the Bangladesh Jamaat-E-Islami party.

Journalists can be detained under the 1974 Special Powers Act (SPA), which allows for citizens to be held for up to 90 days without a trial, simply for writing a story critical of government policies or officials. This 'preventative detention' under the SPA was intended to help protect Bangladesh and maintain public order; however, the act is now used to punish opponents of the government. Such detention of journalists is to circumvent fair and speedy trial in court and punish freedom of expression.. The SPA also encourages self-censorship by members of the media, especially when discussing political, judicial, or military issues.

Bloggers also face the threat of harassment at the hands of the government. In 2013, several bloggers were arrested for a variety of crimes. One of these was defamation of Islam, under which several atheist bloggers were arrested. These bloggers also face harassment and threat from the general population, after media paints them as anti Islam.

## **Dangers Faced by Human Rights Defenders**

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The State has orchestrated repression targeting every human rights defender and organisation that has attempted to criticize the gross abuses of human rights of the incumbent regime. Arbitrary arrest and detention in fabricated criminal cases addressed earlier in this report have become part of life for rights activists, except those activists who have maintained

<sup>7</sup> <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-077-2013/>  
<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-080-2013/>

a “friendly relationship” with the government. Constant surveillance, threats, and raids are common for human rights supporters, even at their personal residences.

Projects of rights-based activities have either been cancelled or blocked by the NGO Affairs Bureau, a wing under the Office of Prime Minister. The government has drafted a new legislation to control the NGOs with vague definitions to allow for arbitrary enforcement and the law has been criticized by local and international civil society and rights groups for its draconian provisions. The proposed legislation ultimately did not get enacted, however, the attitude of the government, and its actions, law or no law, have become more repressive.

There have been physical attacks on human rights defenders by the ruling party’s goons. The police and civil administration continued facilitating such attacks, allowing the perpetrators to escape arrest, as practiced during all the past regimes in Bangladesh. Due to the culture of impunity in the ruling party, the possibility of getting any legal redress is impossible unless the victim concerned is a high profile one.



*Odhikar* Director A.S.M Nasiruddin Elan is seen handcuffed (centre) on his way to prison from the Cyber Crimes Tribunal in Dhaka on November 6, 2013. (Courtesy: *Odhikar*)

The case of Mr. Adilur Rahman Khan<sup>8</sup>, Secretary of *Odhikar*, commented on earlier, is a prime example. Mr. Khan was kidnapped by 8 to 10 men in plain clothes from his residence at No: 35, Road 117, Gulshan, Dhaka, at 10:20 p.m. on August 10<sup>th</sup> this year. As the victim approached his home with his wife and children, a white minibus and SUV drew close. The security guard at Mr. Khan’s house tried to prevent the strangers from entering the private compound, but was unsuccessful.

Likewise, charges were also levied against Mr. Nasiruddin Elan<sup>9</sup>, the Director of *Odhikar*. On the 5<sup>th</sup> of September 2013, the police filed a First Information Report and case diary at the Metropolitan Magistrate's Court requesting the Court to file charges against Elan and Adilur under the allegation that they had “direct and active involvement in the preparation, publication, and dissemination of a report” concerning government murders of civilians. The police also allege that Elan and Adilur have published false material that has the potential to

<sup>8</sup> <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-142-2013>  
<http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-104-2013>  
<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-144-2013>  
<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-166-2013>  
<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-184-2013>

<sup>9</sup> <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-202-2013>  
<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-223-2013>



disrupt social order in Bangladesh. Both of these prominent human rights defenders were detained under the ICT, Adil for 62 days and Elan for 26 days.

One case that illustrates not only the dangers that human rights activists face but also the impunity under which government forces and big businesses operate in Bangladesh is that of Shahed Keyes<sup>10</sup>. Shahed is a human rights activist, Executive Director of the Suborgnogram Foundation, and Chief Advisor of the Illegal Sand Extraction Prevention Committee at Mayadip-Nunertek, Sonargaon, who was kidnapped on July 25 from a boat. Shahed's work to educate poor children from low castes in the country side was regarded as controversial, as was his advocacy against illegal sand mining in the area. Both of these upset the traditional balance of power in the area. He was sailing towards Ramprasador Chor Island in the company of several other philanthropists, including an American Peace Fellow, when several assailants pulled up next to them and attempted to apprehend all the passengers by force. A compromise was agreed upon when Shahed agreed to go with them voluntarily in exchange for the safety of the others.

After his abduction, Shahed was then taken to a nearby island called Faraji Kandi, where over 40 abductors joined in his torture. His assailants began by brutally beating him with rods and sticks, then began stabbing him in the neck and slashing his left wrist. The attackers cursed him for fighting against them and causing them to lose "a lot of money because of [his] movement." Shahed recalled one of his assailants stating that "we made the mistake of not killing you before," and he felt sure their intent was to kill him then. "This time we will kill you. We will cut the arteries on your wrists and legs, tie your hands and feet together, and throw you in the river."



Environment Activist / Educationist Shahed Kayes receiving treatment after being abducted, stabbed. (Courtesy: Kabir Humayan)

Shahed survived due to the intervention of his friends and (only after significant pressure) the police, but he required significant medical treatment and hospitalization.

The police however, allowed the perpetrators to escape. The victim filed a FIR no. 38, dated 25 July 2013 and was able to identify the following persons among his assailants: (1) Mr. Zakir Hossain, proprietor of Shahjalal Enterprise; (2) Mr.

Md. Mohsin, a person associated with the Four Point

Trading & Construction Ltd., owned by Selina Islam; and (3) Wasim, son of Abdul Matin, resident of Sonakanda village of Meghna, Comilla. However, Shahed still receives threats, but

<sup>10</sup> <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-138-2013>

he enjoys the support of other human rights groups, who are calling for the criminals to be brought to justice<sup>11</sup>.

## Freedom of Assembly & Association

Freedom of assembly and association has two sides in Bangladesh. One: the pro-government political and social organizations are given full freedom to organize rallies, meetings and processions, with full protection provided by State-agents, to publicly praise the government and blame the opposition in any possible way. Two: the pro-opposition or independent socio-political groups, and workers who demand their due wages and basic benefits are often denied opportunities to hold discussions, demonstrations, and rallies in public places. In reality, those who are denied exercise of their fundamental right to organize rallies try their best to have their say by any means, even without proper approval from the relevant authorities. Thus, opposition groups fall prey to police brutality on a regular basis.



Supporters of the Bangladesh Nationalist Party are seen agitating, after their having been denied permission to hold a rally in front of their party's central office in Dhaka. (AHRC File Photo)

The government has literally kept their political opposition confined at home, not allowing them to hold meetings. The central office of the main opposition parties have virtually been shut down by State-agents in the last few years with unwarranted police raids and arrests of dozens of activists, including a number of senior leaders, on many occasions across the country. The negation of the right to freedom of assembly and association has reached such an extent that the main opposition parties' leaders have gone in hiding. They are recording their audiovisual speeches from undisclosed locations and disseminating them through the internet to reach their supporters.

The obstruction of the freedom of assembly and association is often attached to the denial of personal liberty in the cases of opposition parties. An announcement of a protest rally by

<sup>11</sup> <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAU-022-2013>  
<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-139-2013>

the opposition parties brings about arbitrary arrest of the political activists prior to each programme; law-enforcement agents raid the houses, workplaces, and political party's office; and the police and paramilitary forces are seen accompanied by plain-clothed civilian persons with firearms at the rallies where they jointly attack the opposition with guns and other weapons. This is a decades-old practice.

In 2013, a new trend has emerged: the collaborating force of the police and civilian men escort the processions of the opposition. Then, a number plain-clothed actors target one or more activists of the opposition, surround the targets, and immediately the uniformed policemen jump on their prey and drag the persons to a nearby vehicle. Thus, not only has the arrest and detention increased but also State-agents are now being assisted by non-State actors in facilitating such arrests. This has contributed to an overcrowding of the country's prisons and other detention centres, to more than 300% of the systems actual capacity. When human rights defenders approach to the prison authorities seeking more information on the subject of jail and prison over-crowding, the authorities refuse to share data, claiming that 'superior authorities' prohibit disclosure.

At the same time, the constant denial of such events provokes the opposition to violence – the hallmark of Bangladesh's political culture. High profile government officials, including the Prime Minister and other top officials of the government, through their speeches and actions, provoke their political opposition to become violent. Rights groups recall that today's ruling party has itself introduced various forms of violence. These are the same violent actions that are being replicated on the streets across the country today, which cripple public life and create a cycle for each successive regime.

Numerous innocent people, including women and children, are being victimized by crude bombs and bullets. This violence is being displayed in public the name of “enjoying right to stage political protests” and “controlling violence in the name of politics”, as publicized by both the opposition parties and the ruling regimes, as well as in the endless blame-games by the fighting political groups, their respective media, and tame civil society groups. I

Ironically, the same party commits exactly the same crimes when in the opposition and blame the ruling regime for compelling them to take the violent path; none of the political groups want to accept that they have been abusing their constitutional authorities and violating the laws of the land for benefit of few individuals in the parties concerned. The interests of the people get no space in the priorities of warring political groups.

The real weaknesses of the institutions are invariably neglected by political groups. It is understood that political parties want to suck up the benefits from the extremely dysfunctional government institutions and ruin their opponents by manipulating the same institutions. The way the bureaucracy, policing, criminal investigation mechanisms, prosecution and attorney service, and adjudication process have degenerated reflect this scenario. As a result, ordinary people are destined to face the resulting violence, loss of lives, assets, and opportunities to build up their future. And, as a result, there is utter distrust of State-machinery. The notion of enjoyment of life with freedom – be it the freedom of assembly or freedom of expression – remain far from reach and many Bangladeshis curse their country's politicians for throwing them into this nightmare.



## Right to Choice in Election & Credibility of the Electoral Process

Bangladesh's centralized political parties have made several terms part of colloquial language. "Constitution", "people", "democracy", and "right to vote" are among those politically-popular ideas. But the more the politicians utter these terms in public speeches, the more they seem to undermine them.

The real strengthening of people's participation in democracy is tragically missing: voting in elections is only one of the ways for ordinary people to participate in the democratic process. The success of even such participation relies on credible institutions having effective checks and balances. The elected representatives would need to follow due process, in compliance with normative and ethical principles of upholding democracy.

But, the scenario in Bangladesh is differs from what other democracies offer. The ruling regimes always appoint people assumed to be unconditionally loyal to the incumbent regime. The nation suffers from the culture of appointing these pawns in public office, as every institution, including the Supreme Court, is subservient to this process. At the time AHRC releases this annual report on the state of human rights in Asia, Bangladesh is paying the price for such subservience and institutional compromise with blood.

The Election Commission (EC) of Bangladesh has been reshuffled by the government.



Arson attacks on public or private vehicles are a common phenomenon in Bangladesh. (AHRC File Photo)

Those who are loyal to the incumbent government have been recruited to head the EC, which has further gone one to recruit pro-ruling party activists in field level offices across the country. The EC has complied with the government to weaken electoral procedures. At least 28 provisions of the Representation of Public Order (RPO) have been amended by the government. The delimitation of the parliamentary constituencies

has allegedly been made for the convenience of ruling party contestants. Electoral offences can hardly be adjudicated by the EC under the changed RPO. The EC's ability of guaranteeing a transparent and credible election has now been reduced more than ever before. However, the EC has announced the schedule of election, hurriedly, without taking all opposition parties in confidence, allegedly to please the ruling alliance parties.

By repealing the provision of 'Non-party Care-taker Government' in the 15<sup>th</sup> Amendment of the Constitution of Bangladesh, the incumbent Prime Minister Mrs. Sheikh Hasina, has



created a crisis to perpetuate her power. All power of the state is centered and implemented as per the direction of the Prime Minister, according to the current edition of the Constitution. The Supreme Court was previously used by the Government to make the Fifteenth Amendment of the Constitution. Constitutional interpretations by the jurists are being replaced by the version of the Premier. Prior to the general election, candidates having capacity to exercise muscle power, are chosen by the ruling party so that ordinary voters are made to panic, either to vote in favour of the ruling party or to refrain from casting their votes.

The feuding political parties are waging war against each other using the state agents and non-state actors to establish their muscle power. Both political groups are well aware of the powerlessness of the Election Commission.

Because of this, the EC is one the weakest institutions of Bangladesh, a source of chaos and controversy. A majority of the population does not believe the EC to be a credible institution with capacity to act independently without instructions from the Office of the Prime Minister. Nobody in Bangladesh believes that the existing EC is capable of holding a credible and transparent general election, as scheduled for January 5, 2014. This belief has been strengthened in the EC wanting to curtail its own authority relating to cancellation of candidacy and when it did not object to the Government reducing its powers to adjudicate disputes on electoral issues.

## **Rights of Ethnic Minorities**

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Demographically, nearly 90% of Bangladesh's 160 million people are Muslims. The remaining 10% is often termed as "ethnic minority", due to their non-Muslim religious faiths. The ethnic minority includes Hindus, Buddhists, Christians, and some aboriginal communities such as Chakma, Marma, Tripura, Murang, Mog, Saotal, Garo, Khasiya, and Manipuri. Most of these communities, except the Hindus and Christians, have their individual dialects and cultures.

The ethnic minority communities are a vital factor in the electoral politics of the country. They are expected to support various political groups – mostly divided under the umbrella of two major political parties – that have shared power by turns in the last two decades. The existing competition for soliciting votes is based on political stereotypes. For example, the ethnic minority communities, especially the Hindus, are perceived to be a "vote bank" for the Bangladesh Awami League (BAL), which claims to be a secular political party. For the same reason, the counterparts of the BAL, namely the Bangladesh Nationalist Party (BNP) and its allies, perceive that the minority communities make a difference in pushing them back in the race of votes whenever an election arrives. Of course, these perceptions are not really accurate as there are both supporters and critics of both political groups amongst the ethnic minority communities.

Historically, in its first years (1949 to 1953), the BAL's name was All Pakistan Awami Muslim League. The word 'Muslim' was dropped in 1953 when the party came under the leadership of Sheikh Mujibur Rahman, who later became the founding President of Bangladesh in 1971. Throughout, the policies adopted, and in subsequent actions, the party

increased its acceptability to the communities at large and the ethnic minorities. The non-Muslim communities have trusted this party due to its backgrounds in leading various pro-people movements against united Pakistan, which used to express certain hatreds toward the non-Muslim communities in what was formerly East Pakistan.

The BNP was established by military general Ziaur Rahman, who became the President following a series of coups and counter-military coups that rocked the country since the assassination of Sheikh Mujibur Rahman in August 1975. The party leadership has appeared to have a pro-Muslim ideology since inception. This has resulted in the Constitution of Bangladesh upholding Muslim religious faiths in the State's basic principles. And has also rehabilitated a group of pro-Muslim political parties and individuals inside and outside the party. Such background has given rise to the suspicion amongst many non-Muslim citizens with regard to the party's overall policy regarding the enjoyment of their religious beliefs and culture.

Since the 1990s the BAL, like the BNP, has made certain changes in patronizing the pro-Muslim ideologies for political gain. In using a variety of methods to seek votes, such as: the creation of Awami Ulama League, a political wing of Muslim scholars; political agreements with other pro-Islamist parties; using a Islamic dress in the public domain; making visits to the shrines of late Muslim saints, both parties, BAL and the BNP, have draw closer to each other. The BAL has surrendered itself to Islamization through the 15<sup>th</sup> Amendment of the Constitution of Bangladesh in July 2011, when it ensured Islam would remain the State's religion in the Constitution. The dignity and identity of the ethnic minority groups are mostly ignored, if not fully denied, creating immense embarrassment, unhappiness and apprehension amongst underprivileged ethnic communities. As a result, many ethnic minorities are becoming cynical of the BAL's secular identity.

In reality, the struggle of "owning" the ethnic minorities for political power continues. The situation has placed the ethnic minority communities in a more vulnerable position although the social fabrics of the people of Bangladesh, regardless of their faith and culture, is surprisingly harmonious and exemplary compared to that of neighbouring nations. In a politically polarized country the NGOs, civil society, and media are clearly divided into two major pro-partisan groups that treat minority issues as a political tool to use against opponents. Thus, in politics, the bonds that the people have maintained for centuries, beyond religious or ethnic culture, are often ignored and undermined.

This practice is partially responsible for the failure to report the truth when ethnic minorities are victimized by majoritarian interest groups. The absence of the rule of law has already created grounds for abuse of power in Bangladesh. The minority communities suffer from this fundamental problem, especially when their lands or assets become the target of powerful individuals or groups.

Lands belonging to the ethnic and religious minority communities have been appropriated across Bangladesh in the last four decades. The BAL leaders themselves, along

with their political counterparts, have grabbed a majority of these lands since the inception of Bangladesh. The State itself has also taken away the lands of the indigenous communities<sup>12</sup>.

Heiner Bielefeldt, the United Nations Special Rapporteur on Freedom of Religion, expressed concerns over Bangladesh's ability to guarantee equality to its minority groups, stating, "the Government must ensure that the rights and freedoms of this community are protected in conformity with international human rights law."

An area of special concern is the right of Hindus to adequate housing. Many Hindu homes and temples have been destroyed in uprisings and violence. It has left many families homeless. Expert on minority issues, Rita Izsák has stated, "The attacks against the Hindu community are of serious concern, due to the fact that it constitutes a minority group in Bangladesh which has been at risk of violence at various times of the country's history."

## **Rights of Women & Children**

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Bangladesh has been ruled by two women, alternately, for more than two decades. Both the Prime Minister and the Leader of the Opposition are women, and the posts have been held by women since the 1990s. The country's Parliament has more than sixty female members, several of them being members of the cabinet. And there are a considerable number of women serving in the civil service, judiciary, police, military, and local government institutions today. The mere fact that there are a considerable number of woman employed in these institutions is used by the government to create a false impression that women are empowered in the country. That there are an increasing number of women participating in administrative, political, and financial sectors, in comparison to two decades ago, bolsters make such claims. The fundamental points relating to women enjoying their rights as human beings are often ignored, if not eclipsed. Women face continuing violence in Bangladesh, where the society struggles to consider women as deserving the same dignity as men. The lives of women are not secure in the society<sup>13</sup>.

The society's notion of female children within the family itself builds up a mindset that girls are less important than boys<sup>14</sup>. Similar to standards of freedom of expression, multiple forms of discrimination against girls begin at home and continue to the end of their lives as a consequence of this culture. For example, when resources are limited (a common problem), boys in a family are given the better educational opportunities and better quality meals than the girls. Likewise, an opinion of a male member of the family is meant to be accepted by the entire family, while the females do not have a say, regardless of whether either reflects reality. This imbalanced foundation of knowledge, fully biased in favour of the males of the family, spreads through the society, resulting in tremendous violence and injustice to women.

<sup>12</sup> 'Land Grabbing in Bangladesh', Shelly Feldman & Charles Geisler  
[www.iss.nl/fileadmin/ASSETS/iss/Documents/Conference\\_papers/LDPI/5\\_Shelley\\_Feldman\\_and\\_Charles\\_Geisler.pdf](http://www.iss.nl/fileadmin/ASSETS/iss/Documents/Conference_papers/LDPI/5_Shelley_Feldman_and_Charles_Geisler.pdf), accessed on December 07, 2013

<sup>13</sup> [http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#\\_ftn1](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#_ftn1)

<sup>14</sup> [http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#\\_ftn2](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#_ftn2)

Bangladesh nourishes a culture of paying dowry at the time of marriage. The practice of dowry is rooted over centuries, in all religious communities, including the Muslim community. The Dowry Prevention Act, 1980, remains useless in protecting women from the curse.<sup>15</sup> Families in all segments of society continue this practice and, in turn, endlessly suffer from the culture of paying dowry regardless of affordability. In some cases, greed for a larger dowry leads directly to physical violence against women.

Problems related to the prevention of violence against women center around the failure of criminal justice system. An ordinary female victim of violence does not have any guarantee of getting justice from the criminal justice system as practically every step requires bribery and persuasion of influential individuals from ruling political parties. For example, in order to register a complaint regarding such violence (or any criminal offence for that matter), one has to go the relevant police station. Police stations are one of the most unsafe places for female victims as the police perpetrate crimes (as elaborated on earlier) and complainants have to pay bribes to the officers just to begin the complaint registration process.

This is complicated by the fact that perpetrators can often become very influential themselves (due to their capacity of paying a higher amount of bribes to the police) and avail the backing of ruling political parties in return for services they may occasionally provide. As a result, the victims and/or their relatives often fear that filing a complaint will be counter-productive; the police may protect the perpetrators, receiving bribes, and/or following political persuasion. In one instance involving an acid attack, the AHRC discovered that the Koyra police in Khulna district insisted a victim marry the person who committed the crime against their person. The police investigator allegedly intimidated the victim, asking her to withdraw the case. It became known that the police officer received bribes from the alleged acid-attacker, who also had backing of the ruling political party members. The latest investigation report has cleared and discharged the alleged perpetrator, despite strong evidence linking him to the crime. The victim could not afford to pay bribes to the police and lacked political connections stronger than those of the alleged offender. No action has been taken against the police officer responsible<sup>16</sup>.

Furthermore, excessive cost of litigation, delays in trial, and exposure in public – resulting in social stigmatization – discourage female victims of violence, and their families, from seeking justice from the criminal justice system. As a result, many incidents of violence against women go unnoticed and undocumented in Bangladesh.

There is a lack in basic expertise and scientific facilities to conduct credible investigations into crimes relating to sexual abuse against women. Sometimes, inefficient police officers fail to collect necessary evidence or neglect to collect evidence. As a result, substantial evidence is either lost or destroyed deliberately.

The role of medical doctors and law enforcement agencies in getting medical examination reports is, therefore, vital in the criminal investigation process of Bangladesh. Even if the victim can register a complaint, it becomes the responsibility of the police to take the victim of

<sup>15</sup> [http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#\\_ftn3](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#_ftn3)

<sup>16</sup> [http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#\\_ftn4](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#_ftn4)



sexual violence to a nearby public hospital for a medical examination. This serves as another hurdle. The female victims have to face mostly male doctors in hospitals in relation to their medical examination. Among other complications, it is embarrassing and often amounts to further humiliation of the victim. This is related to an earlier point as well: the country's hospitals hardly have the requisite female doctors for examining female victims of sexual violence, because women are not as valued by society.

For example, until a High Court Bench ordered the government to correct the prevailing insensitivity, there were no female medical doctors available to conduct medical examinations for female victims of sexual violence at the largest medical institution of the country. On 16 April 2013, in a ruling, the Court asked the government *'why conducting forensic examinations of rape victims and for age detection by male doctors should not be pronounced illegal?'* The Court found that corruption also inhibits the process. Corruption is so widespread that medical certificates and reports can be bought. As a result, there is no guarantee that a victim's wounds will be documented and reflected in the medical examination report.

Due to the patriarchal mindset of the police and medical community, inefficiency, lack of modern scientific facilities, and corruption, the entire process is rigged for failure.

In today's justice systems, Deoxyribonucleic Acid (DNA) profiling is an essential component in the criminal investigation of many crimes, especially rape, murder, and acid attacks. In Bangladesh, there is a national-level laboratory for conducting DNA profiling for the purpose of criminal investigation. The DNA profiling tests are very expensive (nearly USD \$ 200 for each person's profile), which becomes another burden on victims. The victims, virtually always, have to pay the costs, despite the Bangladesh High Court having directed the State to bear all the relevant costs, including that of DNA tests<sup>17</sup> in all such cases.

In gathering medical evidence and supporting female victims of violence, a role is played by the One-Stop Crisis Centre (OCC). Survivors of domestic violence, physical assault, and sexual abuse often require medical attention during the crisis period. The victims are supposed to receive psycho-social counselling and legal assistance from the OCC, but the OCC does not function properly in providing these services. There are no competent psychologists, counselors, or specialised physicians with comprehensive knowledge of the overall requirements of the victims of violence at the OCCs in Bangladesh. In cases of rape, the medical examination is supposed to be completed as soon as possible after the commission of the crime. However, often deliberate delay in conducting medical examinations, preparing the medical report, and submitting the same to a competent Court frustrates the administration of justice.

Custodial violence, particularly rape and other forms of sexual abuse against women and children, is quite common in Bangladesh. The analysis of a case<sup>18</sup> of custodial torture involving college student Sumaiya Sultana Shima and her mother Aleya Akhter shows the real problems that the victims face in Bangladesh. Both persons were subjected to electric shocks and physically tortured during six days of illegal detention in police custody in Kushtia district.

<sup>17</sup> [http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#\\_ftn9](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#_ftn9)

<sup>18</sup> [http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#\\_ftn10](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#_ftn10)

Documentation reveals that in the process followed by Bangladesh's criminal justice institutions, including the highest judiciary, the State violated its fundamental obligations in the case of sexual abuse of Seema and Aleya in police custody. The victim must have access to the complaint mechanism, along with immediate forensic examination so evidence can be gathered in relation to the allegation of sexual abuse.

In order to bar the victims from filing a complaint regarding the sexual abuse and torture that occurred between 10 and 18 September 2012, the police officers implicated Aleya and Seema in a murder case on "suspicion"<sup>19</sup>, although the police have not yet produced any evidence against the victims regarding their involvement in the alleged murder. The Magistrate's Court went along with the diabolical actions of the police, well beyond the purview of law, and ordered Aleya and Seema to be detained on 26 September 2012. Subsequently, after Seema and Aleya were released from the prison on bail for the second time in October 2012, the family has been threatened with further detention during regular visits from police officers and their informants. When human rights groups intervened and took the case to the High Court, the police abducted Seema's younger brother Arif Hossain, a 14-year-old student, in order to compel Seema and her mother not to proceed with the allegations of sexual abuse and torture against the police officers.

There is no provision of a judicial inquiry for custodial torture, ill-treatment, rape, and sexual abuse of women in the criminal justice system of Bangladesh<sup>20</sup>. However, Section 9 (5) of the *Nari O Shishu Nirjaton Daman (Bishes Bidhan) Ain, 2000*<sup>21</sup> (as amended in 2003) provides punishment for rape in custody. If custodial rape occurs, then the person (one or more) who was in charge of ensuring an environment of custodial safety, as well as those persons directly involved in the act, shall be punished for between 5 to 10 years imprisonment and a fine not less than 10,000 taka. The penalty for State agents, who are obliged to protect the citizens, for committing crimes, should not be lesser than it is for ordinary offenders.

At the Magistrate Court hearing, the two women alleged that they were abused in custody. The Judicial Magistrate of Kushtia district had a legal responsibility under Section 164 (1) of the Code of Criminal Procedure, 1898<sup>22</sup>, to record the allegations. The Magistrate also had the obligation of treating the statement containing an allegation of sexual abuses, as per Section 4 (h)<sup>23</sup> of the Code of Criminal Procedure, as a complaint, which was fully undermined. The Magistrate should have complied with Regulation 467 (6) (b) of the Police Regulation of Bengal, 1943<sup>24</sup> at the time of recording the statement of Seema and her mother and arranged for a proper medical examination. The Magistrates in this case ultimately protected the police officers who committed the crimes; the Court questioned neither the way the victims were arrested nor the murder case against them.

<sup>19</sup> [http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#\\_ftn11](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#_ftn11)

<sup>20</sup> [http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#\\_ftn12](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#_ftn12)

<sup>21</sup> [http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#\\_ftn13](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#_ftn13)

<sup>22</sup> [http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#\\_ftn14](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#_ftn14)

<sup>23</sup> [http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#\\_ftn15](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#_ftn15)

<sup>24</sup> [http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#\\_ftn16](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#_ftn16)

At least four hearing dates in Seema's case were wasted by the judges of the High Court Division Bench. This reflects the level of sincerity, knowledge, and empathy among the judges of the Supreme Court of Bangladesh.

The judiciary lacks the commitment to hear cases involving heinous crimes like rape in police custody. In such cases relating to police brutality and the sexual abuse of women, the judiciary is expected to demonstrate a heightened sensitivity, as police brutality, abuse of women, and similar violations are all too common in Bangladesh. This means the judges must be aware of these problems. In the case of Seema and Aleya, there was a delay of over two and a half months in fixing the case for hearing and no medical board with forensic medicine experts was formed. This actively deprived the case of valuable evidence that would have greatly assisted the judiciary in examining the allegation of sexual abuse and torture in custody.

The police officers abducted Seema and Aleya again on 26 November 2012, prior to a date of hearing at the High Court scheduled on 29 November. According to human rights defenders, the police wanted to observe Seema, whether she had symptoms of pregnancy, with the intention of forcing Seema to have an abortion. The second abduction was revealed in public and it garnered the assistance of human rights groups and media. However, the judiciary of Bangladesh, as in other cases this report has highlighted, did not take much notice of, or display much courage in, dealing with the illegal actions of the police.

The incidents of violence against women and children are increasing alarmingly in Bangladesh as there is no guarantee of justice for the victims. Instead, there are guarantees of impunity to the perpetrators due to their political identities and their ability to pay bribes to the police. This is more than just a flawed criminal justice system. Custodial violence against women and children reminds is another form of the widespread misuse of power by, and the entrenched corruption in, law enforcement agencies. Law enforcement agencies act as violators rather than protectors, victimizing women again, when they are most vulnerable.

## Worker's Rights

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Internationally, the most widely recognized abuse of human rights in Bangladesh is in the treatment of factory workers. In the past year, over 1,000 garment factory workers have been killed due to fires, factory-building collapses, or other disasters caused by unsafe working conditions. Hundreds of workers in the readymade garment (RMG) sector alone have lost their lives on several occasions, due to the collapsed rule of law system and entrenched corruption in Bangladesh. The collapse of an eight-story building, the Rana Plaza, near Dhaka, which used to house three garment manufacturing plants, resulted in the death of over 1,300.

The building in question had been evacuated the previous day due to large cracks in the structure, but employees were required to work the following day. As a result, many of them were crushed or trapped in the remains after the building collapsed. Unfortunately, this collapse was not an isolated event as the Bangladeshi government lacks proper safety inspection mechanisms, allowing unsafe working conditions to persist. The Rana Plaza event

made international headlines and brought to the forefront issues of labour controls, labour inspections, and the right of workers to unionize.

So far, poor enforcement of labour and industrial establishment laws have prevented Bangladeshi workers and unions from collectively bargaining with factory owners for safer working conditions. The issue of worker safety is further compounded when taking in account many Parliamentarians are factory owners themselves and the remainder are often plied with bribes from factory owners.

Bangladesh claims that it has “cheap labour” for making industrial products for foreign investors, mostly in the RMG sector. The minimum wages paid in the RMG sector is around \$ USD 45 per month for a worker, while inflation rate hovered around 8% in 2013, according to Bangladesh Bureau of Statistics<sup>25</sup>. The inflation rate on food index in urban area is over 9%. Around four million workers, most of whom are female, around the age group of 20 to 35, struggle to survive with the existing wage. Most of these workers work around 12 hours a day, 6 days a week, without appropriate nutritional intake. Apart from this, workers face numerous challenges in managing family expenditures, such as healthcare, education, and rent. The workers, of the RMG sector in particular, survive like ‘bonded labour’ in Bangladesh's current unemployment condition, which hardly offers any employment opportunity to its 160 million population.

Bangladesh claims that it demonstrates human rights commitment by its adopting a number of policies for promotion and protection of human rights. For example, it claims that the National Labour Policy, 2011, protects and promotes the rights of the workers. If the government had any respect for the rights of the workers, the authorities would not have “disappeared” Aminul Islam, a labour leader, whose dead body was later recovered from a roadside ditch at Ashulia in Dhaka, for demanding increased wages and benefits for workers RMG sector.

In the same vein, labour unrest related to wages and working environment is a daily ritual in Bangladesh as are the brutal actions by law-enforcement agencies against the struggling workers. The government, through its actions, proves that it only recognizes the duty to protect the interests of the RMG traders and manufacturers. The Government and its agencies have always taken positions against the workers. There is hardly any public institution available that takes the responsibility to protect the rights of the workers in terms of their job-security, compensation, working hours, and conditions, as well basic rights as human beings.

One of main reasons behind the existing anti-worker policies of the government is political extortion from the industrialists and businessmen of the country; political parties have surrendered some of their decision making power to the money-mongers and thugs while the poor do not have any place in Bangladesh politics other than being victims of political power-games. As a result, more than 60% of the parliamentarians in the ninth parliament of Bangladesh are businessmen by profession. Many of the public servants, police, and military officers also maintain their own business – manufacturing readymade garments remains a priority. Many of the owners of the factories and industries are retired civil and

<sup>25</sup> Consumer Price Index and Inflation Rate of Bangladesh Bureau of Statistics, accessed on November 26, 2013, at: [http://www.bbs.gov.bd/WebTestApplication/userfiles/Image/National%20Accounts%20Reports/CPI/CPI\\_October-13.pdf?page=/PageReportLists.aspx?PARENTKEY=145](http://www.bbs.gov.bd/WebTestApplication/userfiles/Image/National%20Accounts%20Reports/CPI/CPI_October-13.pdf?page=/PageReportLists.aspx?PARENTKEY=145)



military bureaucrats, who are given impunity for their illegal actions while in service and are considered 'privileged' citizens or "Commercially Important Persons" (CIP).

The manufacturers of RMG products are among those people who are considered a 'privileged' group for their access to powerful portfolios. Collectively, they have ability and resources to influence the civil administration, police, paramilitary and security forces. They succeed in influencing the policies of successive regimes in Bangladesh. For example, the readymade garment manufacturers or factory owners enjoy duty rebates when they import accessories and raw materials from abroad. They are allowed to enjoy privilege in getting bank loan facilities and shipment facilities with priority.



Female workers of RMG sector are seen arguing with the police. They have to face the state agents regularly whenever they raise their voices for due wage and life with dignity in Bangladesh. (AHRC File Photo)

There is virtually no attempt from the governmental authorities to listen to the plight of four million workers. Guaranteeing their due wages and improving working conditions are the basic requirements, absent in government policies.

Instead, these 'cheap labourers' are made targets of the 'poorly paid police' who are accustomed to use torture, ill-treatment and other forms of extrajudicial methods to suppress the voices of the struggling workers. The workers

struggle for their survival with minimum human dignity while the investors, traders, and wholesalers across the world multiply their profits and assets, in contrast. Bangladesh forces its labour force to survive as "cheap labour" ignoring their fundamental needs and rights, while the state machinery protect the interests of the businessmen for their financial contribution to political parties. The state's rule of lawlessness paves the way for exploitation of the workers by native and non-native companies.

A large number of people are directly or indirectly engaged in agricultural production, while the country has nearly five million people who are landless. According to the World Bank, nearly 45% of the Bangladesh rural population is 'already or functionally landless'<sup>26</sup>. Every year, the unemployment problem is increasing in the country. Many of the unemployed struggle to find means to keep their life going, as agricultural workers do not have any form of minimum wage or any guideline for protecting their basic rights. Thus, a large number of the country's population is left in an uncertain destiny in Bangladesh.

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<http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/SOUTHASIAEXT/EXTSAREGTOPAGRI/0,,contentMDK:20273763~menuPK:548213~pagePK:34004173~piPK:34003707~theSitePK:452766,00.html>

## Right to Redress

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People's right to redress only exists in the books of law. In real life in Bangladesh, it is virtually impossible to get legal remedy from the criminal justice institutions, unless someone is politically or financially influential (as detailed in other sections). Various members of the criminal justice institutions continually prove their incompetence in administering justice. Relatedly, Bangladesh maintains a policy of controlling the people by creating fear that can silence the citizens as a whole, a concept incompatible with a functional democracy, something which requires rendering service to the people through governance with a reasonably transparent system of checks and balance. To create this control, acquiring wealth, abusing the public offices, and maintaining impunity remain at the centre of the agenda of the elected regimes, the methods of which are the subject of several sections of this report.

But again, this is not a concept that works for democracy and rule of law; that's why the politicians tailor institutions to silence the vast majority of people that would object. In order to get these things done they need to leave closed the doors of complaint mechanism for the people or at least create fragile mechanism that can be molded as for their own ends often accomplished with the nepotism or political favor trading mentioned above.

Subsequently, Bangladesh is full of political slaves in all of its institutions, including the police, prosecution, attorney service, judiciary, bureaucracy, and academia, with few exceptions. This servitude has already plunged the country to the depths of degeneration. The police deny justice-seekers access to the complaint mechanism, (unless as we noted, the complainants are able to influence the police either by bribery or political pressure or both) and criminal investigations follow the same formula. The prosecutors are disposable by nature, as a result of extra-judicial action. The other qualified lawyers are recruited amongst the activists of the ruling regimes for serving the purpose of the ruling parties, instead of contributing to the administration of justice. The judges are also appointed on the basis of "loyalty" to political masters. Former Chief Justice ABM Khairul Haque is one of the finest examples of the judges who became servant to political masters in Bangladesh. And so is the Attorney General for Bangladesh, who acts like a slave<sup>27</sup>.

When all the institutions survive to serve one particular political group or ruling party, accessibility for the ordinary people or the opposition is severely limited. Lawlessness is promoted in two ways: the privileged exercise their lawless authority and the suppressed are denied lawful action to protect themselves, which can lead to active law breaking on their part. Thus, as the cycle of lawlessness compounds, the entire society gets derailed from justice through peaceful means via national institutions.

Bangladesh is in exactly this derailed state at the moment.

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<sup>27</sup> <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-180-2013>  
<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-081-2013/>

## Politics of De-politicization & Promotion of Lawlessness

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Degeneration in Bangladesh and the country's politics have eroded democracy. Instead, the political culture has established an authoritarian State, centering all powers with the Prime Minister, by Constitution. Subsequently, and as we have analyzed so far, the State is itself exercising lawless actions: disappearing citizens, extra-judicially killing people, and using the police and paramilitary forces and intelligence agencies as lethal forces against the people. Ultimately, lawlessness is being promoted by the State itself.

Lawless actions in the name of 'maintaining law and order' - the way State agents do their dirty work against the political opposition and the ordinary people in Bangladesh - happens at the command of ruling regimes, regardless of the party in power. By the same token, the opposition parties respond violently, as if they have been pushed to the wall and provoked to become violent for the sake of their political existence (though once in power, the certainly do not stop, provocation or not). Professional criminals are hired by both the ruling and the opposition political parties to commit violence in favour of, or against, each other, and to guide public perception and create justification for the parties warlike attitudes. Political programmes are inseparable from the use of crude bombs, vandalizing vehicles on the streets, ransacking public property, and burning State-owned transportation and offices. Arson attacks on travelers in buses or trains have also been introduced in last two decades. Hundreds of ordinary people and political activists lose their lives or suffer permanent disability as a result of the violence every year.

Sometimes, the media and civil society support the opposition regardless of the amount and type of violence initiated by the opposition. Interestingly, the media will also support the ruling regime, as it did this year. For example, Bangladeshi media supported the demand for "caretaker government" in 1996 when the opposition parties led by Sheikh Hasina wanted such a governmental system for holding "credible elections." Public opinion created by the opposition, with the media's active role in support of the demand, compelled the then ruling regime to create the 13<sup>th</sup> Amendment to the Constitution.

The media, although they are allegedly pro-government (as the government has closed almost all pro-opposition media in the last five years), has a twisted role in 2013. Sheikh Hasina's government repealed the "non-party caretaker government" in the 15<sup>th</sup> Amendment to the Constitution to allegedly fulfill wish of staying in power for the rest of her life. Former Chief Justice A.B.M Khairul Haque, who has personally benefitted from the Prime Minister's Relief Fund, as a sitting judge, conspired with Prime Minister Sheikh Hasina to pass a judgment suggesting the repeal of the "non-party caretaker government". He pronounced the short order of the judgment in the open Court on 10 May 2011.

In doing so, the Chief Justice violated the basic norms of both judicial conduct and the country's Constitution. After one week, A.B.M Khairul Haque retired from his post. The full text of the judgment was not available during his tenure in office but, sixteen months after his retirement, the full text of judgment was made available. The full version of the judgment was altered, deviating from the original 'short order' as was pronounced in the open Court.

For example, in the 'short order' the then Chief Justice A.B.M. Khairul Haque held that the non-party caretaker form of government may be continued for two more terms. It means that

the 'unelected technocrats' comprising 11 persons' council of advisers will run the non-party caretaker government for holding a credible general election. In the full text, Mr. Haque changed this provision. He directed that the caretaker government could only be held by elected representatives<sup>28</sup>. Jurists of Bangladesh have asserted that after retirement a former judge is not constitutionally eligible for passing or signing any judgment and if anyone does so such documents should be accepted as a judicial order to the nation.

However, A.B.M Khairul Haque paid back to Sheikh Hasina the donation he received from the Prime Minister's Relief Fund for arranging medical treatment of his wife abroad and, after the judgment, Prime Minister Sheikh Hasina (who used A.B.M Khairul Haque's judgment as a reference to make the 15<sup>th</sup> Amendment to the Constitution without waiting for the full text), awarded her loyal judge with the post of Chairman of the Law Commission.

The nexus between the head of the government and the head of the judiciary is at the centre of Bangladesh's ongoing political and constitutional crisis. It is the judgment and the subsequent 15<sup>th</sup> Amendment that have led to bloodshed in the country.

The mainstream media and civil society of Bangladesh, that lean toward the incumbent government and their allies, are deliberately ignoring this for partisan purposes. The opposition parties demand the "non-party caretaker government" be revived and more than 80% of the people of Bangladesh support this demand, according to latest surveys publicized in the national media. Ironically, the majority of the media promotes the governmental position of constitutionality, and constantly berates the opposition for the loss of lives and assets of the ordinary poor.

Some independent journalists have alleged that the cadres of the ruling political parties are responsible for burning vehicles when the opposition have called for general strike (*hartal*) for reviving the non-party caretaker government in order to hold credible general election. The media has forgotten that the 15<sup>th</sup> Amendment of the Constitution has been made only for the convenience of one person.

Bangladeshis have been struggling for a democracy guaranteeing equality, human dignity, and social justice while the rulers have been investing their utmost effort to subvert people's aspirations. State-sponsored lawlessness is provoking and accommodating lawless retaliation in the country which, in turn, is leading the nation away from democracy.

At the micro level, the government continues to withdraw criminal cases from the courts, terming the cases "politically motivated", in order to ensure impunity to the offenders associated with ruling political parties. Withdrawing these 'politically motivated' cases has become a trend in the last twenty years. In 2012, the present government continued withdrawing cases using the same excuse. For instance, on 19 September 2012, the National Committee for Withdrawing Politically Motivated Cases recommended the withdrawal of 10 cases of murder and rape<sup>29</sup>.

<sup>28</sup> Professor Asif Nazrul, 15<sup>th</sup> Amendment: Transition of Power, Published on Marcy 17, 2013, in the Daily Star, <http://www.thedailystar.net/beta2/news/transition-of-power/>, last accessed on December 7, 2013.

<sup>29</sup> [http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#\\_ftn6](http://www.humanrights.asia/news/ahrc-news/AHRC-STM-095-2013#_ftn6)



## **Trial of War Crimes Lacks Credibility**

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The Awami League government established the International Crimes Tribunal (ICT) in 2009 to prosecute Bangladeshi citizens who allegedly collaborated with Pakistan during the liberation war in 1971. Allegations include genocide and crimes against humanity – that such crimes were committed against the entire population of the struggling nation. However, the ICT has become increasingly politicized and appears to be a method of stifling dissent rather than addressing real issues. In essence, the Tribunal is no longer trying war criminals, but instead punishing leading members of opposition political parties. In fact, many alleged offenders of war crimes have taken shelter in the Awami League by establishing marital and business-oriented relationships. War criminals that are friends of the ruling party are apparently immune from prosecution.

Beginning 5 February 2013, mass protests were held in response to results of these tribunals, inciting violence that claimed the lives of 88 people, and injured hundreds more. The United Nations Special Rapporteur on extrajudicial executions, Christof Heyns, condemned the violence and encouraged the Bangladeshi government to pursue criminal action against those responsible for the deaths, regardless of whether they were state actors.

The use of the death penalty under the ICT is of particular worry, as sentences are handed out to political activists and members of rival parties. The death penalty under any circumstances is a violation of the right to life and contradicts Bangladesh's obligations under the International Covenant on Civil and Political Rights and international law.

This is further compounded by Bangladesh's inability to provide a fair trial and due process. The flaws of this Tribunal are varied and include the denial of bail and pre-trial release, the abduction and intimidation of key witnesses, and even allegations of collusion between prosecutors, judges, and the Government.

Witness protection is also important, in light of attacks on several homes of suspects after they were given guilty verdicts (as described earlier, there are no laws protecting witnesses). Many of these people accused of crimes are Hindus, and the government should provide adequate protection to their families.

## **Trial of Mutiny Suspects Fails Fair Trial Standard**

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The government has tried the suspects of the mutiny held at the Bangladesh Rifles (BDR) headquarters in Dhaka on February 25-26, 2009, which resulted in death of more than 70 people including 57 officers of the Bangladesh Army<sup>30</sup>. The carnage also triggered mutiny in several other barracks of the BDR during the same period causing injuries to the officers and soldiers. The governmental probe after the incident failed to answer many questions regarding the incidents and what had happened in the background, i.e. the masterminds of this bloody carnage. Several thousand soldiers were held on the charges of committing the

<sup>30</sup> <http://www.humanrights.asia/resources/hrreport/2009/AHRC-SPR-001-2009-Bangladesh-HRRReport2009.pdf>

crimes of murder and using arms and ammunitions, without any valid permission, and looting and violating women. Amongst the soldiers, 78 were killed by the law-enforcement agencies, in revenge, while the government claimed that these soldiers were 'fugitive'. At least 47 suspects allegedly died due to torture while in detention. These deaths were officially termed as 'death due to heart attacks'. However, such large scale 'heart attacks' did not take place in custody in the cases of the detainees accused of other crimes.

Only for the carnage that occurred in the headquarters, the police filed two cases accusing 850 soldiers and few civilians. A mass trial took place in a special sessions court established in Dhaka. In October 2013, the trial court sentenced 152 soldiers with the death penalty, while 161 persons were given life-term imprisonment, and 256 suspects were convicted with different terms of imprisonment. The court acquitted 277 persons of the charges. This 'mass trial' has been highly criticized by human rights groups and civil society organizations for lacking credibility in all stages and for having failed to meet the standards of fair trial. All the suspects have alleged that they were tortured while in custody of the law-enforcement agencies. The allegations of torture and ill-treatment of the mutiny-suspects have been neglected, as is the traditional practice in Bangladesh.

## **The National Human Rights Commission & its Sorry Existence**

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Bangladesh's National Human Rights Commission (NHRC) remained an ineffective organization in 2013 as well, while the country's human rights situation drastically fell. Due to the tradition of appointing loyal 'puppets' in public institutions, the statutory rights body also got a pro-ruling party person as its Chairman. The activities of the NHRC mostly remained confined to holding some meetings and training programmes to meet the requirements of the projects funded by development partners. Now and then, the Chairman, who mostly appears in public for making comments at different events, made some rather controversial comments that undermined the cause of rights struggles, as opposed to taking effective action in compliance with the Paris Principles<sup>31</sup>.

For example, the NHRC Chairman insisted that the family of Limon Hossain<sup>32</sup> withdraw the case filed by Limon's mother, Mrs. Henowara Begum, thereby supporting the culture of impunity for the crimes commit by State agents. Limon, a college student of an ultra poor family, was shot in his left knee by members of the Rapid Action Battalion (RAB) in Jhalkathi district in March 2011. Subsequently, his leg was amputated at the knee. The RAB fabricated two criminal cases against Limon branding him a 'criminal', to harass the juvenile further.

Henowara filed a complaint against the officers of the RAB, and her family has been fighting the case, despite continued harassment, intimidation, threat, physical attacks, and temptation to stop. The media has exposed the brutal face of the State in relation in the case of Limon Hossain, who has been found to be innocent. The NHRC Chairman, who previously

<sup>31</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/ParisPrinciples20yearsguidingtheworkofNHRI.aspx>

<sup>32</sup> <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-075-2011/>  
<http://www.humanrights.asia/news/ahrc-news/AHRC-STM-218-2012/>  
<http://www.humanrights.asia/news/urgent-appeals/AHRC-UAU-028-2012/>

lamented the incident, insisted that Limon's family to withdraw Henowara's case filed against the officers of the RAB, in exchange for the withdrawal of the two fabricated cases the RAB filed against Limon. In doing so the Chairman was, allegedly, acting as per the Home Minister's instructions.

The existing role of the NHRC does not transmit a message to the citizens that this institution is going to stand beside victims of human rights abuse in Bangladesh, a country where victims are being produced daily in larger numbers. There is a serious need of reshuffling and restructuring this institution, if helping the victims of human rights abuses is expected to be one of the key obligations of the national human rights institution.

## Conclusion

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It is hard to find one ordinary citizen in Bangladesh who will be ready to trust a single institution of Bangladesh. Anyone who observes Bangladesh can easily notice the politically polarized picture of a nation that has not developed. In the current context, life is very difficult for the people of Bangladesh. To reform the country's institutions to a standard acceptable to a democratic state would make them unrecognizable from their current state, a significant challenge. But only with the continuous functioning of such thoroughly reformed institutions will the nation find itself closer to justice, equality and dignity, without which there is no safety, no happiness, and no hope for Bangladesh and its people .

The needs of the ordinary people of Bangladesh are different from the goals of those who rule the country - the megalomaniacal politicians, bureaucrats, military, and police. The people need a justice-based society providing individual freedom, safety and dignity - the basic pillars of a democratic society, operating under an applicable rule of law system so that they can develop their talents, use their gifts, for their own good, and for the good of the country and its public. The rulers goals are wealth, control, and power. That is why political will remains absent and invisible as far as the reforms of the policing system and judicial institutions are concerned; the rulers do not have any interest in reforming the institutional systems from the normative perspective.

The people of Bangladesh do not deserve such a grave situation, the one they face presently. The nation sincerely needs to acknowledge, first, that their institutions are useless in protecting the people's right with equality, dignity, and justice. And, then, they must go for thorough reforms of the rotten system, beginning with police, prosecution, judiciary, and politics. Civil society also requires to move from a polarised mindset to a universal and united one so that its presence and activities do not harming the real long-term interests of the ordinary people. If the political groups and civil society organizations collectively fail to calm down the few people, who are on a bloody path to grab power and pelf, the international community, especially the United Nations should get engaged in protecting lives, livelihoods and liberties of the people as soon as possible<sup>33</sup>.

## Recommendations

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<sup>33</sup> <http://www.humanrights.asia/news/ahrc-news/AHRC-OLT-015-2013/>

1. The ongoing rampant illegal arrest and arbitrary detention of ordinary citizens, opposition activists, human rights defenders, and journalists must be stopped immediately. Those who are in arbitrary detention must be released from prisons and detention centres; the fabricated charges against them should be dropped without delay.

2. The crimes of custodial torture and extrajudicial killings since October 24, 2013, should be credibly investigated under the "Torture and Custodial Death (Prohibition) Act, 2013". The perpetrators of these crimes must be prosecuted, guaranteeing their right to fair trial in open courts, immediately. The state must stop the practice of torture for political and economic gains. The cases of torture and extrajudicial killings, including those that took place during the crackdown against demonstrators belonging to the *Hefazat-E-Islam* in May 2013, should be credibly investigated by competent probe commissions headed by retired or sitting judges of the Supreme Court of Bangladesh, immediately. The full findings of the probe commission should be accessible to the public. The perpetrators and the masterminds of the crimes must be prosecuted and punished in accordance with the standards of fair trial.

3. The authorities should form a probe commission headed by a retired or sitting judge of the Supreme Court of Bangladesh, and comprising at least one member from the human rights organizations that have been active in documenting the cases of enforced disappearances. A thorough investigation should succeed in revealing to the public the truth behind such heinous crimes. Perpetrators should be brought to book without delay so justice, adequate protection, and compensation can be ensured to the families. Bangladesh should accede to the UN Convention on Enforced and Involuntary Disappearance and make domestic legislations in compliance with it to guarantee protection from such crimes.

4. The ongoing state-sponsored repression against the journalists and human rights defenders must be stopped to guarantee the freedom of press and freedom expression and opinion. The process should begin with the repealing of draconian laws like the Information and Communications Technology (Amendment) Act, 2013, the Mobile Court Act, 2009, and the Anti-Terrorism Act, 2009, in particular, and by allowing those newspaper and private television channels that the authorities shut down since 2009 to begin operating again.

5. Harassing Human Rights Defenders and organizations by blocking their projects and funds must be stopped forthwith. All fabricated charges against human rights defenders, journalists, newspaper editors and other professionals or individuals must be dropped, following credible investigations by competent judicial officials, as regular criminal investigation units lack credibility. Recurrence of similar harassment should be discontinued, regardless of which regime comes to the power.

6. The existing pattern of denying freedom of assembly to civil society organizations and political opposition requires to be changed. The practice of sealing, blocking, and raiding the offices of opposition political parties only push these organisations to fight against state agents, which carries the risk of deteriorating overall conditions across the country.

7. The entire electoral process of Bangladesh and the Election Commission (EC), including its recruitment process, urgently requires thorough reform for the sake of stability and for guaranteeing the rights of the people. The EC needs to have integrity and independence with



a checks and balance system so that it not only guarantees the people's right to choose their competent representatives in a transparent, credible, and fair election but also contributes to create a peaceful political environment.

8. The dignity of ethnic communities has to be ensured constitutionally and socially with enhanced social protection mechanisms being introduced to prevent attacks on ethnic communities for either political or financial gains. All the previous attacks on ethnic communities should be investigated by competent judicial officials and comprise members of the affected communities and human rights organizations.

9. The dignity of women should be restored, and protected from now on via socio-political reform in the public mindset and in institutional structures, regardless of opposing justification that cite faith, social customs, and attitudes.

10. The rights of workers in all sectors, including the RMB sector, should be guaranteed immediately if Bangladesh hopes to develop a sustainable economy. The State and its agencies should not stand against the workers.

11. The basic rule of law institutions, the police, the criminal investigation system, the prosecution and attorney service, the adjudication and trial system require thorough reform. The professionals involved in these institutions must change their slavish mindset. The culture of impunity must end, as impunity cannot grow with democracy and rule of law.

12. A probe commission headed by UN experts should be formed to investigate crimes committed against the people by state and non-state agents, in the power-clash of Bangladesh. The probe commission should reveal the truth behind, and related to, the casualties and identify the individual masterminds, offenders, and victims.

13. The state must compensate those families who have lost lives and suffered injury. The families that have lost their lone bread-winners should be afforded a realistic means to live their life with dignity – an undeniable obligation of the state.

14. The perpetrators, including the masterminds, regardless of their official portfolio and socio-political status, should be held accountable before the International Criminal Court, since Bangladesh is a party to the Rome Statute. The trial of the perpetrators should create impact in preventing the recurrence of similar abuse of power and crimes against humanity in the future.

15. The ongoing bloody struggles nation-wide, the extrajudicial murders, and the enforced disappearances require large expansion to the nation's mental health facilities. The society needs to heal. The first step, of course, is that the violence must stop.