

# BANGLADESH

## **Civil Society Report on the Implementation of the ICCPR (Contribution to the List of Issues)**

To be submitted for the adoption of the List of Issues  
on the Initial Periodic Report of Bangladesh (CCPR/C/BGD/1)  
At the 116<sup>th</sup> session of the Human Rights Committee  
(Geneva– March 2016)

Prepared by: Human Rights Forum, Bangladesh (HRFB)

*December 2015*

With the support of:



## ***Table of Contents***

<b>I. Introduction</b>	<b>3</b>
a. Joining Organisations	3
b. Methodology	3
c. Contact Details	3
<b>II. Contributions to List of Issues</b>	<b>4</b>
i. Non-discrimination, constitutional and legal framework within which the Covenant and the Optional Protocol are implemented, right to effective remedy (art. 2)	4
ii. Equality between men and women(art. 3)	4
iii. Prohibition of torture (art. 7)	6
iv. Prohibition of slavery and forced labour(art. 8)	7
v. Prohibition of arbitrary detention(art. 9)	8
vi. Conditions of detention (art. 10)	8
vii. Right to equality before courts and to a fair trial (art. 14)	9
viii. Right to recognition as a person before the law (art. 16)	10
ix. Right to privacy (art. 17)	10
x. Freedom of thought, conscience, religion and belief (art. 18)	10
xi. Freedom of opinion and expression (art. 19)	12
xii. Freedom of peaceful assembly (art. 21)	12
xiii. Freedom of association (art. 22)	13
xiv. Rights of the child (art. 24)	15
xv. Participation in public affairs and electoral rights (art. 25)	17
xvi. Rights of minorities and indigenous peoples (art. 27)	19
 <i>Annex:List of HRFB member organisations</i>	 21

## **I. Introduction**

### **a. Joining organisations**

*This joint report is prepared by Human Rights Forum, Bangladesh (HRFB), a platform of 19 national non-governmental organisations working on the promotion and protection of human rights in Bangladesh, in cooperation with the Centre for Civil and Political Rights (CCPR Centre). The list of HRFB and its member organisations can be found in the annex.*

### **b. Methodology**

A two-day workshop was jointly organised by HRFB and CCPR Centre in Dhaka on October 2015, to which several other civil society actors<sup>1</sup> were invited, in order to initiate the process of civil society contribution for adoption of List of Issues by the Human Rights Committee on the initial report of Bangladesh. The drafting process of this report was started at this workshop among the participants from 19 different organisations. The current report is prepared and finalised based on the inputs from all the participating organisations through rounds of draft circulation and consultation.

### **c. Contact details**

**Sultana Kamal**

**Convener**

**Human Rights Forum, Bangladesh (HRFB)**

C/O Ain o Salish Kendra (ASK)

7/17, Block- B, Lalmatia, Dhaka-1207

Tel: 880-2-8100192,8100195,8100197

Fax: 880-2-8100187

E-mail: ask@citechco.net, sultanakamal9@gmail.com

---

<sup>1</sup>Bangladesh Hindu Buddhist Christian Unity Council, Rights Jessore, Article-19 (Bangladesh and South Asia office), Chittagong Hill Tracts Commission (CHTC) and SoDESH.

## II. Contributionsto the List of Issues

### i. Non-discrimination, Constitutional and Legal Framework within which the Covenant and the Optional Protocol are implemented, Right to Effective Remedy (Art. 2)

#### Information from Civil Society

The Constitution of the Peoples' Republic of Bangladesh, 1972 guarantees equal rights of men and women {Article 28(2)} in all spheres of state and of public life.

The 15<sup>th</sup> amendment tothe Constitution was adopted in 2011 keeping the aforementioned provision unchanged. Thisamendment of the Constitution re-adopted secularism as a fundamental principle of the state policy.However, the Article 2A of the Constitution specifies Islam as the state religion, which is contradictoryto the aforementioned provision and also with the principles of equality, and hence discriminatory to people of other religions. The implication of restoring secularism by the 15th Amendment is still unclear as personal laws (related to marriage, divorce, inheritance, guardianship, and custody) have generally been based on religious or customary laws. Personal laws based on religion are often discriminatory towards women in general and among and between different religious communities.

#### Suggestion for the questions to be asked in the List of Issues to Bangladesh:

- Would the Government of Bangladesh (GoB) take any action to ensure Constitutional guarantee of equality of men and women in personal life?
- Will theGoB amend the Constitution to eliminate the above-mentioned contradictions arising from the 15<sup>th</sup>Amendment?
- Will theGoB consider amending Article 28(2) of the Constitution to expressly expand equal rights of men and women tothe private sphere?
- What is the GoB's plan for enacting an Anti-discrimination Act, which will enable amendmentof all discriminatory laws and uphold the principles of CEDAW?
- Does the GoBhave any plan to work together with civil society organisations on the draft Uniform Family Code (UFC), which was earlier prepared by the civil society to replace discriminatory religious laws dealing with personal/family issues (e.g., marriage, divorce, custody etc.) and to ensure equal rights for all women?

### ii. Equality between Men and Women (Art. 3)

#### Information from Civil Society

Equality between men and women has been guaranteed in the Constitution of Bangladesh. Article 27 of the Constitution provides that all citizens are equal before the law and are entitled to equal protection of the law. In Article 28(2), the Constitution declares that women and men shall have equal rights in all spheres of the State and of public life. Article 28(1) further states that the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth. The Constitution also recognizes affirmative action for the advancement of women. To facilitate women's empowerment, the Constitution imposes aduty upon the government to ensure equal opportunity for and participation of women.

In addition to these constitutional guarantees, the Government of Bangladesh (GoB) has recognized and committed to eliminate discrimination against women and to protect and promote women's rights by signing and ratifying several international human rights instruments including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Bangladesh ratified CEDAW on 6 November 1984 with reservations toArticles 2, 13.1[a], 16.1 [c] and [f]. Although it withdrew its reservations to Articles 13.1[a], and 16.1 [f] in 1997, Bangladesh still has reservations toArticle 2 about principles of non-discrimination and 16.1(C) regardingequal rights and responsibilities during marriage and at dissolution of marriage. Until now, the GoB has taken no steps to withdraw these reservations.

## **BANGLADESH – HRFB Joint Civil Society Report with CCPR Centre**

Despite such national and international undertakings to ensure equal rights and status of men and women, women in general face discrimination in all spheres of life. Rights within the family relating to choice of and entry into marriage, dissolution of marriage, guardianship, maintenance and inheritance are regulated by personal religious laws which are discriminatory against women.

The Domestic Violence (Prevention and Protection) Rules, 2013 has been adopted to supplement the Domestic Violence (Prevention and Protection) Act, 2010. This will help to prevent and protect against domestic violence; however, there is still a lack of public awareness and a lack of dissemination of information about the said Act.

The GoB adopted the National Women Development Policy in 2011 and an Action Plan. Institutional measures have been adopted such as decentralization of One Stop Crisis Centres (OCC), and Victim Support Centres. In addition, steps have been taken to develop a Gender Responsive Budget and Gender Disaggregated Database. But the policy remained silent on women's equal share to the inherited property and also on matrimonial property.

After a long campaign, the Hindu Marriage Registration Act was passed in 2012, but registration is optional. Hindu women still have no right to divorce. Laws are needed to enable compulsory registration of Hindu marriages, and a right to divorce.

On 14 May 2009, the High Court Division of the Supreme Court (High Court) issued directives to prevent and protect against sexual harassment. Earlier in 2010, the High Court had given directives against extra judicial punishment through 'fatwa' and on 12 May 2011 the Appellate Division of the Supreme Court of Bangladesh declared that fatwa or Islamic religious edicts were permissible in "religious matters", but could not be imposed by any extra-judicial authority on any person, and could not be used to punish anyone. The GoB has been lax in disseminating this judgment through print and electronic media and sending instructions to local government for compliance. In June 2013, the High Court ordered the appointment of female doctors, nurses and other staff in all government hospitals to conduct the medical tests on women who became victims of rape. In October 2013 the High Court passed an order asking the GoB to explain why the two finger test is still being used on rape victims for medical evidence collection. Proper implementation is needed of Supreme Court judgments.

The GoB is implementing an Action Plan relating to the Human Trafficking Prevention and Control Act, 2012. The cabinet has approved a proposal to sign a memorandum with India on 1 September 2014 for rescue, repatriation and rehabilitation of the victims of human trafficking through joint collaboration of governmental bodies and NGOs. An inter-ministerial Committee under the Ministry of Home Affairs (MOHA) is acting to prevent human trafficking jointly with civil society organizations. Similar committees have been formed at district, upazilla and union levels. However, more effective measures such as providing opportunities for employment should be taken to stop women and children being trafficked.

Gender Budgeting has been introduced to reduce gender gap. Different ministries are implementing gender budgets but there is still a serious lack of an effective monitoring mechanism. A budget monitoring committee should be set up to oversee gender budget allocation.

In addition to those above, laws on women's rights include the Dowry Prohibition Act, 1980; the Family Court Ordinance, 1985; the Women and Children Repression Prevention Act, 2000, as amended 2003; the Acid Crime Prevention Act, 2002; the Citizenship (Amendment) Act, 2009; the Rights and Protection of Persons with Disabilities Act, 2013; and the DNA Act, 2013. The Multi-sectoral program on VAW has led to setting up of the One Stop Crisis Centre (started in 2000) and Victim Support Centres (started in 2009). The National Action Plan to Prevent Violence against Women and Children (2013-2025) has been approved. Despite these efforts there is a trend of increasing violence against women. Effective measures should be taken to stop violence against women and to establish the rule of law. Massive awareness programs should be taken to raise the public awareness against violence against women. The state has to address economic and social issues in society, to address increasing trend of rape, sexual harassment and domestic violence.

## **BANGLADESH – HRFB Joint Civil Society Report with CCPR Centre**

Local Government laws ensure women's participation by reserving 33% of seats for women, in addition to women standing for general seats. The Upazilla Parishad Act, 2009 reserved one position for women out of the 2 vice-chair positions. The Representation of People's Ordinance (RPO), 2013 specifies that a registered political party must reserve positions for women in all committees including the central committee and ensure 33% women's participation by 2020. However, these RPO provisions have not been implemented till now.

Six months maternity leave has been introduced. However, the duration of maternity leave is not implemented in private sector, and yet the duration of maternity leave is only sixteen weeks in the existing Bangladesh Labor Law, 2006. The number of reserved seats for women in the National Parliament has been increased from 45 to 50 through the 15<sup>th</sup> Amendment of the Constitution in 2011. But there is no direct election from women's constituencies. The demand of women for an increase in the reserved seats up to one-third of the total seats in the National Parliament and direct election thereto have not been realised yet (the Supreme Court dismissed a challenge to the lack of direct elections earlier)

### **Suggestion for the questions to be asked in the List of Issues to Bangladesh:**

- What steps has the GoB taken for effective enforcement and wider dissemination of the Domestic Violence (Prevention and Protection) Act, 2010 and capacity building of concerned persons (e.g. Magistrates, Lawyers, Police, Women's Affairs Officers.) who should be involved in proper implementation of the Act?
- Has the GoB taken any steps for introduction and implementation of gender sensitive curricula in all spheres including all institutions/establishments and expansion of institutionalized support for women and girls who are survivors of violence (e.g. VSC, OCC) including counselling, legal support, shelter?
- Is there any plan to enact a separate law to prevent and provide protection against sexual harassment and to ensure establishment of complaint committees to address sexual harassment in all educational institutions and work places pursuant to the High Court Division's directives?
- What measures have been taken to stop trafficking of women and children and to implement the National Action Plan?
- Is there any plan to enact legislation to increase the number of reserved seats for women up to one-third of the total seats in the National Parliament and to provide for direct elections thereto?

### **iii. Prohibition of Torture (Art. 7)**

#### **Information from Civil Society**

Torture is illegal, yet rampant in Bangladesh. Any act of torture is illegal and unconstitutional, violating Article 31: Right to Protection of the Law; Article 32: Protection of Right to Life; Article 33: Safeguards in case of arrest or detention and Article 35 (5) Protection from torture or cruel, inhuman, or degrading punishment or treatment. In 1998, Bangladesh ratified the Convention against Torture and other Cruel, Inhuman, Degrading Treatment or Punishment (CAT). However, successive governments have failed to take decisive actions for the prohibition of torture, but resorting even themselves to these questionable tactics from time to time to push forward their political agenda.

After decades of lobbying by human rights activists, the Torture and Custodial Death (Prevention) Act was enacted in 2013. This makes acts of torture punishable with at least 5 years imprisonment and a Tk. 25,000 fine, and custodial death punishable with life imprisonment and a Tk. 100,000 fine. This landmark legislation sends a strong message about the state's commitment to end this barbaric practice, but questions remain as to what extent this law is being implemented, particularly as Bangladesh is yet to repeal provisions of the Code of Criminal Procedure which prohibit prosecutions of public officials without government's prior sanction, if the offence is committed in an official capacity.

Following the arrest, torture and killing of university student, Shamim Reza Rubel in police custody, the High Court, on April 7 2003, gave a landmark judgment providing for safeguards regarding exercise of police powers of arrest without warrant and the magistrate's powers to place individuals in police custody (remand). The

## **BANGLADESH – HRFB Joint Civil Society Report with CCPR Centre**

Court directed that prior to sending an arrested person to remand, s/he should be examined by a doctor and the medical report should be submitted to the magistrate concerned, and that after the interrogation – which can only be carried out by the investigation officer – the accused must be produced before the magistrate. If the accused alleges that s/he was tortured, s/he must be sent to the same doctor for investigation, and if found that the accused did indeed sustain injuries during interrogation in custody, action would be taken against the investigation officer, irrespective of whether the accused lodges a complaint. These directives, if followed, would have gone a long way towards ensuring that basic human rights are not violated in custody. Unfortunately, however, except for a handful of high-profile cases, these directives continue to be flouted, in direct violation of the court's orders. The Court also recommended that the Code of Criminal Procedure be amended within six months, but no steps have been taken to date in this regard. An appeal by the GoB against this judgment has been pending before the Supreme Court for over 10 years.

In 2015 alone, from January to September, 52 people died in jail custody – 21 of them were convicts and the other 31 were under trial.<sup>2</sup>The real numbers are likely to be much higher, as not all such incidents make it to the national newspapers.

Successive governments since independence have allowed members of different law enforcement agencies to resort to torture especially when it comes to dealing with their political opponents. With the passage of time, giving a freehand to the law enforcers may have contributed to the emergence of extrajudicial executions, which have become widespread in recent times despite criticisms and condemnations at home and abroad. For example, according to media reports, 59 BDR members arrested in the wake of the February 2009 mutiny died in custody. Family members of the victims alleged that they died after being tortured.<sup>3</sup>

### **Suggestion for the questions to be asked in the List of Issues to Bangladesh:**

- What measures has the GoB taken to enforce legal provisions to stop torture under custody, remand and detention?
- What steps has the GoB take to comply with the High Court's directives on Section 54 (arrest without warrant ) and Section 167 (police remand) of the Code of Criminal Procedure 1898?
- What measures have been taken to investigate allegations of torture and extra-judicial executions by security forces?
- What steps have been taken to provide compensation to those subjected to torture, or tress to families of the disappeared?

## **iv. Prohibition of Slavery and Forced Labour (Art. 8)**

### **Information from Civil Society**

Although slavery and forced labour is prohibited in Bangladesh, forced labour in the form of bonded labour, ship-braking and domestic work does exist. However, no measures have been taken by GoB against this issue so far. While there is minimum age limit of 14 years for employment in non-hazardous/risky job, but widespread violations of this law are reported.

### **Suggestion for the questions to be asked in the List of Issues to Bangladesh:**

- What measures has the GoB taken to stop bonded labour?
- What is the current status of the law on domestic workers?

## **v. Prohibition of Arbitrary Detention (Art. 9)**

### **Information from Civil Society**

---

<sup>2</sup>Ain o Salish Kendra (ASK) Documentation.

<sup>3</sup><http://www.state.gov/j/drl/rls/hrrpt/2010/sca/154478.htm>

## **BANGLADESH – HRFB Joint Civil Society Report with CCPR Centre**

Although the Constitution of Bangladesh prohibits arbitrary arrest and detention, provides safeguards against arrest without warrant and states that the arrestee should be brought before court within 24 hours of arrest, several laws provide for arrest without the use of warrants in certain cases. Section 54 of the Criminal Procedure Code and the various Metropolitan Police Ordinances authorize arrest of persons on suspicion of criminal activity without an order from a magistrate or a warrant, and the police regularly use these powers.

Under the Special Powers Act, 1974, the government or a district magistrate may order a person detained for 30 days to prevent the commission of an act that could threaten national security; however, authorities have held detainees for longer periods. The magistrate must inform the detainee of the grounds of detention, and an advisory board is required to examine the detainee's case after four months.

### **Suggestion for the questions to be asked in the List of Issues to Bangladesh:**

- What measures has the GoB taken to stop indiscriminate use of Section 54 of the Criminal Procedure Code (CrPC) or powers under various Metropolitan Police Ordinances on arbitrary arrest?
- What accountability mechanism has been established to stop arrest without warrant?
- How does the GoB ensure that an arrestee is brought to court within 24 hours?

## **vi. Conditions of Detention (Art. 10)**

### **Information from Civil Society**

Monitoring mechanisms of jail conditions are inadequate and the access of NGOs to jails is restricted. Even the National Human Rights Commission (NHRC) was barred from visiting jails without prior approval from the authority.

The laws governing prisons, namely, the Prison Act of 1894, its accompanying Rules, and a range of internally issued circulars, notices and orders which together form the Jail Code of 1920, as well as the Penal Code 1860, the Code of Criminal Procedure 1898, the Lunacy Act 1974 directly contravene the ICCPR or the Standard Minimum Rules. For example, the Jail Code allows for arbitrary and discriminatory classification between rich and powerful prisoners (including MPs) and others, with the former being entitled to "division on special privileges", determined by court according to their social status.<sup>4</sup>

The rising number of prisoners exceeds the limited resources available at the prison facilities. The total prison population (including pre-trial detainees/remand prisoners) at present is 83,136. The high level of official confidentiality cuts off information about the conditions of inmates in Bangladeshi prisons. While conditions of living vary from jail to jail, standards in most of the 67 Bangladeshi prisons are appallingly low. Prisons are beleaguered by severe overcrowding, degenerating material infrastructure, absence of adequate medical care, incidences of sentry brutality and fraud, and prisoner-on-prisoner cruelty. Non-existence of pressure groups, indifferent attitude of lawmakers and bureaucrats, and inattention of public media keep the public unaware of the pervasive conditions inside the prisons. The governments have been completely aloof and apathetic to the dismal human rights violations in the prisons.

The prison statistics say that Bangladesh currently has 60 prisoners for every 100,000 of its population. Pre-trial detainees/remand prisoners are about two-thirds of the total prison population. A total of 623 death row prisoners are waiting to be executed in different cells. Bangladesh has a capacity of holding 28,394 prisoners in all its prisons. With 83,136 inmates in these prisons, the occupancy ratio is 292 per cent. Overcrowding is more acute in Dhaka Central Jail, as with a capacity of 2,682 inmates, it is currently occupied by 11,014 prisoners. This is 410 per cent of the prescribed habitation. The other 66 prisons outside Dhaka have a current occupancy ratio of 280 per cent, where 72,122 people are living in a space for 25,712 people. For the prisoners on death row, there are 61 cells.

---

<sup>4</sup>[http://www.askbd.org/hr\\_report2008/23\\_Prison\\_FINAL.pdf](http://www.askbd.org/hr_report2008/23_Prison_FINAL.pdf)



## BANGLADESH – HRFB Joint Civil Society Report with CCPR Centre

In February 2015, a newspaper reported that 68 jails in Bangladesh designed for 34,147 inmates are currently holding 71,606 inmates.<sup>5</sup> Some 5,000 new inmates, put behind bars between January 6 and February 2 2015, increased the number of prisoners awaiting trial from 46,119 to 51,119 according to jail records. The country's prisons are packed with at least twice the number of inmates they were designed to hold, while the jail record shows that some jails, such as the one in Chapainawabganj, holding up to six times their intended inmate population. With most prisons packed beyond capacity, prisoners and detainees are being forced to live in inhumane conditions without sufficient food, space or toilet facilities. Prisoners do not have enough space in the jails even to sit comfortably, let alone lie down and sleep.

### **Suggestion for the questions to be asked in the List of Issues to Bangladesh:**

- What steps is the Govt taking to revise the Jail Code in accordance with international HR laws?

## **vii. Right to Equality before Courts and to a Fair Trial (Art. 14)**

### **Information from Civil Society**

According to the Constitution, all persons are equal before the courts/tribunals and in the eye of law. Every citizen is entitled to get a fair and speedy trial in a court established by the law. But delays in proceedings are common.

The right of an accused person to appoint a legal counsel is guaranteed as a fundamental right in the Constitution. Every criminal offence is the offence against the state. Public prosecutors appointed by the states are the legal counsels under section 493 and section 495 of the Code of Criminal Procedure. The scope to appoint an independent legal counsel is limited. The complainant can appoint a lawyer with permission of the solicitor to assist the public prosecutor only.

In a landmark decision in 2015, the Supreme Court struck down the law providing for mandatory death penalty<sup>6</sup>. Shukur Ali, a minor boy, was convicted under section 6(2) of the Nari-o-Shishu Nirjatan (Bishesh Bidhan) Ain, 1995 by the Nari-o-Shishu Nirjatan Bishesh Adalat, Manikganj (a Special Tribunal) on 12 July, 2001 and was sentenced to death. He was 14 years old at the time of occurrence and 16 years at the time of trial. He appealed the decision, but this was upheld by both divisions of the Supreme Court. BLAST became involved and challenged the constitutional validity of the law. The High Court in its judgment of 2 March 2010, held that Section 6(2) of the Nari-O-Shishu Nirjatan (Bishesh Bidhan) Ain 1995, now repealed, was unconstitutional. It upheld the verdict of the Tribunal at Manikganj, but stayed the execution of Shukur Ali for two months to allow an appeal to the Appellate Division and gave a certificate to that effect.<sup>7</sup>

In addition, there are discriminatory provisions such as the Section 155(4) of the Evidence Act 1872. According to this section, the use of character in case of examination of a rape victim before a court of trial is extremely discriminatory and it also affects the outcome of the trial. An immediate repeal of such a legal provision is therefore very much needed. Law and policies on examination of victim of rape and burden of proof in case of custodial rape has not been changed.

International Crimes Tribunal (ICT) established and operational since 2011 with trials ongoing for war crimes, crimes against humanity, genocide, mass rape and other international crimes which occurred during the Liberation War of 1971. The trial effectively challenges impunity enjoyed for too long by those who committed crimes against humanity. However, concerns remain regarding whether trials are being held in accordance with due process and consistent with the highest possible standards.

---

<sup>5</sup><http://www.dhakatribune.com/bangladesh/2015/feb/08/arrest-spree-punishes-prisons>

<sup>6</sup><http://www.thedailystar.net/backpage/death-penalty-95-law-scrapped-80686>

<sup>7</sup>*BLAST and Another vs. Bangladesh and Others* ['Shukur Ali' Case]. Writ Petition No. 8283 of 2005. 2010. Web. Accessed from <http://www.blast.org.bd/issues/301>. Subsequently in 2015

Despite formal separation of the judiciary from the executive, there are allegations of politicisation with respect to judicial appointments and with concerns regarding the conduct of politically sensitive cases, including decisions regarding bail and detention for political opponents of the government.<sup>8</sup>

**Suggestion for the questions to be asked in the List of Issues to Bangladesh:**

- What measures have been taken to reduce delays in judicial proceedings?
- What steps will be taken to repeal section 155(4) of the Evidence Act 1872?
- What effective measures have been taken to ensure the independence of judiciary?

**viii. Right to Recognition as a Person before the Law (Art. 16)**

**Information from Civil Society**

Informal sector workers, such as women farmers and domestic workers, are not legally recognized as workers and have no protection under labour laws. The High Court in its judgment of 15 February 2011 issued 10 directives prohibiting the employment of children under 12 years old as domestic helpers. However, the GoB has taken no measures to implement this judgment.

**Suggestion for the questions to be asked in the List of Issues to Bangladesh:**

- What measures has the GoB taken to introduce a gender friendly Khas Land Distribution Policy?
- Does the GoB plan to take any measures to recognise and protect the rights of female farmers and domestic workers?

**ix. Right to Privacy (Art. 17)**

**Information from Civil Society**

Article 43 of Bangladesh Constitution provides for the right to protection of home and correspondence: *Every citizen shall have the right, subject to any reasonable restrictions imposed by law in the interests of the security of the State, public order, public morality or public health:*

1) *To be secured in his home against entry, search and seizure; and*

2) *To the privacy of his correspondence and other means of communication.*

However, currently in Bangladesh people are facing many obstacles to protect their right to privacy. There is no law specifically dealing with privacy. Law enforcement agencies can access personal information, whereby personal telecommunication, Skype and other new media conversations are leaked out. As results, bloggers hacked to death, although they asked for police protection, and persons are attacked for making political comments. There are also cases of “leaking” of communication between high profile persons including the prime minister and opposition leader for example. A leading politician has been held under trial since February 2015 following interception of his viber calls.<sup>9</sup>

**Suggestion for the questions to be asked in the List of Issues to Bangladesh:**

- Will the Government adopt a specific law to protect the right to privacy?

**x. Freedom of Thought, Conscience, Religion and Belief (Art. 18)**

**Information from Civil Society**

Freedom of thought, conscience, religion and belief are safeguarded in the Constitution:

**Article 39**

(1) Freedom of thought and conscience is guaranteed.

<sup>8</sup><http://www.state.gov/j/drl/rls/hrrpt/2010/sca/154478.htm>

<sup>9</sup><http://en.prothom-alo.com/bangladesh/news/59574/Mahmudur-Rahman-Manna-held>

## **BANGLADESH – HRFB Joint Civil Society Report with CCPR Centre**

(2) 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 – (a) the right of every citizen to freedom of speech and expression; and (b) freedom of the press, are guaranteed.

However, people are facing hindrance to express their opinions about religion. Bloggers and writers have been killed for expressing their views about religion. Religious minorities have been attacked. Religious leaders and figures were killed because of expression of their own philosophy, such as the case of Nurul Islam Faruqi in August 2014 and the killing of Khijir Khan in October 2015.

In 2012, a series of attacks took place on Buddhist monasteries, shrines and houses of Buddhist inhabitants in Ramu Upazila in Cox's Bazar District by local mobs on the midnight of 29 September 2012. The mobs destroyed 12 Buddhist temples and monasteries and 50 houses in reaction to a tagging of an image depicting the desecration of a Quran on the timeline of a fake Face book account under a Buddhist man's name. The violence later spread to Ukhia Upazila in Cox's Bazar District and Patiya Upazila in Chittagong District where Buddhist monasteries, Sikh Gurudwaras and Hindu temples were targeted.<sup>10</sup>

Free thinkers have been repeatedly targeted by extremist groups throughout Bangladesh. Religious extremist groups have emerged as an increasing threat to the safety of bloggers and online activists and as a force against pluralism, gender equality, non-violence and diversity.

Not only have writers promoting freethinking and publishers publishing such works were killed in heinous attacks, there have also been attempts to silence dissenting voices through legal, administrative and judicial means. There has been no measure to discourage the intense intolerance towards dissenting opinions. Rather, such intolerance has been allowed to grow. Science writer and founder of Mukto-mona Blog Avijit Roy was hacked to death while returning from Amar Ekushey Book Fair on February 26, 2015. His wife and co-writer Rafida Ahmed Bonya was also critically injured in the attack. Police were present near the scene of the attack but they failed to act promptly. Avijit's killing apparently turned the country into a death valley for freethinking authors and publishers as five such writers and publishers were brutally killed one after another. As of November 2015, many are living with a constant feeling of fear. Dr Anisuzzaman, Hasan Azizul Haque and other writers and intellectuals have received threats.

Some arrests have been made, however progress of investigations of the killing of five bloggers-publisher has remained slow and incomplete for the most part, with police officials claiming to be 'taking the time to conduct thorough investigations.' Aside from the case of Washiqur Rahman Babu, no charges have been pressed against perpetrators, indicating that it is likely that investigations and trials will take much longer. Trials are yet to commence in the cases of journalists Sardar Nipul and Delwar Hossain who were murdered in 2013. This lack of action, delay in investigation, and absence of convictions, only serves to embolden perpetrators, and is contributing to the culture of impunity for acts of violence. Of the 44 journalists and 6 bloggers murdered since 1995, there has been only one conviction, and trials are yet to even commence in many cases.

### **Suggestion for the questions to be asked in the List of Issues to Bangladesh:**

- What practical measures does the GoB plan to take to protect freedom of expression, conscience, religion and belief to take action in respect of violation of these rights?
- What specific actions will the Government take to prevent shrinking of space for freedom of expression and open and independent public discourse?

## **xi. Freedom of Opinion and Expression (Art. 19)**

---

<sup>10</sup>The Daily Star, Tuesday, October 9, 2012

### Information from Civil Society

Alongside the mainstream media, the role of bloggers and online activists has become vital in Bangladesh. Human rights and online media activists are active through online and social media. The GoB has started to tighten and curb the freedom of expression online through repressive laws and practices.

One sign of the government's growing intolerance towards dissent and unorthodox views has been its use of section 57 of the Information, Communication and Technology Act of 2013 (amended by an Ordinance on 20 August 2013). The frequent use of Section 57 has raised concern among writers, journalists, bloggers and human rights activists as it directly interferes with the freedom of expression and right to privacy of communications as guaranteed by Articles 39 and 43 of Bangladesh Constitution. The wide powers to block websites under Section 46 of the ICT Act has also been invoked to block social media on a number of occasions, citing variously national security concerns, or 'hurt to the image of the nation'. The majority of ICT Act cases relate to speech that is critical of high level government figures.

The government has announced that it will enact a cyber security law to ensure strict punishment for the offenders of cyber crimes imposing maximum 20-year sentences for 'cyber-terrorism' and allowing arrest without a warrant. It would allow forcible search and seizure. The Broadcast Policy 2014 has earned widespread criticism by media stakeholders, rights groups and political parties. Under the policy, broadcast outlets are prohibited from disseminating any news, photos, or videos that could tarnish the image of law enforcement agencies and armed forces. The Policy also prohibits any broadcasts that, directly or through advertisements, run counter to the government or public interest, and forbids the broadcasting of news that could cause "communal discord" or impede national security, according to media reports. The Anti-Terrorism Act as amended in 2013 allows court to accept in evidence videos, still photographs and audio clips, chats and conversation used on the social media such as Facebook, Skype and Twitter.

### Suggestion for the questions to be asked in the List of Issues to Bangladesh:

- What practical measures does the GoB plan to take to protect the right to freedom of opinion and expression, to protect those who are under threat for free thinking, and to bring to justice those who are responsible for violations?
- What specific actions will the GoB take to prevent shrinking of space for freedom of opinion and expression?
- What steps will the GoB take to repeal Section 57 of the ICT Act?

## xii. Freedom of Peaceful Assembly (Art. 21)

### Information from Civil Society

Though the Constitution of Bangladesh guarantees the freedom of assembly, suppression occurred for many times under different political regime in the country especially during the military backed Caretaker Government (2007-2009). In August 2007, nationwide student protest emerged demanding for end of emergency rule, restoration of democracy and return of military to the barrack. The protests were violently cracked down by detaining several students and teachers all over the country.

On 6 May 2013, police forcefully disbursed the rally of Hefazat-e-Islam, which was demanding for blasphemy law to be introduced. There was allegation of casualties during this operation. On July 2010, police violently attacked on the garment workers on their gathering and several injured as well as arrested. Their demand was to raise the low pay scale and poor working condition. The protests were prompted by the government announcement that monthly minimum wages for the country's millions of garment workers would rise by about 80%. Union leaders say the raise is inadequate and does not match the high cost of living. On July 2009, police attacked on a peaceful protest in front of the Indian High Commission. The protestors demanded to shut down the construction of the Tipaimukh Dam at Monipur, India, and in protest against police atrocity at Lalgur, India, along with the violations of human rights and interference of India in Bangladeshi politics. The procession was also organised to demand that the Indian High Commissioner Pinak Ranjan Chakraborty be sent back to India after he had made defamatory comments regarding the environmentalists and water specialists

## **BANGLADESH – HRFB Joint Civil Society Report with CCPR Centre**

of Bangladesh, which was a clear violation of the Vienna Convention. The baton-charge of the police left the participants injured. Around 30 people were injured few of them were arrested. It has been alleged that the arrested persons were tortured in custody while under police remand. On September 2009, the Government decided to enter into Production Sharing Contracts (PSC) with Conoco Phillips and Tallo Oil, whereby the contracting companies could commence oil exploration in three sites in the Bay of Bengal, and consequently giving scope for 80% of the extracted oil to be exported. In protest of this decision and demanding the Government to not to enter into such a contract, the National Committee to Protect Oil, Gas, Mineral Resources, Power and Ports organised a procession with a view to surround the Petro Bangla office. It was alleged that the police tried to prevent and also attacked the procession.

In 2014, several incidents of restraining rallies and assemblies took place including of attacks on assemblies of the opposition. There were 45 cases when the law enforcement agencies used Section 144 of the CrPC to impose temporary ban on public assembly in 2014. The ruling party or its affiliated organizations used the tactics of calling for rally at the same place and time where the opposition had prior called for their rally. The local administration then used this as a pretext to impose section 144 to put temporary ban on all rallies.

In 2015, protests have also been prevented by the police who resorted to the use of force. These include protests against sexual harassment of women during the Bangla new year celebrations, protests by teachers to press home demands regarding pay, students protesting against medical question paper leaks, protests against the government's decision to set up Rampal power plant and rallies arranged by the indigenous communities for protecting their lands or celebrating festivals.

### **Suggestion for the questions to be asked in the List of Issues to Bangladesh:**

- What specific measures does the GoB plan to take to protect the right to assembly, and to prevent violations of this right?
- What concrete actions will the Government take to eliminate predicaments against the exercise of right to assembly?

## **xiii. Freedom of Association (Art. 22)**

### **Information from Civil Society**

Freedom of association is the foundation of a strong civil society and an essential component of democracy, along with free and competitive elections, freedom of expression, freedom of religion, and the rule of law. Freedom of association has also played a significant role in a number of the democratic transformations that took place during the past several decades. The Constitution ensures the right of association in Article 38. However, the right to be associated freely has been curtailed in different ways and on several occasions.

Aminul Islam, 40, president of the Bangladesh Garment and Industrial Workers' Federation (BGIWF)'s local committee in the Savar and Ashulia areas of Dhaka and a senior organizer with a well-known labor rights group, the Bangladesh Center for Worker Solidarity (BCWS), was tortured and murdered in early April 2012. To date, nobody has been held responsible for this crime.<sup>11</sup>

The Labour Act was amended in July 2013 after widespread criticism following the collapse of the Rana Plaza building, which killed more than 1,100 garment workers. The Labour Ministry had previously refused to register all but a handful of unions, but the amendments have made it easier for unions to be formed. More than 50 factory-level unions have been established, but since the law still requires union organizers to get the support of 30% of the factory's workers before registering a union, employer threats and intimidation make it a difficult task, especially in factories employing thousands of people. Section 195 of the Bangladesh Labour Act (2006, amended 2013) outlaws numerous "unfair labour practices." For example, no employer shall, "dismiss, discharge, remove from employment, or threaten to dismiss, discharge, or remove from employment a worker, or injure or threaten to injure him in respect of his employment by reason that the

---

<sup>11</sup><http://www.laborrights.org/publications/chronology-investigation-murder-labor-activist-aminul-islam>

## BANGLADESH – HRFB Joint Civil Society Report with CCPR Centre

worker is or proposes to become, or seeks to persuade any other person to become, a member or officer of a trade union.”

In June 2013, the US announced the suspension of Bangladesh’s trade benefits under the Generalized System of Preferences (GSP). In order to regain these benefits, the US demanded that Bangladesh improve its monitoring and inspection of factories and increase “fines and other sanctions, including loss of import and export licenses” that fail to comply with labour, fire, or building standards. In July 2013, the EU’s European Trade Commissioner, Karel De Gucht, warned that Bangladesh might lose its duty-free and quota-free access to the EU if it did not improve its record on labor rights and workplace safety.

National laws do not adequately provide for freedom of association, the right to collective bargaining and the right to strike. The law establishes excessive requirements and complicated procedures in order to register a trade union and, in practice, the registrar rejects many applications. Bangladesh is rife with anti-union practices by employers including threats, dismissals, legal suits against unionists and intimidation. The police use excessive force to disperse protesting workers in some cases causing deaths and often injuries. Export Processing Zones (EPZs) in the country fall under a special labour legislation whereby basic rights are not permitted. Workers in these areas are prevented from organising and bargaining collectively. For many years, the ILO has recommended numerous amendments to the law to bring it into compliance with the relevant international core labour conventions, No. 87 and No. 98, but the government has yet to heed those proposals.

Civil Society Organisations in Bangladesh have raised serious concerns about some of the provisions of the draft 'Foreign Donations (Voluntary Activities) Regulation Act, 2014', which has been under discussion since 2012. The law may come into effect at any time. While some of the concerns previously expressed by NGOs were taken into account, civil society organisations reiterated their opinion that the current draft will impose severe restrictions on their freedom of association. The draft Act fails to provide specific time-limits for registration and project approval for receiving foreign donations which may create wide scope of harassment. It provides that a project proposal can be returned to an NGO to amend/change in view of the relevant ministry’s objections or recommendations, which may restrict the scope for independent operation of NGOs. The draft also gives an unspecified committee the authority to “supervise and evaluate” activities of NGOs working in Chittagong Hill Tracts region, which is unwarranted and discriminatory. It provides for undue expansion of jurisdiction of NGO Affairs Bureau to include flow of funds to individuals (as opposed to organisations). There have also been media reports of possible inclusion of a provision in the Act that may make it illegal for NGOs to comment on any of the Constitutional bodies. Any violation of the Act will be considered as an offence which, at the NGO-AB's discretion, may result in the de-registration by the NGO-AB (thus impairing the organisation's ability to receive foreign funding in the future), or the appointment of an administrator (section 14) in order to close down the organisation.

Freedom of Association was particularly at risk during the military backed caretaker government (2007-2009) with human rights defenders been killed, arrested and tortured. On 17 March 2007, Cholesh Richil, a noted environmental activist and Garo community leader was returning home with three other persons from a wedding when he and his companions were arrested at Kalibari in Muktagacha and taken to an army camp in Kakraid. At about 5 pm, the three persons travelling with Richil were released from custody. Both Richil and Pratap Jambil were allegedly tortured brutally. Later that night Richil’s family was informed by the authorities that he had died. When they received his body the next day they found it covered in bruises and cuts and other signs of violence. Richil’s wife tried to lodge a First Information Report (FIR) at the Madhupur Police station. The official on duty refused to record the FIR, instead recording an entry of an unnatural death case. 60 ASK’s repeated demands, along with those of others, led to the Chief Advisor’s announcing establishment of a Judicial Inquiry Commission, but further demands to publish the Report of the Commission and to bring to justice those responsible for Richil’s killing have gone unheeded.<sup>12</sup>

---

<sup>12</sup>[http://www.askbd.org/ask/wp-content/uploads/2015/06/ASK\\_Human\\_Rights\\_Report\\_07.pdf](http://www.askbd.org/ask/wp-content/uploads/2015/06/ASK_Human_Rights_Report_07.pdf)

## **BANGLADESH – HRFB Joint Civil Society Report with CCPR Centre**

Rang Lai Mro, the head of the indigenous Mro community in the CHT, and a Union Parishad Chairman was arrested in February 2007 and held in Chittagong District Jail. He was charged with possessing a pistol without a license. Four months later he was sentenced to 17 years imprisonment for the offence, though his lawyers informed the court that his pistol was licensed. After his arrest he was, reportedly, severely beaten by army officers at the local army headquarters, Bandarban Cantonment. The incident of torture was never investigated. He was treated in Bandarban General Hospital, where doctors diagnosed a heart attack. He was sent back to jail without appropriate medical treatment. In October 2007 his health further deteriorated, and the doctors advised that he needed treatment in a specialised hospital. But he was once again sent back to jail, where his health deteriorated and he was at risk of a heart attack. He was later released by court order but did not bring any charges against those concerned.<sup>13</sup> On 17 January, Shahidul Islam, Director of Uttaran, an NGO based in Satkhira, was arrested by the joint forces and taken to the local army camp where he was allegedly tortured, before being handed over to the police. He reportedly required urgent medical attention within hours of his detention and remained hospitalized for a prolonged period.<sup>77</sup> After the High Court directed the Government to show cause as to why his detention should not be declared unlawful, he was implicated in three separate criminal cases, on charges of murder, and non-payment of arrears of wages to former employees.<sup>14</sup> He was released by court orders but did not bring any charges against any of those concerned.

On 2 August 2015, the Police Headquarters in Dhaka issued a press release accusing two human rights organisations, Odhikar and the Bangladesh Human Rights Commission (BHRC) of "subversive activities." The accusations are regarding statistics released by the human rights groups on extra-judicial killings that had been published in a newspaper. The newspaper report alleged the involvement of the Bangladeshi police into seven extra-judicial killings committed in July 2015. The police statement called the research results unlawful, "aiming to challenge the judicial system in Bangladesh and to ruin police's reputation". The police considered the research results to amount to defamation, which can be charged as a criminal act in Bangladesh.

### **Suggestion for the questions to be asked in the List of Issues to Bangladesh:**

- What specific measures will the GoB take to protect freedom of association, especially labour unions and NGOs?
- What concrete assurance can the Government give that no law will be enacted to curtail the space for unions and NGOs to operate?

## **xiv. Rights of the Child (Art. 24)**

### **Information from Civil Society**

Bangladesh's report has been reviewed by the UN Child Rights Committee in 2015.

Although a number of national programs/plans have been put in place,<sup>15</sup> there are few statistics showing the number of targeted children who are benefitted (eg in relation to the National Action Plan to prevent violence against women and children 2013-2025), or the GoB's 'Education for All' program. Most importantly, there is no count as to whether street children have been brought within the program's ambit. The State report does not shed light on the status of any GoB rehabilitation plan for street children, nor does it address the issues faced by vagabond children who in addition to facing violation of their fundamental rights are deprived of opportunities as they face arrest and spend disproportionate periods in correctional centers.<sup>16</sup>

---

<sup>13</sup>[http://www.askbd.org/hr\\_report2008/7\\_Torture\\_final.pdf](http://www.askbd.org/hr_report2008/7_Torture_final.pdf)

<sup>14</sup>[http://www.askbd.org/web/wp-content/uploads/2008/11/ASK\\_Human%20Rights%20Report\\_07.pdf](http://www.askbd.org/web/wp-content/uploads/2008/11/ASK_Human%20Rights%20Report_07.pdf)

<sup>15</sup>BDNEWS24, 'Muhith Unveils 'Child Budget' For the First Time in Bangladesh'. 2015. Web. 18 Nov. 2015. Accessed from <http://bdnews24.com/economy/2015/06/05/muhith-unveils-child-budget-for-the-first-time-in-bangladesh>

<sup>16</sup>The Daily Star, 'Law Enforcers Largely Unaware About Child-Friendly Policing'. 2013. Web. 18 Nov. 2015. Accessed from <http://childrights.thedailystar.net/2013/08/law-enforcers-largely-unaware-about-child-friendly-policing/>

## BANGLADESH – HRFB Joint Civil Society Report with CCPR Centre

The Children's Act 2013<sup>17</sup> brought hopes for better legal protection for children. However, lack of implementation of this and other laws coupled with the existence of discriminatory laws affecting the rights of children. The State report refers to the mandatory requirement for birth registration within 45 days Birth and Death Registration Act 2004. In practice, this Act is not complied with and, although health workers in rural areas ensure birth registration in those areas, the situation is not the same for urban areas especially slums. Lack of birth registration in case of children leads to child rights being violated. Since their age cannot be determined, children are engaged in hazardous labour. Children also face threats of being arrested and treated as an adult in violation of the Children's Act 2013. The State report only mentions persons with disabilities in Paragraph 266 of the report under 'Non-discrimination', and does not elaborate on the various forms of discrimination faced by persons with disabilities. The newly enacted Rights and Protection of Persons with Disabilities Act 2013 has brought about a major change in perception as it has a more rights focused approach as opposed to the welfare based approach of the earlier Persons with Disabilities Welfare Act 2001. Non-implementation of the law, even three years since its enactment, means that persons with disabilities are continuously being deprived of their basic rights.

The draft Citizenship Bill 2014, which proposes that only persons born in Bangladesh and whose both parents are Bangladeshi nationals can gain Bangladeshi citizenship by birth? If this draft Act is passed, it will automatically exclude citizenship rights to children born in Bangladesh but whose parents are not both Bangladeshi.<sup>18</sup> Similarly this will also affect children belonging to the Rohingya community<sup>19</sup>

### Suggestion for the questions to be asked in the List of Issues to Bangladesh:

- Does the Government maintain baseline information regarding the number of children being registered at birth with the correct information on the nature of a child's disability?
- Does the GoB plan to enact a law regulating adoption and the rights of adopted children and to secure their fundamental rights including the right to inherit?<sup>20</sup>
- Is the GoB willing to reconsider the draft Citizenship Bill?
- Does the GoB plan to ratify the Optional Protocol to the Convention on the Rights of the Child on the individual communications procedure<sup>21</sup> to ensure that complaints can be made to the CRC directly by children or on their behalf?
- What measures does the GoB plan to take to end corporal punishment of children, to implement the 2010 High Court judgment<sup>22</sup>, to address this issue in the Children's Act and Rules and to enact the Rules promptly? What steps will it take to address corporal punishment in educational settings<sup>23</sup> in the draft Education Act?

---

<sup>17</sup>Bangladesh Legal Aid and Services Trust, *JUSTICE FOR CHILDREN AND THE LAW: THE PAST, PRESENT AND THE FUTURE*. 2014. Web. 18 Nov. 2015. Accessed from <http://www.blast.org.bd/content/report/06-09-2014-jfc-and-law.pdf>

<sup>18</sup>Rahman, Mustafizur. 'New Citizenship Law In The Offing'. New Age 2014. Web. 18 Nov. 2015. Accessed from <http://newagebd.net/59222/new-citizenship-law-in-the-offing/>

<sup>19</sup>Centre for Strategic Studies (CSA),. Nationality Crisis and the Rights of the Rohingya Refugee Children: A Sociological Analysis of Children's Rights In Bangladesh. 2014. Web. 18 Nov. 2015. Accessed from <https://atikdu124.wordpress.com/2014/05/22/nationality-crisis-and-the-rights-of-the-rohingya-refugee-children-a-sociological-analysis-of-childrens-rights-in-bangladesh/>

<sup>20</sup>The Daily Star, 'Adopting Happiness'. 2012. Web. 18 Nov. 2015. Accessed from <http://archive.thedailystar.net/magazine/2012/05/02/special.htm>

<sup>21</sup>Human Rights Forum, Bangladesh, ANNEX 2: LIST OF BANGLADESH'S RATIFICATION OF INTERNATIONAL TREATIES. 2012. Web. 18 Nov. 2015. Accessed from [http://lib.ohchr.org/HRBodies/UPR/Documents/Session16/BD/JS10\\_UPR\\_BGD\\_S16\\_2013\\_Jointsubmission10\\_E\\_annex%202.pdf](http://lib.ohchr.org/HRBodies/UPR/Documents/Session16/BD/JS10_UPR_BGD_S16_2013_Jointsubmission10_E_annex%202.pdf)

<sup>22</sup>BLAST And ASK Vs. Bangladesh and Others ['Corporal Punishment In Educational Institutions' Case]. 2010. Web. Accessed from <http://www.blast.org.bd/issues/304>

<sup>23</sup>The Daily Star. 'Prohibiting Corporal Punishment in Educational Institutions'. 2014. Web. 18 Nov. 2015. Accessed from <http://www.thedailystar.net/prohibiting-corporal-punishment-in-educational-institutions-23825>



**xv. Participation in Public Affairs and Electoral Rights (Art. 25)**

**Information from Civil Society**

In Bangladesh, members of Parliament consist of members elected by the people from single territorial constituencies. Local government in every administrative unit is composed of persons elected by the people in accordance with respective law. For this kind of parliamentary system, a free and fair election is a prerequisite. High level of integrity and sincerity from the candidates along with the roles and responsibilities played by the Election Commission (EC) is crucial in the electoral process. The EC is constitutionally responsible for the conduct of elections. To institutionalize democracy, it has a significant role in conducting an election which is free, fair and participated in by all. The constitutional role of the EC is to prepare an electoral roll, conduct Presidential, parliamentary and other elections (city corporation election, municipality election, Upazila Parishad election, and Union Parishad election), and delimit constituencies for parliamentary elections. To ensure free and fair elections, transparency and accountability are required at all stages of the electoral process.

Elections are carried out based on the Representation of the People Order 1972 and its amendment of 2009. Besides, there are a number of laws, rules and regulations in place to ensure free and fair election, such as Election Conduct Rules 2008, Political Party Registration Rules 2008, Political Party and Candidate Code of Conduct Rules 2008 etc. These laws discuss, in detail, procedures of preparing of electoral rolls, delimitation of constituencies, election of the president and women members of parliament, and conduct of election. In addition, large number of civil society organizations and development partners are engaged in poll observation. According to the article 122 of the Constitution, a person convicted of any offence under the Bangladesh Collaborators (Special Tribunals) Order, 1972 shall not be entitled to be a voter for a constituency delimited for the purpose of election to the Parliament.

In spite of these many initiatives, allegations of vote rigging and other forms of electoral malpractices are often made before and after every election. Major allegations include partisan roles played by the Election Commission, gross electoral irregularities and malpractices, inability of the EC to contain the political parties from nominating musclemen and black money holders, and having no control over the law enforcing and intelligence agencies etc. It has been also observed that no step has been taken to address the violations of electoral laws and rules violated by the candidates as well as the political parties. Partisan influence in local government elections is also a major challenge.

Over the last one and half decade the election culture of Bangladesh has become one where a candidate's acceptability depends upon the candidate's party symbol, successes and failures of the previous government, his/her party's activities, and his/her monetary and cadre power. In the last few elections the trend of winning elections by nominating candidates with monetary and muscle power became more and more prominent. Now the political parties give nominations to people who are owners of black money, terrorists, and industrialists. These candidates often take extra-legal steps violating the electoral laws and rules in order to win the election by any means. Such violations include violation of the electoral code of conduct, vote rigging, influencing vote counting, creating environment for vote rigging, and exploiting administrative set up. According to law, one can be considered as a candidate only after the finalization of the nomination and only after the nomination, candidates can start election campaigning. However, it is observed that the candidates start campaigning long before the declaration of the election schedule. They do it through poster, graffiti, public relations, processions, and motor-cycle rallies. It is observed that some of the candidates spent money for getting party support for their candidature, the political parties influenced the election process directly, and the law enforcing agencies did not take measures against violations of code of conduct by the supporters of different candidates at the polling centres on the election day. In some cases, the law enforcers directly participated in vote rigging and played a supportive role for the ruling party backed candidates. Regarding the participation of voters in the election process, experience shows that, although some voters can cast their votes, many cannot do so due to casting of false votes and obstructions. Besides, arrangements are often made to bring voters to the polling centres for casting votes in favour of certain candidates. Money was distributed among low-income people on the night before the Election Day.

## **BANGLADESH – HRFB Joint Civil Society Report with CCPR Centre**

For violation of codes of conduct, there are inconsistencies in imposing penalties in the Representation of the People Order, 1972 and the Electoral Code of Conduct rules. The Election Commission has the power to investigate and take actions against any kind of violation. A number of satellite television channels under private ownership broadcasted the election process mainly focusing on political party and leaders, party-hopping, voter perspectives, political activities, election campaigning by candidates etc.

Female members elected to reserved seats in local government institutions often do not have a clear idea about their roles and responsibilities. As a result, they cannot play any important role in the decision-making and implementing development activities. Moreover, their opinions in standing committees, justice and arbitration, and in the budget preparation process are not given due importance.

According to article 29 of the Constitution, there shall be equality of opportunity for all citizens in respect of employment or office in the service of the Republic. No citizen shall, on grounds only of religion, race, caste, sex or place of birth, be ineligible for, or discriminated against in respect of, any employment or office in the service of the Republic. Nothing in this article shall prevent the State from making special provision in favour of any backward section of citizens for the purpose of securing their adequate representation in the service of the Republic; giving effect to any law which makes provision for reserving appointments relating to any religious or denominational institution to persons of that religion or denomination; reserving for members of one sex any class of employment or office on the ground that it is considered by its nature to be unsuited to members of the opposite sex. According to article 133 of the Constitution Parliament may by law regulate the appointment and conditions of service of persons in the service of the Republic provided that it shall be competent for the President to make rules regulating the appointment and the conditions of service of such persons until provision in that behalf is made by or under any law, and rules so made shall have effect subject to the provisions of any such law. According to article 23 of the Constitution the State shall take steps to protect and develop the unique local culture and tradition of the tribes, minor races, ethnic sects and communities. Bangladesh public service commission is the recruiting authority of public servants. The Constitution under Articles 137-141 has assigned the Commission the role of selecting the most competent persons for the public service of the republic through competitive examinations and tests in a fair and transparent manner. The PSC is also mandated to advise the President in framing recruitment rules; promotion, transfer and disciplinary matters; employees' appeals and memorials; and other matters related to the public service. The PSC and the public recruitment process are run based on the Presidential Order No. 34 (on May 9, 1972), PSC Ordinance No. LVII of 1977, BCS Recruitment Rules of 1981, PSC Officers & Employees Recruitment Rules, 1990.

In spite of having these standards, there is allegation of lack of transparent assessment criteria for examinations, irregularities and corruption in the recruitment process, partisan recruitments in important cadres such as the administration and the police, leakage of question paper, payment of bribe and on political consideration etc. Besides, discrimination against religious minorities has also been seen.

### **Suggestion for the questions to be asked in the List of Issues to Bangladesh:**

- What plan the government has to ensure free, fair and inclusive elections in the country which is one of the preconditions for establishing democratic practices conducive for promoting most of the civil and political rights?
- What strategies is the GoB taking to create the institutional capacity, especially independence, neutrality and effectiveness of the Election Commission, to ensure credible elections?

## **xvi. Rights of Minorities and Indigenous Peoples (Art. 27)**

### **Information from Civil Society**

The 15<sup>th</sup> Amendment to the Constitution states that all citizens of Bangladesh are Bangalis, which is widely perceived as discriminating against those who are not ethnically Bangali. This perception is exacerbated by the campaign by a section of the government propagating a notion that there are no indigenous people in the country. Official orders have been issued to take action to establish this claim. While no credible explanation

## **BANGLADESH – HRFB Joint Civil Society Report with CCPR Centre**

has been provided for such position, it undermines the government's commitment to promote rights of the indigenous communities. The State report discusses some recent advancement towards ensuring rights of minority communities. According to some reports in a 9 month period (Jan 15-Sept 15 2015) violence against the Hindu Community have led to 103 homes being destroyed, at least 56 people being injured and 146 temples/monasteries being destroyed.<sup>24</sup>

A recent study by the Kapaeeng Foundation and the Asia Indigenous Peoples Pact (AIPP), shows that violations against indigenous women are related to rape, attempted rape and abduction. From January to June 2014, 26 cases of violence against indigenous women were reported.<sup>25</sup> From September to November 2014, at least 13 indigenous women and girls (eleven from Chittagong Hill Tracts and two from plain lands) have been subjected to violence including rape, attempt to rape, physical assault and abduction.<sup>26</sup>

The government took initiatives to identify indigenous ethnic groups in April 2013 and formed a 10-member committee headed by then State Minister Advocate Promode Mankin for this purpose. The Small Ethnic Groups Cultural Institutes (SEGCI) Act 2010 recognized only 27 out of more than 50 Indigenous ethnic groups in Bangladesh.

With regard to mother tongue education, the GoB has initiated mother tongue education programs for five indigenous languages namely Garo, Sadri (Oraon), Chakma, Marma and Tripura.

The issue of education of indigenous peoples has been considered by the Perspective Plan 2021 of Bangladesh to cope with the long term development challenges faced by the country, including substantial poverty, inequality and deprivation. Achievement of universal primary education, extending this stage up to grade 8; elimination of illiteracy; removing the education gap between the poor and rich, creating a new generation equipped with technical skills and scientific knowledge; better remunerations for teachers; and overall improvement of quality and equity in education are key education goals of Vision 2021.<sup>27</sup>

Land grabbing of the Indigenous people in CHT and in the plain areas is a major concern. Between January and June 2014, over 242.03 acres of lands in the CHT were grabbed or went under process of occupation and acquisition. Besides, 95 families were evicted from their homesteads and 400 families including 79 families in the plains faced threat of eviction. A total of 11 families were attacked in the plains, and 42 indigenous persons including women were either assaulted or injured during these attacks, allegedly to evict Indigenous people from their land.<sup>28</sup>

The recent 2011 census report shows a huge difference of statistics regarding the total number of indigenous peoples in Bangladesh compared to the original census of 1991 and their area of residence have also been wrongly represented in the census.<sup>29</sup>

### **Suggestion for the questions to be asked in the List of Issues to Bangladesh:**

#### **A. Indigenous Community**

---

<sup>24</sup>Ain o Salish Kendra (2015), Violence against Hindu Community: January-September 2015. Ain o Salish Kendra (ASK), HR Monitoring, Violence on Minority Community. 19 November 2015. Web. Accessed from: <http://www.askbd.org/ask/2015/10/08/violence-hindu-community-january-september-2015/>

<sup>25</sup>AIPP and Kapaeeng Foundation, Survival under Threat: Human Rights Situation of Indigenous Peoples in Bangladesh, page 107

<sup>26</sup>[http://kapaeeng.org/wp-content/uploads/2015/03/Key-Note-Presentation\\_UPR\\_BMD.pdf](http://kapaeeng.org/wp-content/uploads/2015/03/Key-Note-Presentation_UPR_BMD.pdf)

<sup>27</sup>Zabrang Kalyan Samity (2014), Overview on primary education; grassroots voice, the situation of primary education in the Chittagong Hill Tracts of Bangladesh, Page 27

<sup>28</sup>Kapaeeng Foundation, information sharing on 17 September 2014.

<sup>29</sup>Capacity Enhancement of the Rights of the Small Ethnic Groups and Disadvantaged Communities for Policy Advocacy (CERDC), (2012). Population of indigenous peoples is on the decline in 47 districts! Acceptability of 2011 Census under question... HR News No. 78/2012 [Misc] Saturday, August 18, 2012. [online] Accessed from: <http://trimita.com/cerdc/index.php/hr-report/84-population-of-indigenous-peoples-is-on-the-decline-in-47-districts-acceptability-of-2011-census-under-question-though-it-is-claimed-there-are-24-thousands-of-chakmas-in-naogaon-but-in-reality-this-is-just-the-opposite>

## BANGLADESH – HRFB Joint Civil Society Report with CCPR Centre

- Will the government take specific measures to amend the constitutional provisions that undermine the civil and political rights of indigenous communities, especially their fundamental right to be recognized as indigenous people?
- Will there be an effort from GoB to undertake an authentic census to figure out the actual number of indigenous peoples living in the country with accurate demographic statistics?
- What measures are taken to activate Chittagong Hill Tracts (CHT) Land Commission and make its function more effective by passing the CHT Land Commission (Amendment) Act 2013 to ensure the property rights of indigenous people who are continuously facing land eviction?<sup>30</sup>
- What measures are taken for the full implementation of the 34 clauses out of the 72 Clauses of the CHT Accord and a clear roadmap specifying the timeline of when it will be realized<sup>31</sup> (so far 13 have been partially implemented and 9 remain under process of implementation and only 25 have been implemented) with all 32 mandated departments to be transferred to the three CHT District Councils?
- What measures are taken to carry out correct recognition of indigenous peoples with inclusion of left out groups in the Small Ethnic Group Institute Act 2010? Is there any plan to amend the 15th amendment of the Constitution which identifies these groups as 'tribal', race, ethnic sects and community' and 'ethnic minority' instead of 'indigenous people'<sup>32</sup>?

### B. Dalit Community<sup>33</sup>

- Is there any plan of introducing quota in public and private universities?
- What measures are taken to implement the Government's Housing Construction Plan for Dalits in Dhaka and outside of Dhaka with full sanitation facilities?
- Organize skill training for Dalits on a national level so that they could join in alternative profession. Government should also introduce quota reserved for Dalits in government employment for educated Dalits similar to the quota reserved for Adivasi people.
- Ministry of Social Welfare (MOSW) to increase the coverage of Social Safety Net Program (SSNP) for Dalits and monitor its proper implementation.

### C. Religious minorities<sup>34</sup>

- What measures are taken, especially by the Ministry of Home Affairs to protect and prevent attacks on religious minorities?
- What measures are taken, especially by the Ministry of Home Affairs to protect atheists and ensure the speedy investigation of recent atheist bloggers?

---

<sup>30</sup>Kapaeeng Foundation, (2013). Civic groups demand amendment of the CHT Land Commission Act during the running session of the Parliament - See more at: <http://kapaeeng.org/civic-groups-demand-amendment-of-the-cht-land-commission-act-during-the-running-session-of-the-parliament/#sthash.C251nrKn.dpuf>.

<sup>31</sup>Kapaeeng Foundation, (2014). National Seminar on "Progression of Universal Periodic Review (UPR) Recommendations to Bangladesh: Indigenous Peoples' Perspective", held in Dhaka - See more at: <http://kapaeeng.org/national-seminar-on-progression-of-universal-periodic-review-upr-recommendations-to-bangladesh-indigenous-peoples-perspectiveheld-in-dhaka/#sthash.YAtQ7wSQ.dpuf>.

<sup>32</sup>"The government probably is under the impression that recognizing indigenous people might mean extra responsibility to bear" The Daily Star, (2011). Ethnic minority, not indigenous people. [19 Nov 2015 online] Accessed from: <http://archive.thedailystar.net/newDesign/news-details.php?nid=195963>

<sup>33</sup>Bangladesh Dalit and Excluded Rights Movement (BDERM), (2015). Parliamentarians expressed solidarity towards the struggle of Dalits' rights and dignity. See more at: <http://www.bderm.org/node/43>

<sup>34</sup>ALJAZEERA, (2015). Insecurity grips minority groups in Bangladesh. [19 November 2015 online] Available at: <http://www.aljazeera.com/news/2015/09/insecurity-grips-minority-groups-bangladesh-150909183918053.html>

***Annex: List of HRFB member organisations***

<p>This submission has been prepared by the Human Rights Forum, Bangladesh, a coalition of 19 human rights and development organisations</p>	
<p><b>Ain o Salish Kendra (ASK)- Forum Secretariat</b> www.askbd.org</p>	<p><b>Acid Survivors Foundation (ASF)</b> www.acidsurvivors.org/</p>
<p><b>Bandhu Social Welfare Society (BSWS)</b> http://www.bandhu-bd.org/</p>	<p><b>Bangladesh Adivasi Forum</b></p>
<p><b>Bangladesh Dalit and Excluded Rights Movement (BDERM)</b> http://www.bderm.org/</p>	<p><b>Bangladesh Institute of Labor Studies (BILS)</b> http://www.bils-bd.org/</p>
<p><b>Bangladesh Legal Aid and Services Trust (BLAST)</b> www.blast.org.bd</p>	<p><b>Bangladesh Mohila Parishad (BMP)</b> http://www.mahilaparishad.org/</p>
<p><b>Boys of Bangladesh (BOB)</b> www.boysofbangladesh.org/</p>	<p><b>FAIR</b></p>
<p><b>Karmojibi Nari (KN)</b> karmojibinari.org.bd/</p>	<p><b>Kapaeeng Foundation</b> kapaeeng.org/</p>
<p><b>Manusher Jonno Foundation (MJF)</b> www.manusher.org/</p>	<p><b>National Alliance of Disabled Peoples' Organizations (NADPO)</b></p>
<p><b>Nagorik Uddyog</b> www.nuhr.org/</p>	<p><b>Nari Pokkho</b></p>
<p><b>Nijera Kori</b> www.nijerakori.org</p>	<p><b>Steps Towards Development (Steps)</b> http://204.93.159.78/~grotspser/last/</p>
<p><b>Transparency International Bangladesh (TIB)</b> http://ti-bangladesh.org/</p>	