

Human Rights Monitoring Report on Bangladesh

Period: 01- 30 November 2009

Transparency and accountability must be ensured in the trial of the BDR Jawans to maintain human rights and political stability

Increase in remand and torture may undermine the role of the judiciary to ensure human rights and constitutional responsibilities.

Denial of extrajudicial killings by the government despite High Court Division's Suo Moto Rule

Human Right Defenders condemn abduction of two ULFA leaders by India

Rise in political clashes and the frustration of political gatherings

Threats conveyed to journalists

Odhikar has been working to preserve the civil, political, social, economic and cultural rights and as a part of its mandate regularly observes and reports the human rights situation of Bangladesh. An account of the human rights situation of Bangladesh covering the period of 01 -30 November 2009 is given below.

A. Transparency and accountability must be ensured in the trial of the BDR Jawans

1. The trial of those allegedly involved in the BDR mutiny commenced outside Dhaka in the district of Rangamati on November 24, 2009. A total of 6 Courts have been formed to carry out the trial. As per the BDR law the Court constitutes of three members. The Director-General of the BDR is the head of this three-member panel. On the first day of trial, five BDR members from the 12 Rifles Battalion Rajanagar Camp were brought before the Court.
2. Questions regarding the transparency and accountability of this trial have been raised in the media and expert opinions are also divided on the critical margins between existing legal regimes, demand for justice and power politics. Added to the concern is the national security issue and the antagonistic perception and conflict between different armed institutions. In this context Odhikar hopes that conditions are met to ensure justice over and above other political considerations that are already complicating the situation. Odhikar believes that upholding the human rights of the BDR Jawans should be the primary concern of all quarters.

B. Increase in remand and torture may undermine the role of the judiciary to ensure human rights and constitutional responsibilities

3. As per an investigative report published by the Amar Desh newspaper dated 02 November 2009, the police have taken 2005 persons into remand over a period

of one month and twenty-eight days in Dhaka city. Amongst these persons, 702 of them are members of the BDR. Following arrest as crime suspects under Section 54 of the Code of Criminal Procedure, a total of 172 persons have been taken into remand. On average the Judicial Magistrate Court of Dhaka granted remand for 35 persons on a daily basis¹. It is commonly alleged that the persons taken into remand have been mentally and physically tortured in the name of interrogation. After an accused has been taken into remand by the Police from the Court, the accused is often taken elsewhere by other forces. For the purposes of interrogation, the person in custody is taken to the JIC and TFI Cells² which are not sanctioned by law; torture goes on in the name of interrogation. The BDR members accused of causing bloodshed in the Peelkhana murder incident of February 2009, have been retracting confessions they made previously under Section 164 of the Criminal Procedure Code. On November 2, 2009, Deputy Assistant Director (165) Abdul Jalil, Junior Commissioned Officer Nayeb Subedar (5349) Alauddin, Nayek (62505) Dulal Gazi, Habildar (42185) Yusuf Ali and Sepoy (68435) Al Mamun filed applications to the Dhaka Courts for retracting their previously made confessional statements. The applications stated that the confessional statements had been extracted from them by applying electric shocks and other forms of torture during the remand period.

4. These are serious violations of both domestic laws and international conventions that Bangladesh is a party to. Furthermore, it contravenes the pledges that Bangladesh made as a member of the UN Human Rights Council.
5. Attaining confessional statements by torturing the accused person goes against the basic principles of human rights and the Criminal Procedure Code. Although Bangladesh signed the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on October 5, 1998, the above actions are stringent violations of the Convention. The prevention of torture is also upheld in Article 35(5) of the Bangladesh Constitution.
6. Odhikar urges Magistrates to refrain from accepting confessional statements that have been attained through torture, especially when it is evident that the accused persons have been tortured.
7. Odhikar would like to remind the concerned authorities that the provisions of Sections 330 and 331 of the Penal Code prescribe that attaining confessional statements by the application of force through beating or severe injury or 'grievous hurt' is a punishable offence and the perpetrator may suffer up to 10 years imprisonment and fine.
8. During the process of interrogation, the law enforcement agencies should observe and uphold the directions of the High Court Division which it gave in a 2003 case. The verdict of the High Court states that if the need for interrogation arises, then it must be carried out in front of the lawyer of the accused or in front of someone who is known to him. If there are signs of beatings on the body of the accused prior to his arrest, he must immediately be taken to a doctor. In addition to this, the accused must be examined by a doctor before and after interrogation. The accused cannot be interrogated in an undisclosed place. None of these directions, given by the court almost six years ago, have been observed to date.

¹ Source: Amar Desh - 2.11.09

² JIC and TFI: Joint Interrogation Cell and Task Forces Intelligence

C. Denial of 'extrajudicial killing by the government despite High Court Division's Suo Moto Rule

9. On 17 November, 2009 a Division Bench of the High Court Division of the Supreme Court of Bangladesh, comprising of Justice A.F.M Abdur Rahman and Justice Imdadul Huq Azad, issued a suo moto rule, giving the government and Rapid Action Battalion 48 hours to explain the shooting and killing of two brothers in Madaripur, asking why the deaths should not be ruled extra-judicial. On the same day, the Home Minister of Bangladesh, Sahara Khatun claimed that "no crossfire killings"³ had taken place. The step taken by the court received appreciation from the human rights defenders. The Home Minister decried "There has been no crossfire since our government has taken office."⁴ she stressed. Brothers Lutfor Khalashi, 40, and Khairul Khalashi, 38, both alleged to be members of Shorbohara party, were killed in what RAB said was "an exchange of gunfire" in Madaripur early on Monday, November 16th. The deaths were reported just 36 hours after family members voiced fears that the two might be killed in custody.⁵
10. It must be remembered here that the Government is promise bound to maintain 'zero tolerance' for cross fire and torture.
11. According to Odhikar 118 people have been killed in crossfire/encounter/shootout' incidents in the eleven months of the Awami League-led government which assumed power on 6 January, 2009.
12. It must be noted here that the issue of 'crossfire' came to the forefront again after the formation of the elite force Rapid Action Battalion on March 26, 2004, during the BNP government. This is not the first time this kind of violence has occurred. In 1972, the Jatiya Rakkhi Bahini was formed at the time of the first Awami League Government, that was just as eager to bring down people in 'crossfire' and 'shoot-outs'.
13. Between 01 and 30 November 2009, 120 people became the victims of what was termed 'crossfire'.
14. The blatant claim of the Home Minister that no "crossfire killings" have taken place since the current government took office, is a clear signal that the present regime will keep on violating human rights, despite the intention of the judiciary to take up the issue as serious national and international concern.

D. Extra-judicial killings

15. During the month of November 2009, 14 people have reportedly been killed extra-judicially. It has been further alleged that of these people, 4 were killed by RAB, 9 by Police and 1 was killed by coast guard.
16. It has been alleged that of these extrajudicial killings, 11 were killed in 'crossfire/encounters/gun fights/shootout' while 3 persons were tortured to death.
17. Of the 14 persons, 2 belonged to the Purbo Banglar Communist Party (Jonojuddho), 1 was a member of the Purbo Banglar Communist Party (Red

³ Source: Daily Ittefaq, 18 November, 2009

⁴ Source: Daily Ittefaq, 18 November, 2009

⁵ See bdnews24.com at <http://www.bdnews24.com/details.php?id=147219&cid=2> also see Daily Ittefaq 18 November, 2009.

Flag), 2 were members of the Shorbohara Party, 1 was a member of the New Biplobi Communist Party, another one was belong to Biplobi Communist party, 1 from Gono Mukti Fouz, 1 was a Chairman of Union Parishad, one was an accused, one was a shopkeeper, 1 was an alleged criminal, 1 was a young man and another one was an alleged dacoit leader.

E. Abduction of two ULFA leaders by India

18. On November 1, 2009, a group of men abducted Chitrobon Hajarika and Shoshodhor Chowdhury, the Finance and International Affairs Secretaries respectively of Assam's freedom aspiring organization ULFA, from Sector No. 3 of Uttara, Dhaka and took them to India. Very soon after the news of the abduction, Abdus Sobhan, the Home Secretary of Bangladesh told the BBC that he was not aware of the arrest of any top ULFA leaders or the handing over of them to India. It must be mentioned here that India and Bangladesh do not have an extradition treaty between them. The Home Secretary's statement directly implies that they have been abducted by people who are not part of the Bangladesh law enforcing agencies, alleging that the abduction has been conducted by Indian agencies violating the sovereignty of Bangladesh and contravening international human rights provisions.
19. Following the statement made by the Bangladesh Home Secretary Abdus Sobhan, the arrested leaders were brought before an Assam Court and a photo of that was published in the newspapers. The ULFA leaders told the Court how they had been abducted from Bangladesh in the middle of the night.
20. The two ULFA leaders are members of the political wing of ULFA, and not involved in military operations. They had taken refuge in Bangladesh to safeguard themselves and their families and to rally the support of the people of Bangladesh for their right to self-determination. Given the situation of the North Eastern States of India and the blatant human rights violations by the Indian army in those areas, the lives of the abducted ULFA leaders are cause of concern.

F. Rise in political clashes and the frustration of political gatherings

21. On November 3, 2009, the BNP organised a council session and mass gathering of its Sundolpur Model Union unit at the Dhakargaon Soddarbari Bazaar field at Daukkandi, Comilla. On the same day the Jubo League⁶ organised a protest gathering at the same venue in demonstration against the bomb attack on Parliamentarian Fazle Noor Taposh. This resulted in tension between the followers of the two political groups following which the UNO⁷ of Daudkandi enforced Section 144 of the Code of Criminal Procedure in the area of the Soddarbari Bazaar field banning all forms of gatherings there.
22. On November 5, 2009, the Barisal Awami League and its sister organisations organised a protest rally in remonstrations of the bomb attacks near the Awami League Central Office in Dhaka. This protest rally eventually caused a great deal of destruction to the Barisal BNP⁸ Office.

⁶ Jubo League: The youth wing of the Awami League.

⁷ UNO: Upazilla Nirbahi Officer (Upazilla Administration Officer).

⁸ Bangladesh Nationalist Party.

23. On November 8, 2009, Jubo Dal⁹ activist Saidul, an accused in the murder case of Ashraful Islam Sohel, a Chattra League¹⁰ leader who was killed during the last BNP- led Four Party Alliance government, assaulted Murad, the former Joint Secretary of the district Chattra League, at Lalmonirhat. In response to this event the activists of Chattra League and Jubo League brought a protest rally, ransacked and set fire to the offices of the Jatiyotabadi Sramik Dal.
24. On November 9, 2009, the Bi-annual Council of the Horinakundo Upazilla BNP in Jhinaidaha and the Pouro BNP was set to be held at the Zilla Parishad Auditorium. However after a meeting in protest of the bomb attack on MP Fazle Noor Taposh was held at the same venue, tensions arose between the followers of the two political groups. The Upazilla administration in context of the situation declared Section 144 of the Code of Criminal Procedure, and banned any sort of gathering.
25. On November 10, 2009, the Chattra and Jubo League activists attacked and frustrated the BNP Council of Raujan, Chittagong.
26. On November 17, 2009, the BNP declared the holding of its Daudkandi, Comilla Council at the local Fatema Plaza premises. When the Awami League also declared the holding of a protest gathering relating to the bomb attack on Parliamentarian Taposh, a clash resulted between the two groups, causing the Upazilla administration to declared Section 144 of the Code of Criminal Procedure in the area, banning any sort of gatherings.
27. Every citizen of the State has the constitutional right to conduct political activities in a peaceful manner and also the right to criticise the Government. In addition to this, the Constitution also clearly guarantees, through Article 38 and 39 the right to organise and take part in gatherings and form associations.
28. According to information gathered by Odhikar in November, 8 have been killed and 1402 injured in political violence. There have been 38 instances of Awami League and 19 instances of BNP intra party clashes. In addition to this, 319 people were injured in the Awami Leagues internal conflict while 317 were injured in BNP initiated intra party violence.

G. Threats conveyed to journalists

29. Kazi Jesin, a well known journalist and an anchor of Bangla Vision, a private television channel of Bangladesh, has alleged that she has received threats over her cell phone and email. Jesin subsequently filed a General Diary at the Mohammadpur Police Station. The persons making the threats have been demanding that 'Point Of Order' be taken off the air. 'Point of Order' is a television talk show, where Kazi Jesin raises critical questions and concerns conducive to create awareness about human rights and constitutional rights of the people of Bangladesh. It should also be mentioned here that Jesin received death threats several months ago.
30. The security of Kazi Jesin is a cause for concern and the Government must immediately identify the threat makers and take legal measures against them.

⁹ Jubo Dal: The Youth Wing of the BNP.

¹⁰ Chattra League: The Student Wing of the Awami League.

31. Journalists have been subjected to various forms of harassment during the month of November. During this time, 9 were injured, 8 threatened and 4 assaulted. One was attacked and cases were filed against 2 journalists.

H. Human rights violations along the Bangladesh-India border

32. From facts gathered by Odhikar there have been 12 incidents of human rights violations committed by the BSF¹¹ upon Bangladeshis during the month of November. It has been learned that 6 Bangladeshi citizens have been killed and 5 injured and 1 was abducted by the BSF.

33. Despite human rights organisations and the media consistently placing forth and highlighting the incidents of human rights violations along the border, no signs are yet to be seen of bringing an end to these violations or providing any sort of compensation to the injured party or their families.

I. Condition of the workers of the ready-made garments business

34. In the month of November approximately 130 workers of the Ready Made Garments sector were injured during clashes for demanding over-due wages.

35. The licenses of those garments factories that are not observing the three-party contract (tripartite agreement) and are sustaining the labor unrest must be cancelled.

J. Other forms human rights violations

Rape

36. In the month of November, a total of 27 females were reportedly raped, where 10 were adults and 17 were children¹². Of the adult women, 4 were allegedly killed after being raped and 6 were gang raped. From the 17 female children who were raped, 4 of them were killed after being raped and 6 were victims of gang rape.

37. On November 17, 2009, 12 activists of the Jubo League raped a 12 year old girl, a student of Class VI at the Kobirhat Madrasa in Noakhali. The Police have arrested Jubo League activists Hedayetullah and Jahir Uddin following the incident.

38. The Government must take effective and unbiased steps to stop all forms of violence against women.

Dowry related violence

39. During November 2009, a total of 25 women were reportedly subjected to dowry related violence. 22 of them were allegedly killed due to the violence and 3 of them were tortured in various ways.

Acid attacks

¹¹ BSF: The Indian Border Security Force.

¹² Children are those persons under the age of 16 years, as per the Children's Act of 1974.

40. During November 2009, a total of 4 persons have reportedly been victims of acid throwing, where 3 were adult females and 1 was a man.

Death in jail custody

41. During November 2009, it has been reported that a total of 5 persons passed away in jail custody allegedly due to illness.

Recommendations

42. Transparency and accountability must be upheld in the treason cases involving the BDR Jawans.
43. Torture during interrogation and in the remand period or during custody must be stopped.
44. Recommendations put forth by the High Court Division of the Supreme Court of Bangladesh in 2003, regarding measures to be put in place to prevent torture and ill treatment in custody and remand, must be implemented as soon as possible.
45. The Government must take effective measures to bring an end to violence against women. The guilty parties must be brought under the purview of prevalent laws and tried. The victim must also be given proper support by the Government.
46. The wages of the workers of the readymade garments factories must be paid on time. The Government must watch over the garments factories to ensure that the workers are being paid regularly and that the issues concerning wage raises are resolved. The Government must also ensure that the tri-partite agreement is being observed.

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Notes:

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