



**Joint NGO Alternative Report to the UN Human Rights Committee  
on Bangladesh**

**(119th Session – 6-29 March 2017)**

Joint submission by:

International organisations:

**FIDH (International Federation for Human Rights)**: FIDH is a non-governmental federation of human rights organizations around the world. Founded in 1922, FIDH is the oldest international human rights organisation in the world, and today brings together 184 member organisations in over 100 countries. Its core mandate is to promote respect for all the rights set out in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

**OMCT (World Organisation Against Torture)**: OMCT is the main coalition of international non-governmental organisations (NGOs) fighting against torture, summary executions, enforced disappearances and all other cruel, inhuman or degrading treatment. OMCT has 297 affiliated organisations in its SOS-Torture Network and many tens of thousands correspondents across the world.

Regional organisations:

**Asian Federation Against Involuntary Disappearances (AFAD)**: AFAD is a federation of human rights organisations working directly on the issue of involuntary disappearances in Asia. Envisioning a world without desaparecidos, AFAD was founded on June 4, 1998 in Manila, Philippines. AFAD was the recipient of the 2016 Asia Democracy and Human Rights Award conferred by the Taiwan Foundation for Democracy.

**Asian Legal Resource Centre (ALRC)**: ALRC is an independent regional NGO holding general consultative status with the Economic and Social Council (ECOSOC) of the United Nations. It is the sister organisation of the Asian Human Rights Commission. The Hong Kong-based group seeks to strengthen and encourage positive action on legal and human rights issues at the local and national levels throughout Asia.

**Asian Forum for Human Rights and Development (FORUM-ASIA)**: FORUM-ASIA is the largest membership based human rights organisation in Asia. FORUM-ASIA is promoted by human rights organisations and movements in 19 countries of Asia. FORUM-ASIA work with partner organisations and network across Asia-Pacific Region and also with network of human rights organisations in the global south. FORUM-ASIA is actively involved in human rights advocacy at the national, regional and international levels, including with Human Rights Council. FORUM-ASIA is also involved in supporting human rights defenders and also providing capacity development and advocacy support to human rights organisations in the region.

Bangladeshi organisation:

**Odhikar**: Odhikar is a human rights organisation based in Dhaka, Bangladesh. It holds special consultative status with the ECOSOC of the United Nations.

**Maver Dak**: Mayer Dak is a network of mothers of victims of forced disappearance. It was founded on 12<sup>th</sup> March 2016 and it is based in Dhaka

## Constitutional and legal framework within which the Covenant is implemented

1. Many provisions contained in domestic laws such as the Special Powers Act (1974), the Anti-terrorism Act (2009) (amended in 2012 and 2013), the Information and Communication Technology Act (2006) (amended in 2009 and 2013), the Mobile Court Act (2009)<sup>1</sup> and Foreign Donations (Voluntary Activities) Regulation Act (2016) are incompatible with Bangladesh's obligations under the ICCPR and curtail universally recognised liberty of individuals.
2. The Bangladesh's Constitution guarantees the right to freedom of expression; however, Article 39 of the Constitution states that freedom of thought and conscience is "subject to any reasonable restrictions imposed by law in the interests of the security of the State, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence." These restrictions go beyond those allowed by Article 19 of the ICCPR, which states that restrictions must be "necessary" rather than "reasonable." Additionally, the ICCPR does not allow for restrictions in the interests of "friendly relations with other States" or "contempt of court," two rationales that are often used to justify the repression of dissenting voices in Bangladesh.
  - a) A number of sections of the Penal Code punish, in some cases with life imprisonment, those who commit acts that are considered "prejudicial to the state", "sedition" or "defamation". These provisions are often broadly interpreted by law enforcement agencies and the judiciary, and have led to the criminalisation of freedom of expression, including that of human rights defenders and journalists.<sup>2</sup>
  - b) Section 505A of the Penal Code imposes sanctions for any person who "expresses his/herself (a) by words, either spoken or written, or by signs or by visible representation or otherwise does anything, or (b) makes, publishes or circulates any statement, rumour or report, which is, or which is likely to be prejudicial to the interests of the security of Bangladesh or public order, or to the maintenance of friendly relations of Bangladesh with foreign states or to the maintenance of supplies and services essential to the community".
  - c) Section 124A of the Penal Code unduly restricts freedom of expression, stating that "whoever by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards the government established by law be punished with imprisonment for life to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine."
  - d) Section 501 of the Penal Code sanctions the act of printing or engraving matters to be known as defamatory. This Section provides for penalties ranging from fines to imprisonment, or both, as well as forcible closure of the publication.
  - e) One example of the abuse of the above-mentioned sections of the Penal Code is the case of Sohel Molla Raj, a student of English Literature at Kobi Kazi Nazrul Islam University

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<sup>1</sup> For specific examples of how the Mobile Courts Act (2009) violates the ICCPR, see paragraph 55 of this report.

<sup>2</sup> For an example, see the case of Adilur Rahman Khan and ASM Nasiruddin Elan, charged inter alia under section 505A of the Penal Code. Their case is explained below in paragraph 61(a) and (b).

in Mymensingh. In 2012, he wrote an “unpleasant comment” on his Facebook account, about the Prime Minister in relation to the disappearance of BNP leader Ilias Ali. The police arrested him and took him into 3-day remand for interrogation. On 24 August 2012 the police submitted a charge sheet before the Court against him.<sup>3</sup> Sohel Molla Raj remains in arbitrary detention in Mymensingh Central Jail.

- f) On 18 October 2016, police arrested two local Chhatra Dal activists, Mohammad Shamim Hassan and Mohammad Nur Hossain Talukdar over allegations of posting objectionable comments on Facebook against Prime Minister Sheikh Hasina. A case was filed with Shoronkhola Police Station under Sections 16(2)<sup>4</sup> and 25D<sup>5</sup> of the Special Powers Act, 1974 accusing seven persons, including the President of Shoronkhola Upazila unit Chhatra Dal, Bellal Hossain Milon.<sup>6</sup> They are still in jail.
3. The Anti-Terrorism Act (2009), also known as the ATA, provides a very broad and vague definition of “terrorist activities”<sup>7</sup> which opens the door to human rights abuses under the guise of the so-called “fight against terror,” which is becoming increasingly prevalent in Bangladesh.
    - a) On 16 February 2012, Parliament adopted the Anti-Terrorism (Amendment) Bill, which widens the scope of sanctions provided in the ATA by approving the death penalty as the maximum penalty for financing terrorist activities. Before the amendment, the ATA stipulated that the offence of financing acts of terrorism shall be punishable by no more than 20 years of imprisonment. The Amendment Bill was passed with virtually no consultation, and despite strong opposition from Bangladeshi civil society groups.
    - b) One example of the ATA being used to target human rights defenders and journalists is the case of Mahmudur Rahman, Acting Editor of the Amar Desh newspaper. On 6 June 2010 he was charged with “printing banned leaflets” and for “conspiring against the State”. Mahmudur Rahman was later acquitted of these charges, but the judicial harassment against him continues to this day. Finally he has been released on bail.<sup>8</sup>
  4. On 6 October 2013, the National Parliament of Bangladesh passed the ICT (Amendment) Act (2013). Ignoring protests by rights groups, the Act increased the punishment for cyber-crimes from the previous ICT Act from 10 years imprisonment to 14 years or a fine of Tk 10,000,000 or both. Moreover, in the original ICT Act, adopted in 2006, provisions were non-cognisable and bailable, and arrests were subject to prior approval from governmental authority or court. Offences under Sections 54, 56, 57 and 61 of the ICT Act, 2006 are now changed to ‘cognisable’ and ‘non-eligible for bail’. Consequently, law enforcement officials are empowered to arrest anyone without a warrant<sup>9</sup>.

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<sup>3</sup> The daily Prothom Alo, 01/06/2012 and the daily Naya Diganta, 02/06/2012

<sup>4</sup> Section 16(2) of the Special Powers Act was omitted through an amendment in 1991, despite this police filed a case under this section.

<sup>5</sup> Section 25D: Whoever attempts or conspires or makes preparation to commit or abets any offence punishable under this Act shall be punishable with the punishment provided for the offence.

<sup>6</sup> The daily Manabzamin, 19/10/2016, <http://www.mzamin.com/article.php?mzamin=36406&cat=9/>

<sup>7</sup> The definition of ‘terrorist activities’ can be found in article 6 and article 17 of the Anti-Terrorist Act (2009), which can be found at <http://mha.gov.bd/wp-content/uploads/2013/10/Anti-Terrorism-Act-2009.pdf>

<sup>8</sup> For more information, see <https://www.fidh.org/en/region/asia/bangladesh/immediately-release-mahmudur-rahman-arbitrarily-imprisoned-since-2013>

<sup>9</sup> Examples are given on page 16 under repression of human rights defenders

## Right to an effective remedy (Article 2)

5. Article 32 of Bangladesh's Constitution states that "no person shall be deprived of life or personal liberty save in accordance with the law," in compliance with Article 9 of the ICCPR. Thus, if a person is accused of a bailable offence, as per law, that person must be freed on bail. Bangladesh's Magistrate and Sessions courts maintain a pattern of systematically denying applications for bail, which are generally granted in the High Court Division of the Supreme Court. In the Courts of Magistrates and Courts of Sessions, judicial officers are often reluctant to challenge the police or Attorney General's office, and thus they either deny bail to the suspects or fail to set a date for a bail hearing. If the poorer detainees fail to pay for lawyers to represent them, they languish in jails for months without their cases being heard.
6. In addition, despite being granted bail by the High Court, often the detainees are unlawfully kept in detention following unlawful interventions made by the Attorney General's Office to the jail. The High Court has occasionally reprimanded jail officials and the Attorney General's office for this unlawful practices, however, it still continues. The tactic of systematic denials of bail in lower courts and the interference of the Attorney General's office and jail officials in implementing the release orders are most commonly used against detainees who are targeted by the authorities. Few examples to illustrate the pattern:
  - a) On 8 May 2016, a Bench of the High Court Division of the Supreme Court issued six-month bail orders for three men - Giasuddin, Md Aminur Rahman, and Osman Gani. However, the jail authorities were instructed by the Attorney General's Office not to release the three men claiming that the Office would be appealing against the High Court's bail order. The three remained in detention for 21 more days. The matter was brought to the attention of the same Bench that passed the bail orders, which found that there was no scope for the jail authorities to continue the detention. On 9 June, the Superintendents of Dhaka Central Jail and Kashimpur Central Jail-1 and the advocate-on-record for the Office of the Attorney General who had instructed the jail authorities to not release the three detainees, were summoned before the Bench and asked to submit a written explanation. After having received it, the Court disposed of the matter without punishing them.
  - b) In December 2015, Mohammad Saleh Ahmed and his son Mohammad Saidul Ahmed were picked up by the police and detained in remand where they were allegedly tortured. After the police remand period expired, the Magistrate and the Sessions Court rejected their bail petitions. After four months, their writ petition was heard in the High Court, which granted them bail. However, the Attorney General's Office issued a certificate stating that the government would be appealing against the bail order. The jail authorities thus refused to release the two men. An appeal against the bail decision was filed by the Attorney General's Office, which took two weeks to be heard in Court. The Chamber Judge of the Appellate Division maintained that the bail order must be implemented and the men must be freed. However, Advocate-on-record Sufia Khatun issued another certificate stating that the government would be filing a petition seeking a stay order against the bail, and the jail authorities again refused to release the detainees. The two men were later freed on bail in the first week of June 2016, but the jail authorities and advocate-on-record faced no consequences for flouting the orders of the High Court and prolonging the arbitrary detention.

7. Under Article 102 (2) of the Constitution, any aggrieved individual can file a writ petition before the High Court Division of the Supreme Court requesting access to remedy. However, seeking remedy under Article 102 of the Constitution requires a considerable amount of money, which is out of reach for most of the victims. Thus, the legal recourse provided under article 102(2) of the Constitution can only be enjoyed by affluent detainees.

### **Non-Discrimination and Equality between Men and Women (Articles 2, 3, and 26)**

8. Bangladesh has enacted a series of laws aimed to protect women from discrimination and violence, namely the Child Marriage Restraint Act (1929), the Dowry Prohibition Act (1980), the Prevention of Repression of Women and Children Act (2000), the Domestic Violence (Protection and Prevention) Act (2010). However, these laws remain largely unimplemented. The reasons are corruption in police investigations, inefficient prosecutorial systems, absence of modern forensic medicine infrastructures, delay in criminal justice system, non-judicial mind-set of the judges, lack of public awareness, and impunity to the perpetrators having ruling political party affiliation. Therefore, discrimination between men and women and violence against women continues unabated and remains a serious human rights concern in Bangladesh.

### ***Child marriage***

9. The Child Marriage Restraint Act (1929) specifically stipulates that a male has to be 21 years or over and a female has to be 18 years or over in order to be eligible to marry. However, according to UNICEF, Bangladesh has the fourth highest child marriage rate in the world and the highest rate of child marriage of girls under the age of 15 in the world, with 66% of girls married before the age of 18, and over one third of girls married before the age of 15.<sup>10</sup> In the name of legislative reform, the government introduced the Child Marriage Restraint Bill 2016 for the second time after 2014<sup>11</sup>, which was approved by the Cabinet on November 24, 2016 that specifies child marriage below age 18 will be permitted in ‘special circumstances, such as accidental or unlawful pregnancy.’<sup>12</sup>

### ***Dowry and related violence***

10. In 1980, Bangladesh passed the Dowry Prohibition Act banning dowry. The law contains provisions for imprisonment or a fine or both for giving and taking dowry. The Prevention of Repression of Women and Children Act, 2000 (amended 2003), in particular Section 11 (a) (b) and (c), also contains provisions for stringent punishments for dowry-related violence. Nevertheless, dowry practice remains deeply rooted in Bangladeshi society and continues to result in the abuse and death of women each year. Many girls, the victims of child marriages, become victims of dowry-related violence. Dowry has become a serious social ailment, affecting women, girls, and their families from all sectors of society.

From May 2013 to December 2016, Odhikar documented 889 cases of girls and women being subjected to dowry-related violence. Among the 889 victims, 450 were killed, 405

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<sup>10</sup> [http://www.unicef.org/media/files/Child\\_Marriage\\_Report\\_7\\_17\\_LR.pdf](http://www.unicef.org/media/files/Child_Marriage_Report_7_17_LR.pdf)

<sup>11</sup> <https://www.hrw.org/news/2014/10/12/bangladesh-dont-lower-marriage-age>

<sup>12</sup> <http://odhikar.org/no-to-special-circumstances-in-law-no-to-child-marriage/>

were physically abused in various ways for dowry-related demands, and 34 women committed suicide due to dowry-related violence.

### ***Gender-based violence***

11. Although Bangladesh enacted several laws to curb gender-based violence, however, in practice women continue to face gender-based violence, including sexual harassment, without adequate protection by State authorities.
12. From May 2013 to December 2016, Odhikar documented 901 cases of sexual harassment against girls and women. Among these victims, 36 committed suicide after having been attacked, and 17 others were killed by their attackers.
13. Between May 2013 and December 2016, Odhikar received 192 reports of acid violence. Among the victims, 127 were women, 30 were men, 26 were girls, and nine were boys. The main motivations of acid attacks were allegedly the refusal of marriage proposals or sexual advances, the inability of a woman or her family to provide dowry, and family and land disputes.
14. In public hospitals across Bangladesh, ‘trauma counselling’ does not exist as a service. The National Institute of Mental Health and Research, established in Dhaka about a decade ago, and the Bangabandhu Sheikh Mujib Medical University (BSMMU) in Dhaka, are the only two institutions known to provide some form of trauma counselling for victims of violence and attacks. However, trauma counselling is not part of mainstream healthcare provided in public hospitals, leaving victims of sexual, domestic, acid violence or torture without needed support.

### **Right to Life (Article 6)**

#### ***Extra-Judicial Killings***

15. From May 2013 to December 2016, Odhikar documented 727 cases of alleged extra-judicial killings by law enforcement agencies. Among them, 159 people were allegedly killed by members of the Rapid Action Battalion (RAB) and 446 were killed by the police.
16. The RAB officials have always maintained that any people they have killed were wanted criminals and have been killed in active shoot-outs or due to “crossfire”. There are several cases of individuals killed by the RAB where witnesses have claimed otherwise, or that have proven to be cases of mistaken identity.<sup>13</sup> However, RAB officials have never publicly accepted responsibility for the alleged extrajudicial killings.

#### ***Enforced Disappearances***

17. From May 2013 to December 2016, Odhikar documented 232 persons were forcibly disappeared after having allegedly been picked up by men claiming to be members of law enforcement agencies. This number only includes cases where family members or witnesses claim that the victim was abducted by people in law enforcement uniform or by people

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<sup>13</sup> <http://odhikar.org/kaiser-mahmud-bappi-allegedly-shot-to-death-by-rab-at-rampura-in-dhaka/>

identifying themselves as law enforcement agents.<sup>14</sup> Among these 232 cases, 34 people were found dead, 137 resurfaced or appeared in police custody after a prolonged period of time, and the whereabouts of 61 persons are still unknown. Among the 232 cases, 94 were allegedly disappeared by the members of the RAB.

18. In a large number of cases of enforced disappearance that are documented, the abductors were dressed in uniforms and arrived in vehicles belonging to law enforcement agencies, and have identified themselves as belonging to law enforcement agencies such as the RAB or the Detective Branch (DB) of the Police. Families that have approached to the High Court to obtain redress and to locate their loved ones ostensibly disappeared by agents of the State complain that their cases have been neglected and stalled by judges and the State attorneys, including the Attorney General. This has resulted in total impunity for these violations, where different arms of the State including the Judiciary have perpetuated injustice and paved the way for State agents to continue disappearing people in Bangladesh. The pattern of abductions, the inaction on the part of law enforcement and the judiciary in response to cases filed, and the profiles of the victims of disappearances in Bangladesh all suggest that enforced disappearances are being used by the State as a tool to silence and weaken political opponents.
19. Human rights defenders face particular challenges when taking up cases of enforced disappearance in Bangladesh. They are subjected to intimidation and threats, including surveillance and harassment by State intelligence services, law-enforcement agencies, and political cadres of the ruling party.
20. In most cases of enforced disappearance, family members of the disappeared do not seek help from the courts either due to poor financial conditions or threats from the perpetrators aimed at the surviving members of the families. Nevertheless, some relatives of people who have been disappeared have filed habeas corpus applications under writ jurisdiction in the High Court Division under the Article 102(2)(b)(i) of the Constitution of Bangladesh. However, in the last five years, none of the few cases where habeas corpus applications have been filed before the High Court have resulted in law-enforcement authorities revealing the whereabouts of the disappeared person.<sup>15</sup> Some examples of emblematic cases of enforced disappearance where investigations of habeas corpus applications before the High Court have failed to resolve the case include the following:
  - a) **Mr. Tushar Islam Titu**, leader of the Jubo League<sup>16</sup>, was disappeared on 22 July 2008. A report by an Inquiry Committee formed by the Ministry of Home Affairs found evidence that members of the RAB arrested Mr. Titu in Sirajganj district and took him to Dhaka. However, the alleged perpetrators denied the arrest took place. In a statement on 11 August 2012, the then Home Secretary said that RAB's responsibility for the incident had been proved by their investigation and that "action must be taken against those RAB officers." However, Commander M. Sohail, Director (Legal and Public Relations) of RAB told the media, "These kinds of reports do not matter to us. [...] Some human

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<sup>14</sup> Human rights groups and the media have documented hundreds of additional cases of individuals being abducted or disappeared, but these have not been included in Odhikar's documentation since there was no evidence or witness testimony regarding the abductors.

<sup>15</sup> <http://alrc.asia/bangladesh-enforced-disappearances-should-not-be-taken-for-granted/>

<sup>16</sup> Youth wing of Bangladesh Awami League - political party



rights organizations and officials of the Ministry prepare fabricated reports, which have no legal basis.”<sup>17</sup>

- b) **Mr. Imam Hassan**, alias **Badal**, was abducted on 5 March 2012 in Dhaka<sup>18</sup>. The next day members of RAB-2 informed Badal’s father that they had ‘rescued’ Badal from kidnappers. When he arrived at the RAB-2 office to pick up his son, the duty officer of RAB-2, SI Raju, demanded 100,000 Taka from him for having rescued his son. Badal’s father gave SI Raju 40,000 Taka. However, Badal was never returned to his family, this despite a letter by Advocate Nurul Islam Suzon, Member of Parliament and Former Member of the Standing Committee of the Ministry of Home Affairs urging the RAB-2 to take necessary steps to release Badal. On 30 April 2012, Badal’s father then submitted an application to the National Human Rights Commission (NHRC) which however replied that the Anti- Corruption Commission had investigated the matter and found no evidence of SI Raju taking a bribe. Badal’s father then filed a Habeas Corpus application in the High Court Division<sup>19</sup>, which on 13 November 2012, issued a Rule Nisi calling upon the RAB-2 officials to produce Badal before the court. However, the case remains unresolved.
- c) On the night of 4 December 2013, **Mohammad Sajedul Islam**, alias **Sumon**, the General Secretary of the Tejgaon Thana unit of the Bangladesh Nationalist Party (BNP), was disappeared by uniformed and armed RAB members, in front of Sumon’s mother Hajera Khatun. In 2016, Sumon’s family finally filed a Habeas Corpus application in the High Court Division under the Article 102 (2) (b) (i) of the Constitution of Bangladesh.<sup>20</sup> The Justice issued a Rule Nisi calling upon the RAB to show cause as to Sumon’s arrest and detention for more than two years should not be declared to be illegal and without lawful jurisdiction. The case is still unresolved.

### ***Impunity for extrajudicial killings under the Armed Police Battalion Act***

21. The RAB was created by amending the Armed Police Battalions Ordinance-1979<sup>21</sup> in 2003, which introduced an ‘elite force’ to perform special duties of ‘intelligence in respect to crime and criminal activities’ and investigation of any offence directed by the government. The RAB, thus, began conducting investigations and arrests beyond established criminal procedures, and reports of violations of due process and extrajudicial killings by the RAB began to surface just months after its inception. As a result, on 25 October 2004, the constitutionality of this amended law and the RAB’s actions were challenged on the grounds that there were no rules or procedures on how it should operate. The High Court gave the government four weeks to explain why the RAB should be allowed to operate without complying with the existing law.<sup>22</sup> Upon the government’s unsatisfactory responses the High Court subsequently ruled that the RAB should function within the bounds of existing law and criminal procedures. The High Court’s Rulings had no impact on RAB’s conducts in halting systematic violation of law and human rights.

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<sup>17</sup> The daily Prothom Alo, 12/08/2012

<sup>18</sup> <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-190-2012>

<sup>19</sup> Writ Petition No. 14880 of 2012

<sup>20</sup> Writ Petition No. 2604 of 2016

<sup>21</sup> See, the Armed Police Battalions (Amendment) Act, 2003, (Act no. XXVIII of 2003).

<sup>22</sup>“Government Asked to Reply Why RAB Not Be Run as per Law,” *Daily Star*, November 29, 2004, <http://www.thedailystar.net/2004/11/29/d4112901055.htm>.

22. Despite being tasked with civilian law enforcement duties, the RAB is protected by a system similar to that of the military. Under Section 13 of the Armed Police Battalion Act (1979) (Amended in 2003), RAB officers are granted immunity against any suit, prosecution or other legal proceedings for anything done, or intended to be done, in “good faith”. Civilian Courts thus have never exercised their jurisdiction to hold RAB officers accountable for violating rights.
23. In the very few cases that any form of sanction is known to have been handed down against RAB members, this has been done by internal tribunals, so-called special or summary courts headed by senior police or RAB officers. These lack any form of transparency or public accountability. Where punishment has been meted out it has typically been withdrawal from RAB service and sending back to the individual personnel’s original police, military or other unit.

### ***Impunity for the murders of bloggers and activists***

24. Despite repeated pledges by the government, numerous murders of bloggers and activists have been systematically ignored.
25. The case of blogger **Ahmed Rajib Haider**, who was hacked to death near his house in Dhaka on 15 February 2013, has been the only instance of having conclusive trial. On 31 December 2015, almost 3 years later, the Dhaka Speedy Trial Tribunal-3 sentenced two people to death for his murder, and gave different jail terms to six others, including the chief of a banned Islamist group called Ansarullah Bangla Team.<sup>23</sup>
26. On 26 February 2015, US-born Bangladeshi writer and blogger **Avijit Roy** was hacked to death and his wife Rafida Ahmed Bonya was critically injured in an attack in Dhaka. On 2 March 2015, Shafiur Rahman Farabi, a pro-islamist blogger, was arrested allegedly in relation to Avijit Roy’s murder. The law-enforcement agencies have not yet been able to prove Farabi’s involvement in the killing and there has been no formal trial while Farabi still remains in jail. In August 2015, the RAB detained three other people, including Touhidur Rahman, a Bangladesh-born British citizen in connection with the murder.<sup>24</sup> In February 2016, Dhaka Metropolitan Police publicly stated that a total eight people are arrested on suspicion of killing Avijit Roy or abetting the crime, yet as of today no formal charges have been filed against them while they are in jail.<sup>25</sup>
27. Blogger **Ananta Bijoy Das** was hacked to death in front of his house on 12 May 2015. Since the murder, the Criminal Investigation Department (CID) is yet to submit a charge sheet in the case. The CID had arrested two students, namely Mannan Rahi and Abul Khair, on suspicion of committing the murder. Apparently, Mr. Rahi admitted before Sylhet Metropolitan Magistrate Court-3 that he, accompanied by Mr. Khair and three others, had hacked Ananta Bijoy Das to death for his publications that promoted atheism<sup>26</sup>, but no actual charges have been filed or public trial has taken place in this case.

<sup>23</sup> <http://www.thedailystar.net/frontpage/2-get-death-6-others-jail-term-195412>

<sup>24</sup> <http://www.telegraph.co.uk/news/worldnews/asia/bangladesh/11808888/Bangladesh-arrests-suspected-British-mastermind-of-blogger-murders.html>

<sup>25</sup> <http://bdnews24.com/bangladesh/2016/02/26/who-killed-writer-blogger-avijit-roy-a-year-on-police-have-no-clue>

<sup>26</sup> <http://www.thedailystar.net/city/memorial-slain-blogger-ananta-be-unveiled-today-1222468>

28. Regarding the murder of blogger **Washiqur Rahman Babu** on 30 March 2015, police filed charges against 5 suspects on 1 September 2015. On 20 July 2016, the Additional Metropolitan Session Court-3 of Dhaka heard the case and framed the charges against five members of banned militant group Ansarullah Bangla Team (ABT).<sup>27</sup> Arrest warrants have been issued against two of them, who are still at large. The other three suspects, who are in police custody, pleaded not guilty before the court, despite not having a lawyer to represent them.
29. Before he was murdered by a gang with machetes in his home in Dhaka on 7 August 2015, blogger **Niladri Chatterjee Nijoy** (aka Niloy Neel) had attempted to file General Diaries (GD) with the police informing them of the threats he had received against his life and the fact he was being followed by suspicious men, but the police refused to provide him with any protection. On 19 November 2015, Dhaka Metropolitan Police announced that they had arrested three men for this murder: one Mufti Abdul Gaffar, was arrested for sending a death threat to the atheist blogger via Facebook, and two others for claiming responsibility for the murder. The alleged mastermind behind the murder, named Sharif, was extrajudicially killed on 19 August 2016 by the DB of Police who claimed the incident as a ‘shootout’.<sup>28</sup>
30. Faisal Arefin Deepan, owner of Jagriti Publications, was hacked to death in his office in Dhaka on 31 October 2015. On the same day, attackers murdered Ahmed Rashid Tutul, publisher of books of slain blogger Avijit Roy, along with two other writers and bloggers – Rono Dipam Basu and Tareq Rahim – in a publishing house in Dhaka.<sup>29</sup> On 23 August 2016, the DB of Police arrested Moinul Hasan Shamim, aged 24, alleged key suspect in the murder of Faisal Arefin Deepan. The police claimed that the suspect is a member of Ansar Al Islam, an extremist group that was previously known as Ansarullah Bangla Team. Investigation has yet to be done while he remains in custody.

### ***Death Penalty***

31. According to Odhikar documentation, from May 2013 to December 2016 at least 819 persons were sentenced to death under different laws. It is difficult to ascertain the exact crimes for which people were sentenced to death since the government does not provide transparent and accurate information regarding the death penalty. However, documentations indicate that most of these death sentences were handed down for murder, and in some cases for rape, drug smuggling, and robbery.
32. Between May 2013 and December 2016, at least 10 persons were executed. Of them six were convicted and executed for war crimes/crime against humanity by the International Crimes Tribunal.

### ***Deaths in prisons and in police custody***

33. From May 2013 to December 2016, Odhikar documented 210 people who reportedly died while being detained in prison in Bangladesh. Reports indicate that in many cases due to lack of proper facilities, negligence by the authorities resulting to many prisoners falling ill and some died without treatment in prison.

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<sup>27</sup> <http://www.thedailystar.net/backpage/five-ansarullah-men-indicted-1256896>

<sup>28</sup> <http://www.daily-sun.com/post/145805/Mastermind-killed-in-gunfight-claim-police>

<sup>29</sup> <http://newagebd.net/248259/publisher-Deepan-murder-key-accused-arrested/>

34. From May 2013 to December 2016, Odhikar documented at least 39 incidents of persons who were tortured to death in the custody of different law enforcement agencies. In most cases, the police, RAB and other law enforcers tortured detainees during interrogation sessions. There are also cases of people being tortured by law enforcement agents for bribes and extortion and dying as a result.

**Prohibition of torture and other cruel, inhuman or degrading treatment; liberty and security of person, treatment of persons deprived of their liberty (Articles 7, 9, and 10)**

35. Despite the passing of the Torture and Custodial Death (Prohibition) Act-2013, reports of torture in police custody continue to surface, and perpetrators enjoy almost complete impunity.
36. The Torture and Custodial Death (Prohibition) Act-2013 contains several flaws allowing for the continuation of torture, including:
- a) The provisions of the Act do not supersede existing laws allowing for immunity for some law enforcement agents, such as the immunity provision of the Armed Police Battalions Ordinance 1979 (as amended in 2003).
  - b) The Act does not explicitly extend protection to witnesses coming forward with information on torture, leaving them vulnerable to reprisals by the authorities.

***Impunity of law enforcement officers accused of torture and ill-treatment***

37. There is no publicly available information regarding ongoing investigations into torture allegations, or the dismissal of cases.
38. According to the victims of torture and ill-treatment who have shared information with rights activists, they have received no rehabilitation or compensation from the authorities.
39. There are several known cases of officials being promoted despite pending torture allegations against them, for example:
- a) Mr. Hassan Mahmud Khandkar was Director General of the RAB from February 2007 to 30 August 2010 and Inspector General of the Bangladesh Police from 31 August 2010 to 30 August 2015. During this period, scores of cases of enforced disappearance, extrajudicial killings, and torture have emerged, with evidence and witnesses indicating the RAB and the Bangladesh Police were involved. Nevertheless, Khandkar was never subjected to any formal investigation or trial, and was appointed as Bangladesh's Ambassador to Spain in 2015.

***Prison conditions***

40. Prisons are managed under the Prison Act (1894) and its accompanying Rules, the Prisoners Act (1900), and the Jail Code. In Bangladesh, prisons are still treated as punitive centres of confinement. Little effort has been made by the government to change the existing laws and

the Jail Code for rehabilitation of the prisoners and make the prisons correctional institutions.

41. There are 68 prisons (13 central jails and 55 district jails) across Bangladesh. The total official capacity of all 68 prisons is 36,614 inmates. However, as of 8 January 2017, there were about 74,513 inmates detained in the prisons.<sup>30</sup> According to sources who have been inside the prisons, this has resulted in insufficient space for sleeping and a scarcity of food, medicine, water and very poor sanitation.<sup>31</sup>
42. Prisons and jails are extremely overcrowded due to the mass arrests under the special drives that the police undertook at different times since 2013, and human rights have deteriorated as a result of cramming inmates in prison cells in excess of their actual capacity. On 19 June 2016 the Minister for Home Affairs told the Parliament that most of the country's prisons were accommodating over two to three times more inmates than their capacity.<sup>32</sup>
43. Inmates are often deprived health care and access to medical facilities due to the absence of prison hospitals. Only 12 prisons out of 68 prisons have a hospital. Because of the corrupt and slow penal system, many poor detainees often end up spending years in jail awaiting trial, and due to the poor conditions in the jails, end up falling very ill. There are many reports of detainees dying while awaiting trial, most often due to illness, untreated injuries incurred from torture, and suicide.
44. The overcrowded situation of prisons is such that the inmates often do not get a space for sleeping at night. The condition of bathrooms and toilets is extremely unhygienic. For example, due to the lack of a sufficient number of toilets, inmates often have to wait in a queue for hours to use a toilet, and sometimes they do not have any alternative but to use uncovered drains adjacent to the prison cells as toilets. The space for bathing is extremely limited in many prisons, and inmates have to share the same water from a large open tub to bathe. This results in the transmission of several diseases and a very poor level of cleanliness.<sup>33</sup>

### ***Prison monitoring mechanisms***

45. There is a Jail Monitoring Committee under the supervision of the District Judge in every district but it is not effective. Members of this committee, including representatives from CSOs and media, are selected by the government and as such tend to be reluctant to be critical of the authorities. The committee is mandated to monitor the overall conditions of prisons and investigate complaints, but they are not seen as independent.
46. The National Human Rights Commission (NHRC) also has the mandate to visit and monitor prisons and investigate complaints about the condition of prisons and conduct of jail officials. However, there is no visible action has been taken by the NHRC regarding the numerous concerns raised about conditions in jails and prisons and the treatment of detainees.

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<sup>30</sup> <http://www.prison.gov.bd/profile/head-quarter>

<sup>31</sup> The daily Naya Diganta, 18/11/2015

<sup>32</sup> <http://bdnews24.com/bangladesh/2016/06/19/bangladesh-jails-hold-three-times-more-inmates-than-capacity-says-home-minister-kamal>

<sup>33</sup> <http://www.theindependentbd.com/post/54428> and <http://www.theindependentbd.com/post/54428>

## Independence of the judiciary and right to a fair trial (Article 14)

### *Fair trial violations in mass trials*

47. The Bangladesh authorities are known for staging mass trials against those accused of offences against the government, trials that are rife with irregularities and violations of the provisions of the ICCPR. One of the most well-known cases of such mass trials is the 2013 trial of former members of the *Bangladesh Rifles* (BDR) Border Guards, resulting in 152 people being sentenced to death penalty and hundreds of others sentenced to various prison terms for their alleged involvement in a 2009 mutiny. Some examples of irregularities and ICCPR violations observed during this trial are emblematic to other trials in Bangladesh, include:

- a) The first verdict in the BDR trial was delivered on 7 April 2010, and the trial concluded on 20 October 2012. During this time, a total of 5,926 BDR members were convicted and sentenced to imprisonment for varying terms ranging from four months to seven years by 11 special courts headed by military officers. Only about 270 were acquitted.<sup>34</sup>
- b) After the mutiny in 2009, many BDR members were arrested en mass. The trials were conducted by accusing the BDR en mass, who reportedly did not know what specific charges were being brought against them.
- c) Several defendants were allegedly tortured into confessing, and 80 defendants later retracted their confessional statements, including Sepoy Selim Reza, Ershad, Rafiqul Islam, Shaheb Ali, carpenter Narayan Chandra Das, and 75 others. Their application to retract their confessional statements indicated that they had been tortured while in remand and forced to make confessional statements.<sup>35</sup>
- d) Several defendants reported that they were denied the right to present witnesses in their defence.
- e) Khandokar Shah Jahan, one of the defence lawyers representing BDR members, claimed before a Session Judge's Court that his client's leg was pierced by a drill machine while he was in remand in CID custody. When the lawyer told the court that the wound was evidence of "torture", Metropolitan Sessions Judge Mohammad Zohurul Hoque ignored him. The defence counsel said, "my client wanted to show you (Judge) the wound by taking off his clothes, and wanted to have the matter recorded by the court, but you have refused."<sup>36</sup>
- f) Article 10A(3) of the Bangladesh Rifles Order states that accused soldiers must conduct their own defence, but can engage lawyers of their choice to provide legal assistance. Nevertheless, lawyers were not allowed to be alone with their clients when giving advice. The accused who engaged counsels were given longer sentences for the same allegations in comparison with those who did not do so.<sup>37</sup>

<sup>34</sup> <http://www.bbc.com/news/world-asia-24817887>

<sup>35</sup> The Daily Manamzamin, 21 January 2010

<sup>36</sup> <http://www.thedailystar.net/news-detail-246128>

<sup>37</sup> The daily New Age, 21/10/2012

## ***Mobile Courts***

48. The Mobile Court Act (2009) includes several provisions and is applied in ways that are in violation of the ICCPR, including:
- a) Section 7 of the Act empowers Executive Magistrates to send defendants to jail instantly without providing them the opportunity to consult legal counsel or defend themselves. This violates of Articles 14(3b) and 14(3d) of the ICCPR. There have also been a number of reported incidents of Executive Magistrates arriving at a place of business and deciding on the spot that the owner is guilty of a violation and imposing a fine then and there.<sup>38</sup>
  - b) Often times “trials” held by the mobile courts take place behind closed doors and are not accessible to the public. This violates Article 35 (3) of the Bangladesh Constitution and Article 14(1) of ICCPR.
49. On 22 June 2015, the Cabinet approved a Bill amending the Mobile Court Act-2009, which has not yet been enacted as a law. If it is adopted it would increase the authority of the mobile courts, without addressing the concerning provisions listed above.

## **Freedom of opinion and expression, and freedom of association (Articles 19 and 22)**

### ***Repression of journalists***

50. Despite the Government of Bangladesh’s claims that the restrictions to the right to freedom of expression and speech as per the Constitution “are not often strictly implemented” and that “the press has the freedom to print or not to print any matter it chooses and the government cannot interfere”<sup>39</sup>, the reality in Bangladesh is that of violence and judicial harassment of journalists and the shutting down of newspapers and other publications that are critical of the government.
51. A few emblematic cases of the repression of free expression and the judicial harassment of journalists include:
- a) **Mr. Mahmudur Rahman**, the Acting Editor of the Daily Amar Desh, was arrested on 11 April 2013. The Amar Desh office was raided by the police, journalists and press-operators were beaten and driven out, and the press building was sealed. It has remained closed since. Mr. Rahman spent 1322 days in arbitrary detention until his release on bail on 24 November 2016.<sup>40</sup> During this time, he was repeatedly granted bail by the courts, but each time the police prevented his release by implicating him in a separate pending criminal case.<sup>41</sup> Despite his release on bail, Mr. Rahman is still facing prosecution under 81 cases filed against him across the country, mainly for defamation and sedition. Prior to his arrest in 2013, Mr. Rahman had already been detained from June 2010 to March 2011 in relation to defamation and sedition charges. During his detention, he was subjected to torture and ill-treatment.

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<sup>38</sup> <http://www.daily-sun.com/post/54014/Constitutionalism-of-unconstitutional-activities:-Mobile-Court-Act-2009>

<sup>39</sup> Initial report submitted by the Government of Bangladesh: CCPR/C/BGD/1, page 39, paragraph 206

<sup>40</sup> For more information see <https://www.fidh.org/en/issues/human-rights-defenders/bangladesh-mahmudur-rahman-finally-freed-after-more-than-three-years>

<sup>41</sup> The daily New Age, 15/02/2016

- b) **Mr. Shafik Rehman**, 81-year-old author, anti-death penalty campaigner, and journalist, was arrested on 16 April 2016 by plain clothed police officers who entered his home without a warrant. He was eventually charged with “conspiring to abduct and assassinate” Prime Minister Sheikh Hasina’s son, and was repeatedly denied bail despite his advanced age and frail medical condition. Prior to his arrest, Mr. Rehman convened the international affairs committee of the Bangladesh Nationalist Party (BNP) and headed a pro-opposition think-tank called G-9. The High Court granted his bail on 31 August 2016<sup>42</sup>. He was freed from jail on 6 September 2016.<sup>43</sup>
- c) **Mr. Mahfuz Anam**, Editor of *The Daily Star*, is facing 82 cases of sedition and defamation for having published reports in 2007 that accused the incumbent Prime Minister Sheikh Hasina of corruption. These reports were based on uncorroborated information and Mahfuz Anam has since stated that it was a mistake to have published them, but nevertheless faces 17 sedition and 65 defamation cases. On 11 April 2016, the High Court stayed the proceedings of 72 of the cases filed against him for three months and later extended up to June 2017; the High Court stayed the remaining 10 cases on 13 June 2016 for six months till February 2017.
- d) **Mr. Shaukat Mahmud**, Editor of *Weekly Economic Times* and President of the Bangladesh Federal Union of Journalists, was arrested on 18 August 2015 and spent nearly a year in arbitrary detention charged in 24 fabricated criminal cases of arson and vandalism. On 22 June 2016 he was finally released on bail on orders of the High Court. His case is still under investigation. No trial has begun yet.
52. In addition to judicial harassment and violations of their due process rights, journalists often face physical violence, notably from law enforcement agents. There are several reports of journalists being threatened and harassed by police, and being physically attacked by security forces.
- a) On 31 March 2016, Mr. Md. Afzal Hossain, a Bangladeshi journalist affiliated with Odhikar and some national and regional newspapers, was shot in the leg 8 times by a police officer while filming an incident of ballot stuffing at the local governmental elections in Bhola. No action has been taken so far in this regard.<sup>44</sup>

### ***Repression of human rights defenders***

53. On 25 October 2015 Transparency International Bangladesh (TIB) published ‘Parliament Watch’, a report on the conduct of the second and sixth parliamentary sessions of the 10<sup>th</sup> National Parliament. As a consequence, on 9 November 2015 lawmakers from the ruling party Awami League and parliamentarians belonging to the opposition Jatiya Party criticised the TIB in the National Assembly. Awami League member Suranjit Sengupta said, “[TIB’s Executive Director] spoke up against the Parliament and the Constitution, which is tantamount to sedition”<sup>45</sup>.

<sup>42</sup> <http://www.bbc.com/news/world-asia-37232018>

<sup>43</sup> <http://www.thedailystar.net/backpage/shafik-rehman-out-bail-1281874>

<sup>44</sup> <http://odhikar.org/joint-statement-bangladesh-call-for-justice-after-another-police-shooting-of-a-human-rights-defender/>



54. Human rights defenders, including Odhikar members and staff have faced escalating repression, harassment, threats, and prosecution for the past several years for having published information on human rights violations in the country. A few examples of the reprisals and violations of their right to free expression are listed below:

- a) On 10 August 2013, Mr. Adilur Rahman Khan, Secretary of Odhikar and Board/Executive Committee member of several regarded international human rights organisations (including Forum Asia, FIDH and OMCT) was arbitrarily arrested by the DB of Police. Mr. Khan was charged under Section 54 of the Code of Criminal Procedure and under clauses 1 and 2 of Section 57 of the Information and Communication Technology Act 2006 for “publishing false images and information” and “disrupting the law and order situation of the country” in relation to a report prepared by Odhikar about the killing of 61 people during an operation carried out in May 2013 by law enforcement agencies. On 11 August 2013, the Odhikar office was searched by DB police, where they seized documents and computers from the office. On 8 October, the High Court Division of the Supreme Court granted a six-month interim bail to Mr. Khan. He was finally released on 11 October 2013.
- b) On 6 November 2013, Odhikar’s Director, ASM Nasiruddin Elan, surrendered before the court and was taken to jail. Four days later, he appeared before the Dhaka Cyber Crimes Tribunal for charges under Section 57 of the ICT Act and under Sections 505 and 505A of the Penal Code, in relation to the same fact finding report mentioned above in the case of Adilur Rahman Khan. Mr. Elan requested bail, which was denied by the judge and he was taken to Dhaka Central Jail. On 24 November 2013, Mr. Elan was granted bail by the High Court Division of the Supreme Court. Despite the High Court order, the jail authority did not release him in November, claiming they had received “specific instructions” from the office of the Attorney General, signed by Advocate-on-Record Sufia Khatun, not to release Mr. Elan as the Attorney General’s office had file an appeal against the High Court bail order. Mr. Elan was released on bail on 1 December 2013.
- c) On 9 January 2017 the High Court Division Bench of the Supreme Court, comprised of Justice M. Enayetur Rahim and Justice Shahidul Karim dismissed the appeal against Mr. Khan’s and Mr. Elan’s charges, vacated the Stay Order which another Division Bench of the Supreme Court had granted to the two defenders in January 2014, and directed the Cyber Crimes Tribunal to proceed with the prosecution. On January 10, 2017, the lawyers of the two defenders filed an appeal challenging the High Court's decision. In the afternoon, the Chamber Judge of the Appellate Division stayed the High Court’s judgment and order for four weeks, in order to give time to both parties to prepare for the case.<sup>46</sup>
- d) On 2 August 2015, the Media and Public Relations wing of the Police Headquarters in Dhaka issued a statement condemning newspaper reports on extrajudicial killings, which cited Odhikar and another NGO named BAMAK. The Press Release, which is entitled "Police did not commit extrajudicial killings. Statements of Odhikar and BAMAK are unlawful; only subversive campaigns", affirms that the statements made by the two organisations “contravene the existing laws of Bangladesh, which is synonymous to

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<sup>46</sup> For more information, please see <http://www.omct.org/human-rights-defenders/urgent-interventions/bangladesh/2017/01/d24157/>

challenging Rule of Law and the judicial system”. The Police Press Release further states that questioning the activities of the police threatens the reputation of the police and amounts to defamation and a criminal act, and may be considered as a subversive activity.

- e) On 30 August 2015, a commemorative event for victims of enforced disappearances organised by Odhikar, AFAD, ALRC and FIDH was suddenly cancelled by the National Press Club where the event was slated to be held. The President of the Club had ordered the event to be cancelled, claiming that there was “another programme” scheduled at the same time. However, witnesses confirmed that no programme was held at the venue on Sunday, and that several police officers were deployed to the Press Club throughout the day with no explanation for their presence. In addition, families of the disappeared who were scheduled to speak during the event received threatening phone calls. In areas outside Dhaka, other commemorations were also met with threats and police deployment.
- f) On 25 May 2016, Mr. Adilur Rahman Khan was summoned to Bangladesh’s Anti-Corruption Commission (ACC) regarding a complaint initiated by the ACC against Odhikar for alleged “money laundering”. The ACC had issued a notice against Odhikar under sections 19 and 20 of the ACC Act 2004, referring to 97,000 EUR that were transferred to Odhikar’s bank account by the European Union (EU) in July 2013, on a project run by Odhikar and originally approved by the NGO Affairs Bureau (NGOAB) of the Government of Bangladesh. Odhikar submitted documents proving that the funds had been transferred and handled in accordance with the law, in addition to a bank statement of Odhikar’s account where the remainder of the EU money is frozen, and an audit report of the EU funded project. The ACC Deputy Director stated that the submission of these documents would result in a “quick resolution” of this matter, despite the fact that these documents had already been submitted by Odhikar to the NGOAB at a previous time. The allegations against Odhikar have not been proved and the matter has been kept on record as ‘resolved’.<sup>47</sup>

### ***Repressive law on NGOs***

- 55. On 5 October 2016, the Parliament of Bangladesh adopted the highly controversial and internationally criticised Foreign Donations (Voluntary Activities) Regulation Bill (2016).
- 56. This new law will result in tighter controls over the activities of human rights NGOs and severely restrict people’s rights to freedom of association. Under this law, no Bangladeshi organisation can receive or use any donation, grant, or any form of contribution from foreign governments, organisations or citizens of a foreign state without prior approval from the NGO Affairs Bureau (NGOAB), which is under the direct supervision of the Prime Minister’s Office. NGOs must declare to the Government the source of foreign donations and how they will be used. In addition, they will have to be registered with the NGOAB to undertake any activities funded by foreign contributions, and renew their registration every 10 years. However, no time limit is specified for the registration process, leaving open the risk of undue delays by the authorities. It is also of concern that renewal of registration is conditioned to the fact that “activities of the previous 10 years are found to be satisfactory” but without providing a definition for “satisfactory” activities, which may lead to arbitrary

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<sup>47</sup> <http://odhikar.org/letter-from-the-anti-corruption-commission/>

and politically motivated decisions. The NGOAB is also empowered to inspect, monitor and assess the activities of NGOs that receive foreign funding, allowing direct control and surveillance over the activities of NGOs. Moreover, the law provides for punitive measures for violations of the law by both organisations and individuals, which include fines, disciplinary action and cancellation or suspension of registration.

57. Violations include insulting or making ‘inimical’ and ‘derogatory’ remarks against the Constitution or any constitutional body. The registration of an NGO can be cancelled or suspended if the government has reason to believe that derogatory remarks have been made against the Constitution, the Judiciary, the Law Commission, the Election Commission or the Attorney General.<sup>48</sup>
58. The law adds that no person employed in voluntary activities can travel abroad with foreign contributions without prior permission of the Director General of the NGOAB. This will severely contradict Article 12 of the ICCPR, which provides that “everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence”, and “shall be free to leave any country, including his own.”

### ***Repression of the rights to freedom of association and freedom of assembly of workers***

59. On 15 July 2013 the Bangladesh Labour (Amendment) Act (2013) was passed in Parliament. In this amended law, ILO Convention no. 87 relating to the right to freely organise meetings and assemblies and ILO Convention no. 98 relating to right to collective bargaining were integrated into Bangladesh’s national legislation. However, there were some important shortcomings to this law:
  - a) The law does not apply to workers and labourers working at Export Processing Zones (EPZs), non-profit education and training institutions, hospitals, clinics and diagnosis centres, farmlands or households.
  - b) The law outlines several criteria in order to organise a ‘legal’ strikes, including acquiring a two-third majority vote of union members to call a strike, up from three-fourths in the earlier Labour law.
  - c) According to the section 211 (8) of the law, strikes and lock-outs are not allowed for the first three years of commercial operation of new factories, or factories owned by foreigners, or joint ventures established with foreign investors. This gives owners considerable leeway to evade implementing workers’ rights.
  - d) There are still limitations placed on workers regarding their freedom to elect a labour leader of their choice, carried over from the previous labour law.
  - e) The law reduced the duration of maternity leave by two months for the workers of ready-made garment factories.
60. The trade union environment is also generally polarised along party lines, and the few independent unions that exist face obstacles to their work, including daily harassment by the

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<sup>48</sup> The Daily Star and Manabzamin, 19/05/2016

authorities. The enforced disappearance and extrajudicial killing of labour leader and human rights defender Aminul Islam in 2012 reminded the international community and human rights defenders on the ground how risky independent labour rights activities could be in Bangladesh. Authorities failed to launch any effective investigation about his assassination, and the case remains unresolved.

### **Freedom of religion (Article 18)**

61. Many attacks on members of religious minority communities and also on their places of worship took place between January and December 2016. The authorities often claim that opposition parties or rival religious groups committed these attacks, although eyewitness accounts state otherwise.<sup>49</sup>
62. According to the Hindu-Buddha-Christian Oikko Parishad<sup>50</sup>, incidents of violence against minority communities have tripled in the first three months of 2016, compared to the whole of 2015: 732 incidents of violence occurred between January and March 2016 alone. Among these incidents, killings; abduction; gang rape; attacks on houses, business places and temples; vandalism; robbing; arson attacks; and forced eviction were the most common. In some cases, criminals allegedly pressured the local authorities to not conduct genuine investigations into these incidents. The organisation stated that criminals used political influence and power while conducting such crimes as many leaders of the ruling party were involved in several of the incidents.<sup>51</sup>
63. On 30 October 2016, more than hundred houses and 15 temples were vandalized, looted and attacked over the uploading of an edited photo in which a photo of a Shiva<sup>52</sup> idol was set on a photo of the Holy Kaaba<sup>53</sup>, allegedly from the Facebook account of Roshuraj Das (30), a resident of Koibartapara of Harinber Village in Haripur Union Parishad, under Nasirnagar Upazila in Brahmanbaria District.<sup>54</sup> On 27 December, Awami League leader and former Chairman of Nasirnagar Union, Abdul Ahad was arrested for being involved in this incident.<sup>55</sup>
64. On 6 November, three men were killed<sup>56</sup> and at least 30 people injured<sup>57</sup> in a violent altercation between the Santal ethnic minority group and police, workers of Rangpur Sugar Mill and the activists of Jubo League<sup>58</sup> and Chhatra League<sup>59</sup>, when a group of employees of Rangpur Sugar Mill in Gobindaganj under Gaibandha District went to cut the sugarcane they had planted, but the Santal families who built new settlements on that land, stopped them. On 11 December, Al Jazeera TV published a video footage, showing some policemen

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<sup>49</sup> For more information, see Odhikar's fact finding report on the attacks at Ramu and Cox's Bazaar, dated 29 September 2012 at [www.odhikar.org](http://www.odhikar.org).

<sup>50</sup> The Hindu-Buddhist-Christian Unity Council

<sup>51</sup> The daily Manabzamin, 23/04/2016

<sup>52</sup> Shiva is one of the principal deities of Hinduism.

<sup>53</sup> The Kaaba is a building at the center of Islam's most sacred mosque, Al-Masjid al-Haram, in Mecca, al-Hejaz, Saudi Arabia. It is the most sacred site in Islam.

<sup>54</sup> [www.prothom-alo.com/bangladesh/article/1011401/](http://www.prothom-alo.com/bangladesh/article/1011401/) and [www.jugantor.com/news/2016/10/31/72534/](http://www.jugantor.com/news/2016/10/31/72534/)

<sup>55</sup> The daily Naya Diganta, 28/12/2016

<sup>56</sup> The daily Prothom Alo, 11/11/2016; <http://www.prothom-alo.com/bangladesh/article/1018579/> and Fact finding report of Odhikar

<sup>57</sup> 'Santal man killed, 1,500 families flee homes', The daily New Age, 07/11/2016; <http://www.newagebd.net/article/2253/>

<sup>58</sup> Youth wing of the ruling Awami League.

<sup>59</sup> Student wing of the ruling Awami League.

setting fire to houses of Santal community built in the sugarcane field.<sup>60</sup> A judicial probe body, headed by the district's Chief Judicial Magistrate Md Shahidullah, was formed following an order of the High Court to investigate the forced eviction, killing and arson attacks. The High Court Division asked the judicial probe body to submit a report within 15 days investigating perpetrators and police involvement in the incident.

### **Right to participate in public life (Articles 25 and 26)**

65. The political situation had become extremely violent from 2013 over the forthcoming 10<sup>th</sup> Parliamentary elections and at the time of the trials for crimes against humanity perpetrated in 1971. Since then, human rights violations in the country increased at a rapid rate. The dreadful impact of the controversial 10<sup>th</sup> Parliamentary Elections<sup>61</sup> which were held on January 5, 2014, continued in 2016. Widespread vote rigging, including 'capturing' of polling stations, casting fake votes and other illegal and irregular activities perpetrated by the ruling party activists during the Upazila Parishad<sup>62</sup> elections in 2014 and City Corporation<sup>63</sup> and Municipality<sup>64</sup> elections in 2015, were reported. The Union Parishad<sup>65</sup> polls were conducted in six phases from March to June 2016.
66. The government passed a law to elect candidates for Zila Parishads<sup>66</sup> through indirect<sup>67</sup> vote, depriving people from their right to vote, which is contradictory to Article 11<sup>68</sup> and 59(1)<sup>69</sup> of the Constitution of the People's Republic of Bangladesh. Leaders of the ruling (Awami League) party were elected chairmen unopposed, even before indirect voting was held on 28 December in 21 Zila Parishads out of 61; and elections took place among the ruling party candidates only in the remaining Zila Parishads.

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<sup>60</sup><http://video.aljazeera.com/channels/eng/videos/exclusive%3A-bangladesh-santal-tribe-fighting-government-authorities-in-a-land-dispute/5243578292001?jsessionid=02BD65B0D509D4D90790A61A364655A6>

<sup>61</sup> The Caretaker Government system was incorporated in the Constitution through the 13<sup>th</sup> amendment to the Constitution, as a result of people's movement led by the then Opposition Awami League and its alliance between 1994 and 1996. However, in 2011 the caretaker government system was removed unilaterally by the Awami League government through the 15<sup>th</sup> amendment to the Constitution, without any referendum and ignoring the protests from various sectors; and a provision was made that elections were now to be held under the incumbent government. As a result, the farcical 10<sup>th</sup> Parliamentary elections were held on January 5, 2014 despite the boycotting of this election by a large majority of political parties. The election was not only farcical (for example, 153 MP's were declared elected uncontested even before the polling commenced), it was a hotbed for election-related crimes such as ballot-box stuffing, capturing of polling stations, intimidation of voters and violence.

<sup>62</sup> For details, please see Odhikar's Annual Human Rights Report of 2014, <http://odhikar.org/annual-human-rights-report-2014-odhikar-report-on-bangladesh/>

<sup>63</sup> For details, please see Odhikar's Annual Human Rights Report of 2015, <http://odhikar.org/annual-human-rights-report-2015-odhikar-report-on-bangladesh/>

<sup>64</sup> For details, please see <http://odhikar.org/odhikar.org/লৌরসভা-নির্বাচন-২০১৫-অধি/>

<sup>65</sup> Union Parishad is the lowest tier of the local government institutions in Bangladesh.

<sup>66</sup> Zila Parishad: District Council, which is the upper most tier of the local government.

<sup>67</sup> Where only elected representatives of the local government bodies are entitled to vote.

<sup>68</sup> Article 11: The Republic shall be a democracy in which fundamental human rights and freedoms and respect for the dignity and worth of the human person shall be guaranteed, and in which effective participation by the people through their elected representatives in administration at all levels shall be ensured.

<sup>69</sup> Article 59(1): Local government in every administrative unit of the Republic shall be entrusted to bodies, composed of persons elected in accordance with law.