

BANGLADESH

Civil Society Report on the Implementation of the ICCPR (Replies to the List of Issues CCPR/C/BGD/Q/1)

For the Review of the Initial State Report of Bangladesh
(CCPR/C/BGD/1)
At the 119th session of the Human Rights Committee
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Submitted by:

Coalition of individual Human Rights Defenders Bangladesh

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I. Introduction

This report is prepared finalised by a group of individual human rights defenders and practitioners who have contributed both in organizational and individual capacity, with support of the Centre for Civil and Political Rights. A workshop was held on 28 January 2017 in Dhaka, Bangladesh, to elaborate and finalise the present report.

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II. Civil Society Replies to the Issues identified in the LOI

a. Non-discrimination and equality between men and women (arts. 2, 3 and 26)

Issue 3: *Please provide information on the measures taken in law and in practice to ensure protection against discrimination on all grounds and in particular discrimination against women and people of a religion other than Islam in personal laws based on religion, as well as measures taken to put an end to the perpetuation of the de facto caste system and ensure that people from so-called lower castes, religious and linguistic minorities, as well as indigenous people, are not suffering from human rights violations in a disproportionate manner. Please indicate what provisions and policies there are to ensure that persons with disabilities enjoy legal capacity on an equal basis with others.*

Reply / Comments from Civil Society

Discrimination against women, people of a religion other than Islam, ethnic minorities, people from so-called lower castes and the LGBT community is very much prevalent. The National Women Development Policy 2011 stated that anything contrary to the Holy Quran and Sunnah shall be void, though the country is not governed by Shariah or Quranic laws and about 10% of the population is non-Muslim. Reservations on CEDAW articles are still in place, whereby no commitment has been made with regard to the withdrawal of those reservations during the last review by CEDAW in November 2016.

The personal laws are governed by religious provisions. The formulation of a Uniform Family Code (UFC) with equal rights on marriage, divorce, maintenance and guardianship, adoption, inheritance has not been taken any far.

The people from so-called lower castes (known as Dalits) are continuously been discriminated in their private and public life. Though in 2012, the office of the Prime Minister circulated a special directive for reservation of 80 percent of the posts of cleaners for the Dalits, the directive was not been followed properly.¹

On January 26, 2014, the cabinet announced the recognition of a third gender category in its gazette stating: *“The Government of Bangladesh has recognized the Hijra community of Bangladesh as a Hijra sex.”* This circular represented a significant step toward securing a range of human rights for the hijras—people who, *“assigned”* male at birth, but identify themselves as feminine and prefer to be recognized as hijra or a third gender. However the government did not introduce a policy outlining the measures individuals must take to legally change the gender marker on their official documents from *“male”* to *“hijra,”* and there is no clarity about who qualifies as a hijra. In the absence of such guidelines, officials involved in implementing the hijra circular have acted on their personal understandings of what hijra means.² In December 2014, the Ministry of Social Welfare invited hijras to apply for government employment. At first welcoming this potentially empowering development, hijras seeking government jobs lined up for the initial interview. Things did not go well from the start. Candidates told that they felt humiliated by ill-informed Social Welfare Department officials during the initial interviews, which were conducted in December 2014. Many said that they were harassed and asked inappropriate questions about their gender identity and sexuality. Then in January 2015 the health ministry issued a memorandum requesting that *“necessary steps are taken to identify authentic hijras by conducting a thorough medical check-up.”* And in June 2015, the dozen hijras who were selected from the initial interviews followed orders to report to a government hospital for the required medical exams. During these so-called *“examinations”*, physicians ordered non-medical hospital staff such as custodians to touch the hijras’ genitals while groups of staff and other patients observed and jeered—sometimes in private rooms, sometimes in public spaces. Hospital staff instructed some of the hijras to return multiple times, stretching over a number of weeks, to undergo additional examinations. Following these abuses at the hospital, photographs of the 12 hijras were released to online and print media, which claimed the hijras were *“really men”* who were committing fraud to attain government jobs. Some hijras reported that publication of the photos sparked increased harassment from the general public and

¹ Bangladesh State of Minorities Report 2016, Nagorik Uddoyog, November 2016

² ‘I Want to Live With my Head Held High, Human Rights Watch’s Report, Decemver 2016

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economic hardship for those involved—even informal economic activities were compromised as former begging and sex work clients refused to engage with the hijras following the exposure.³

The draft Forest Act 2015 includes a number of provisions detrimental to the rights of indigenous peoples and forest dwellers.

The Ministry of Primary and Mass Education could not fully accomplish publication of textbooks for indigenous children of primary schools in five of their selected mother tongues, an initiative started in 2013.

Issue 4: Please provide information on the measures taken to implement the legal prohibition of harmful traditional practices such as early marriage of girls and dowry practice, which are both prevalent in the country, and in particular initiatives to change the social perception of early marriage (see CCPR/C/BGD/1, para. 49). Please respond to the allegation that the Government is currently taking steps to decrease the minimum age of marriage from 18 to 16 years. Please clarify the status under domestic law of same-sex relationships between consenting adults and about the possibility in law to terminate a pregnancy with the consent of the woman (*ibid.*, para. 46).

Reply / Comments from Civil Society

The Cabinet approved the *Draft Child Marriage Restrain Act 2016* on 24 November 2016. Concern has been expressed for keeping a provision of “*special circumstances*” in the name of ensuring their “*best interest*”. According to this provision, marriage of a minor girl in special circumstances will not be considered as crime.

The provision of “*special circumstances*” is conflicting with the Constitution of Bangladesh—that guarantees in particular protecting fundamental rights of citizens, equality before law (Article 27), no discrimination based on sex (Article 28) and freedom to opinion. This provision is also conflicting with the CEDAW and the CRC. Bangladesh is a signatory to CRC, which clearly defines age of child as 18; The National Children Policy 2011 and the Children Act 2013 consider person under 18 as child. Any provision for marriage of a minor girl will be conflicting with the existing laws. The Majority Act 1875 regards consent and voice as linked to age of adulthood, which is set at 18 years of age whereas as per the special provision, a minor girl could be married. The special provision thus contradicts national laws, which define the age and associated responsibilities of minors. According to the Domestic Violence (Prevention and Protection Act 2010) anyone under 18 years is a child.

Concern has been also expressed that allowing marriage below 18 years in any circumstance should be considered as encouraging child marriage, which is a serious violation of children’s rights and a form of sexual violence against girl child. This will increase the sexual violence towards girl children and domestic violence rate which is at present 80% (BBS 2016). According to the Prevention of Oppression Against Women and Children (amended) Act 2003, sexual intercourse with a girl under the age of 16, with or without her consent, will be considered as rape. Therefore, the provision of “*special circumstances*” will legalize child rape through marriage. The rapist and perpetrator will legalize their crimes applying such “*special circumstances*” provision. Lowering marriage of girls will be negative to girls’ health, education and their empowerment processes, at the same time, rate of violence against women and children will increase. The girl child will be excluded from the development process. Girls will be pregnant at an immature age, risk of maternal and neo-natal death, cervical cancer and girls’ drop out from school will increase and women’s contribution to the development in the country will be limited. Such decision is harmful for the country.⁴

Recommendations:

The government should make clear commitment with regard to formulation of a Uniform Family Code (UFC) with equal rights on marriage, divorce, maintenance and guardianship, adoption, inheritance to end discriminatory religious laws dealing with personal/family issues and to ensure equal rights for all women.

³ *Ibid*

⁴ <http://www.girlsnotbrides.org/do-not-allow-child-marriage-under-special-circumstances-girlsnotbrides-bangladesh/>

b. Right to life (art. 6)

Issue 5: Please respond to allegations that in the past few years many persons have been arbitrarily or unlawfully killed or disappeared by police officers or soldiers, in particular members of the Rapid Action Battalion, during raids, arrests and other law enforcement operations, and that Battalion members enjoy legal impunity under the Armed Police Battalion Act. Please provide information on the investigation of the death of around 100 persons in the context of the elections of January 2014, allegedly killed as a result of excessive force by the police and violence between groups of demonstrators. Please provide information about the investigation into violent attacks, including arson attacks, in the context of an anti-government campaign in 2015. In this context, please respond also to allegations of excessive use of force, arbitrary arrests and enforced disappearances by government security forces. Please provide information about the Government's efforts to end such cycles of violence.

Reply / Comments from Civil Society

The law enforcing agencies deny any knowledge of the whereabouts of the missing people or involvement in the abduction of people⁵. Human Rights organization, *Ain o Salish Kendra's* (ASK) reports indicate a continuous trend of enforced disappearances in the last four years. 53 people were disappeared in 2013⁶, 88 in 2014⁷, 55 in 2015, and 97 in 2016⁸.

Government continues to deny that enforced disappearances are taking place. Their argument is the 'Enforced Disappearance' is not a recognized term under Bangladesh's legal system and hence it can not be said that enforced disappearances are taking place in Bangladesh. Home Affairs Minister claimed that there is no crime named enforced disappearance in the Bangladeshi laws, but what happens in Bangladesh is abduction, saying "*It is abduction that we have to deal with.*" He was asked whether Bangladesh will sign the UN convention regarding such disappearances, the minister said since enforced disappearance is not mentioned in the country's laws and policies, there can be no question of ratifying the convention.⁹

The Minister also stated, the allegation that the government is pursuing a policy of "*enforced disappearance is totally baseless*". He said security agencies investigated many cases of alleged enforced disappearances and found that individuals had gone into hiding on their own "*to embarrass the government globally*".¹⁰

Case: Homeopath Sheikh Mokhlesur Rahman Jonny was disappeared in Satkhira after police arrested him in August 2016. His wife Jasmine Nahar stated that Jonny went to the New Market around 9:30 pm on 5 August 2016 to buy some medicine. There Himel, Sub-Inspector of Satkhira Sadar police station arrested him. Jonny's wife also stated "*When we went to the police station, Himel said they were investigating my husband and would release him if they found him innocent. I went to see my husband three days in a row. But on August 8 morning, when I went to the police station, they started telling me that they did know where he was*".¹¹

Law-enforcing agencies in Bangladesh have been engaged in extra-judicial or illegal killings of civilians with impunity. According to ASK reports 195 people were allegedly killed by law enforcing agencies in 2016¹², 192 in 2015¹³, and 154 in 2014¹⁴.

Recommendations:

⁵ <http://archive.dhakatribune.com/op-ed/2015/mar/29/forcibly-disappeared-bangladesh>

⁶ <http://www.askbd.org/ask/2014/01/11/abduction-law-enforcement-agency-jan-31-december-2013/>

⁷ <http://www.askbd.org/ask/2015/01/15/forced-disappearances-2014/>

⁸ <http://www.askbd.org/ask/2017/01/08/enforced-disappearance-january-december-2016/>

⁹ <http://www.thedailystar.net/picked-up-they-never-return-39283>

¹⁰ <http://www.voanews.com/a/enforced-disappearances-rise-in-bangladesh/3574161.html>

¹¹ <http://www.dhakatribune.com/bangladesh/nation/2017/01/04/man-disappears-police-custody-police-no-recollection/>

¹² <http://www.askbd.org/ask/2017/01/08/death-law-enforcing-agencies-january-december-2016/>

¹³ <http://www.askbd.org/ask/2016/01/07/death-law-enforcement-agencies-january-december-2015/>

¹⁴ <http://www.askbd.org/ask/2015/01/15/deaths-law-enforcement-agencies-2014/>

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Incidents of extrajudicial killings by law enforcement agencies must be investigated independently and the perpetrators be brought to effective justice. Extrajudicial killings in the name of ‘crossfire’ or ‘gunfight’ should be stopped immediately.

The law enforcement agencies must follow the “Basic Principles on the use of Force and Firearms by Law Enforcement officials and the UN Code of Conduct for Law Enforcement officials”. Accountability of all members of the law enforcement agencies must be ensured and the government should take appropriate measures to stop the impunity they enjoy.

The Government must bring the members of the security and law enforcement forces who are involved in the incidents of enforced disappearance and killing to justice. The Government should accede to the International Convention for the Protection of All Persons from Enforced Disappearance, adopted by the UN on December 20, 2006.

Issue 6: *Please provide information on measures taken to protect the life of journalists and bloggers who receive death threats, in particular the 84 bloggers listed by extremist groups as anti-Islamic and blasphemous, several of whom were recently hacked to death, including Ahmed Rajib in February 2013, Haider Avijit Roy in February 2015, Washiqur Rahman Babu in March 2015, Ananta Bijoy Das on 12 May 2015, Niladri Chakrabarti in August 2015 and Faisal Abedin Deepan in October 2015. Please provide information on the status of the criminal investigations into these murders as well as on the allegations that some of these bloggers were denied protection by the police when they reported the death threats to the authorities.*

Reply / Comments from Civil Society

The progress of bloggers killing cases is at a snail pace. Dhaka court sentenced two people to death on 31 December 2015 for the killing of blogger Ahmed Rajib Haider¹⁵ while six others to different jail terms¹⁶. The High Court verdict will be pronounced any day and the HC bench of Justice kept the verdict pending on 9 January 2017 after the 22-day hearing on the death reference of the accused and appeal petitions¹⁷. According to Dhaka Metropolitan Police chief, the probe into the killing of writer-blogger Avijit Roy is in its 'final stage' and the report will be filed to the court soon.¹⁸ Additional Metropolitan Session Court-3 of Dhaka on 20 July 2016 framed charges against five suspected members of banned militant outfit ‘Ansarullah Bangla Team’ in the blogger Washiqur Rahman Babu killing case.

Blogger Ananta Bijoy Das was hacked to death on 12 May 2016 in Sylhet’s Subidbazar area and a murder case was filed with the police. It has been reported that due to the case’s sensitive nature, the Criminal Investigation Department (CID) took over the investigation on 25 May 2016. However, the only progress in the case was the arrest of a photojournalist named Idris Ali on 7 June 2016. He is now in jail after seven days of remand in police custody. Other than Idris’s arrest, the police have not been able to find any other clue in connection with the killing.¹⁹

According to the statement by Joint commissioner and spokesperson of Dhaka Metropolitan Police (DMP) "We have arrested six criminals in killing of blogger Niladri, eight in Avijit murder and five in Ananta murder case while three in Babu murder case"²⁰ and it has been reported by the media on 1 January 2016. Dhaka Metropolitan Police (DMP) Commissioner claimed on 27 April 2016 that there have been ‘significant

¹⁵ https://en.wikipedia.org/wiki/Ahmed_Rajib_Haider

¹⁶ <http://www.observerbd.com/details.php?id=52444>
<http://bangla.bdnews24.com/bangladesh/article1081019.bdnews>

¹⁷ <http://www.observerbd.com/details.php?id=52444>

¹⁸ <http://www.observerbd.com/details.php?id=52444>

¹⁹ <http://archive.dhakatribune.com/bangladesh/2015/aug/08/no-progress-last-three-blogger-murder-cases>

²⁰ <http://www.samakal.net/2016/01/01/2133/print>

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progresses' in the investigations into the killings of Blogger Avijit Roy and the publisher Faisal Arefin Dipan²¹, but he stated that most of the killers have left the country.

There was no remarkable step by the government for the protection of the bloggers communities in the list and were receiving death threats. These bloggers were denied protection rather cautioned by the government authority, including the prime Minister stating "If anybody tried to hurt any sentiments of any religion or any religious leader, there is a law. We can take any action".²² Earlier, in 2013, the Prime Minister has also defended her government's arrest of atheist bloggers²³ on suspicion of harming religious sentiment through their work, the banning of their websites.²⁴

Recommendations:

The Government should carry out immediate, thorough and impartial investigations into all killings allegedly conducted by the extremist groups and ensure that their colleagues and families are informed of the developments in the case.

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

Issue 9: Please respond to allegations that torture and ill-treatment of individuals by law enforcement and military personnel are a widespread phenomenon, especially at the moment of arrest, and that they are mostly used to extract confessions. To that end, provide information on: (a) the investigations and number of complaints of torture or ill-treatment against the police, military and other officials received in accordance with the Torture and Custodial Death (Prevention) Act, 2013; (b) the type of charges brought against law enforcement officers; (c) the number of cases dismissed and the reasons for their dismissal; (d) the number of officials disciplined and sanctioned and the penalty imposed; (e) concrete measures taken for the rehabilitation and compensation of the victims of torture or ill-treatment; and (f) training in human rights for the police, military and other officials (see CCPR/C/BGD/1, paras. 73-81).

Reply / Comments from Civil Society

Bangladesh police wants to scarp the custodial torture and death Act. Police have demanded to the Prime Minister in a meeting with her on 23 January 2017 to repeal of the law that prohibits both mental and physical torture in custody by law enforcement agencies.²⁵

Earlier in 2015, the police department had sent a proposal to the home ministry for bringing major changes to the law and wanted safeguards from prosecution for custodial death and torture. In the 2015 proposal to the home ministry, police wanted the Rapid Action Battalion (Rab), Criminal Investigation Department (CID), Special Branch (SB) and Detective Branch (DB) of police excluded from the purview of the anti-torture law.

Issue 11: Please provide information on the extent of the problem of domestic violence and sexual violence in general, including acid attacks and sexual harassment, and on the measures put in place, in law and in practice, to prevent them and ensure that all cases are effectively investigated and perpetrators prosecuted and sanctioned. In addition, please provide information on: (a) the number of complaints received; (b) investigations carried out; (c) the types of penalties imposed; and (d) compensation awarded to the victims. Furthermore, please provide information on any other step taken to combat and prevent domestic and gender-based violence (see CCPR/C/BGD/1, paras. 47-48 and 85).

²¹ <http://www.thefinancialexpress-bd.com/2016/04/27/28026/DMP-chief-claims-significant-progress-in-Avijit,-Dipan-killing-cases>

²² <http://www.pen-international.org/newsitems/statement-on-the-situation-of-freedom-of-expression-in-bangladesh/?print=print>

²³ <http://www.bbc.com/news/world-asia-22058462>

²⁴ http://print.thefinancialexpress-bd.com/old/print_view.php?news_id=165877

²⁵ <http://www.thedailystar.net/frontpage/police-want-law-against-custodial-torture-scrapped-1349926>

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Some major acts of violence committed against women include dowry killing, rape, sexual harassment, stalking, acid attacks, physical and mental abuses, and sex trafficking. Nearly two out of every three women in Bangladesh are victims of violence. The incidence of violence against women has increased alarmingly in the country in the year 2016 compared to 2015. But, 68 per cent incident of violence against women were not reported or recorded in any way²⁶.

According to the report of Bangladesh Mahila Parishad (BMP), at least 208 women were victims of stalking and eight victims committed suicide due to stalking between January and September 2016. The number of women raped rose alarmingly in 2016 – with 1,050 women and girls raped in total including 166 gang rape victims and 44 killed after being raped. According to the report by Bangladesh Mahila Parishad (BMP), based on information from 14 dailies –there were 165 rape attempts on women in 2016. This number was 142 in 2015. 120 women were molested, and 80 became victims of sexual harassment in 2016²⁷.

A total of 593 women were raped in 2010 while 635 in 2011, 508 in 2012, 696 in 2013, 666 in 2014 and 808 in 2015. At least 997 women and children were gang-raped from 2010 to 2015 while 546 killed after rape during the period, said the Mahila Parishad report²⁸. According to Bangladesh Police website, a total of 17,752 cases were filed in 2010 for violence against women and children. The number of such cases was 21,220 in 2015²⁹.

Societal attitudes must change in order to end the stigma and victim blaming that women face when they report violence carried out against them. Lack of strict implementation of laws is also one of the reasons of violence against women. Bangladesh ratified the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) many years back, but its implementation remains a challenge, whereby reservations made by Bangladesh on CEDAW Article 2 is still in place.

d. Elimination of slavery and servitude (art. 8)

Issue 12: Please provide updated information on: (a) the steps taken in practice to prevent and combat trafficking in human beings, clarify if there is a project to abolish the high recruitment fees imposed legally by recruitment agencies belonging to the Bangladesh Association of International Recruiting Agencies that put workers at high risk of debt and bonded labour abroad; (b) the main grounds for the numerous acquittals in cases of human trafficking (see CCPR/C/BGD/1, para. 94); (c) any training programmes for professionals involved in implementing the State party's measures against trafficking, in particular regarding the identification of trafficked victims, including the police, the judiciary, members of the prosecution authorities and social workers; and (d) the programmes established to assist victims of trafficking or to raise awareness about this issue under the Prevention and Suppression of Human Trafficking Act, 2012 (*ibid.*, para. 96).

Reply / Comments from Civil Society

An absence of Rules of Procedures for the implementation of the Prevention and Suppression of Human Trafficking Act, 2012 (PSHT Act) and a specific tribunal hampers justice process. The implementation of the PSHT Act 2012 is slow due to not setting up of a separate tribunal, which is taking too long. Therefore, the disposal of cases is very slow and the acquittal of the perpetrators calls for more critically looking into the reasons. The comment of the Ministry of Law, Justice and Parliamentary Affairs to divide the draft Rules (prepared in collaboration with the civil society) in three separate rules was given more than a year ago. The approval of the rules is taking too long and there is no mention of the current status. Bilateral agreement within the SAARC region to expand the area of the SAARC Convention has not been reached.

²⁶ <http://www.daily-sun.com/arcprint/details/179768/Violence-against-women/2016-11-01>

²⁷ <http://www.dhakatribune.com/bangladesh/crime/2017/01/08/violence-4896-women-girls-2016/>

²⁸ <http://www.daily-sun.com/arcprint/details/179768/Violence-against-women/2016-11-01>

²⁹ <http://en.prothom-alo.com/bangladesh/news/99799/Violence-against-women-sees-74%25-increase-in-2015>

e. Freedom of religion, opinion and expression, and freedom of association (arts. 18, 19 and 22)

Issue 18: *Please reply to allegations that many journalists and in particular secular and atheist bloggers, journalists, publishers and editors as well as human rights defenders are subject to intimidation, arrest and harassment from extremist groups, or sometimes by the authorities themselves, and are denied protection by the authorities. Provide data on cases prosecuted under the offences of “blasphemy” and insult to religion under the Penal Code (sects. 295A and 298) and the Information and Communication Technology Act, 2006 (sect. 57). Please provide information on alleged frequent incidents of land grabbing, intimidation, extortion against ethnic and religious minorities and attacks on places of worship, in particular during Durja Puja, a Hindu festival.*

Reply / Comments from Civil Society

Killing of bloggers, online activists is part of an alarming trend of violent intolerance towards freedom of religion and freedom of speech in Bangladesh. These fatal and vicious attacks on bloggers became alarming in 2015 and 2016 and it not only silences the victims but also sends a chilling message to all in Bangladesh who espouse independent views on religious issues. Free thinkers have been repeatedly targeted by extremist groups throughout Bangladesh and it appears that the trend set in the past on handling such issues was discouraging.

Actions by the concerned authorities (State and Non-state) failed to send strong message to perpetrators that these killings and violence will not be tolerated (please refer to the information provided in reply to the Issue 6). Policy of appeasement was followed by the authorities to make certain group satisfied which actually encourages the perpetrators or extremist forces to continue their attacks on secularism as well as free thinkers. One of the results of such steps shown by the government is seen in the changes of the textbooks in line with the fundamentalists dictate. Recently, the Ministry of Education in Bangladesh has removed some secular poems and stories from children's textbooks. It has been reported that discriminatory patriarchal and communal content are kept in the textbooks. Although the books mention that they were reprints of the 2013 curriculum, the changes to the books make them completely unrecognisable³⁰. Local media reported that Hefazat-e-Islam, an Islamist organization, had demanded the government to make the changes to the school books. It has been reported that the ministry has made some major changes to the Bengali language textbooks that are taught in the South Asian country's schools and Islamic seminaries. For instance, poems and stories penned by non-Muslim writers have been removed, and the pictures of girls in Western clothes have been replaced with the ones in Islamic attire.³¹

In Madrassa books distributed among young impressionable minds, no conversation between a girl and a boy has been included. Non-Muslim names have been changed to Muslim names, and any mention of “*period*” from Physical Education textbooks has also been removed.

The situation for Human Rights Defenders (HRDs) is also very critical in Bangladesh. Along with harassment, intimidation, killings, judicial harassment is rampant. Restrictive legislation to curb freedom of expression, freedom of assembly and association, to limit funding opportunities created a suffocating atmosphere for the HRDs.

Between February 2013 and June 2016, at least 14 HRDs and activists were murdered in Bangladesh. Local extremist groups pledging allegiance to Al-Qaeda in the Indian Subcontinent often claimed responsibility for the attacks, which have targeted HRDs who write about women's rights, indigenous peoples' rights, freedom of religion, and other human rights issues. The government has so far failed to properly investigate a majority of the murders. Despite recent reports that some of the perpetrators were killed in “*shoot outs*” with police in Dhaka, few thorough and transparent investigations into the murders of activists have occurred. What began in 2013 as an assault on bloggers sharing secular views and criticising the influence of

³⁰ <http://www.thedailystar.net/opinion/the-big-picture/disturbing-deviations-childrens-books-1348375>

³¹ <http://www.dw.com/en/bangladeshs-secular-activists-concerned-about-textbook-changes/a-37398705>

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fundamental Islam on Bangladeshi politics has become a lethal environment for HRDs who advocate for human rights- related reforms to which those pushing a fundamentalist Islamic agenda are opposed.³²

There has also been a sharp rise in the targeting of activists and protestors by Government forces, and an increase in restrictions on civil society in general across Bangladesh. Protests against the power station's construction are ongoing. Those issues illustrate the continuing disproportionate response of the Bangladeshi Government, who, in direct contravention of international human rights obligations, shut down peaceful civil society protests and reduced the space for protesters to be heard and engaged with.³³

Law enforcement agencies and the Bangladeshi Government were slow to respond to the murders of several bloggers. In fact, the Government's response was negative; they urged the bloggers to curb their writing and impose self-censorship, which, again, is a curtailment of the freedom of the press. One conservative Islamic group called on the Government to punish atheist bloggers who criticise Islam, and several bloggers were arrested under the law that prohibits publishing such works. Asif Mohiuddin went into exile following accusations of blasphemy in 2015; news editor Probir Sikdar was arrested after publishing information about a war criminal in August 2015; and Mohon Kumar Mondal, the director of the Bangladeshi non-governmental organisation LEDARS, was charged for damaging the religious sentiment of Muslims in September 2015. It is evident from interviews that self-censorship is occurring as a result of attacks, fear and misuse of the law. There is also a feeling that the current Bangladeshi Government are in denial. Those are some examples of what is happening in Bangladesh.³⁴

Censorship of digital content, including blocks on YouTube, Facebook, and high-profile Bengali blogs, has become increasingly common in Bangladesh. The government occasionally restricts the use of mobile telephones during elections. Instead of taking adequate measures to enhance Cyber Security, the government have arbitrarily denied peoples' access to Internet partially, if not totally, e.g. the government blocked YouTube on March 2009, September 2012 and banned it for 260 days from September 17, 2012 to June 5, 2013. On 29 May 2010, Bangladesh Telecommunication Regulatory Commission (BTRC) blocked Facebook for 7 days. In 2013, Facebook was again blocked. The international Internet gateway operators were asked by BTRC to reduce the upload bandwidth of ISPs by 75%. On January 18, 2015 the regulators blocked mobile applications Viber, WhatsApp, Tango, Mypeople for 4 days. The BTRC has sent letters to the mobile phone operators and international internet gateway operators regarding the closure. According to media reports, BTRC got a letter from a high profile intelligence agency, which warned that militants are using different modern services with the help of 3G³⁵.

On November 18, 2015, Facebook, WhatsApp, Viber was blocked by directives from the BTRC and there was no Internet access for hours. All these were done in the name of public interest or to stop extremism. Mobile service providers were ordered to block Viber, WhatsApp, LINE, Tango, and my people, supposedly on grounds that terrorists were using the platforms, which are also used by opposition activists and other internet users.

People from Bangladesh have found Istishon website, a popular secular blogging platform, inaccessible since 25 September 2016 night. Founder and Editor of the blog Nur Nobil Dulal on 26 September 2016 said that many users from different parts of the country had not been able to access the website. It has been reported by the media that no authorised officer of the BTRC was found for comment on the matter at that time.

In 2015, Bangla Academy authorities shut down the stall of publication house 'Rodela Prokashani' at the Amar Ekushey Boi Mela, with allegations of *"selling books that hurt religious sentiments"*. Though the publication house claims itself as a progressive and creative publication of free thoughts, but the book fair

³² Victim Blaming: Bangladesh's Failure to Protect Human Rights Defenders, Front Line Defenders, November 2016

³³ Jim Shannon, UK member of Parliament from Democratic Unionist Party while having debate on Civil Society space at UK Parliament on 26 January 2017

³⁴ Ibid

³⁵ <http://archive.dhakatribune.com/bangladesh/2015/jan/18/govt-shuts-down-viber>

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committee member secretary stated that the fair authorities shut down Rodela Prokashani's stall for selling and displaying "*Nabi Muhammdar 23 Bachhar*"³⁶ on grounds of "*hurting religious sentiments*" and "*defamatory comments on Islam and its prophet Hazrat Muhammad*". The website of the publication house³⁷ was also hacked, reportedly by a group named Cyber 71 that left warning messages on the website "*in protest of defamatory comment on Islam and its prophet*".³⁸

Due to persistent security concerns, two publishing houses (Jagriti Prokashoni and Shuddhashar) published few books during the Amar Ekushey Boi Mela (Book fair in February) in February 2016. "*Earlier we had plans to publish around 100 new books from Jagriti Prokashoni during this year's book fair. My son used to look after the procedure. In his absence, we have decided to publish only 16 books*" said Prof Abul Kashem Fazlul Haque, father of slain publisher Faisal Arefin Dipan. "*In addition, we will not reprint or sell the books that drew debate*" he told the Dhaka Tribune.³⁹

The Bangla Academy authority shut down the book stall of Ba-Dwip Prakashan for selling a book with content that could hurt "*religious sentiments*"⁴⁰ on February 2016 and the Police detained three people in this connection. In a raid led by Shahbagh police station officer-in-charge (OC) Abu Bakar Siddique on 15 February 2016, the stall of 'Badwip Prakashan', was shut down. The Police also seized copies of several books including Islam Bitorko (the Islam debate), which is a collection of essays compiled by Shamsuzzoha Manik, also owner of the publishing house. The detainees are: Shamsuzzoha Manik, Shamsul Alam, the stall's manager, and Fakir Taslim Uddin Kajol, owner of the book's printing press. Later, they went to Shamsuzzoha's Mirpur residence along with Shamsul, and detained the 73-year-old publisher from there.⁴¹

On 31 January 2017, the Police gave warning of legal action for selling books that could "*hurt religious sentiment, incite communal violence and civic rights*" among writers and publishers. "*Plainclothes police officials will monitor if any such books are displayed. Actions will be taken against the authors and publishers if such books are found*" Dhaka Metropolitan Police Commissioner said⁴².

After the killing of [Xulhaz Mannan](#)⁴³, a LGBT rights activist and editor of Bangladesh's first LGBT magazine "Roopbaan", the country's LGBT community remains in hiding and most of the active people left the country.

Prior to Mannan's death, LGBT people in [Bangladesh](#) were already marginalized, with same sex relationship being illegal and punishable by a maximum sentence of life in prison. The existing law recognises only the male or female genders. A low number of hijras were included in the voters' list, but they were not identified as the 'third sex'. Bangladesh's transgender community recently lodged complaints that officials were refusing to count them during a national census⁴⁴.

The repressive Information and Communication Technology Act 2006 (amendment 2009, 2013) is still in force. The latest amendment to what is commonly called the ICT Act, was made on 6 October 2013. Section 57⁴⁵ of the ICT Act 2013, states that publishing or transmitting in a website in electronic form, of any

³⁶ The book, which had been published by Rodela Prokashani, is a translation of Iranian writer Ali Dashti's "23 years: a study of prophetic career of Muhammad" which was originally published in 1985.

³⁷ <https://bit.ly/17h1ZYb>

³⁸ <http://archive.dhakatribune.com/bangladesh/2015/feb/17/stall-closed-hurting-religious-sentiments>

³⁹ <http://archive.dhakatribune.com/bangladesh/2016/feb/01/jagriti-shuddhashar-bring-fewer-new-books>

⁴⁰ <http://www.thedailystar.net/backpage/beware-hurting-religious-sentiment-1354105>

⁴¹ <http://archive.dhakatribune.com/bangladesh/2016/feb/16/book-fair-stall-shut-down-police>,

<http://www.tribuneindia.com/news/world/bangladeshi-publisher-arrested-for-offensive-book-on-islam/197090.html>

⁴² <http://www.thedailystar.net/backpage/beware-hurting-religious-sentiment-1354105>

⁴³ <http://www.thedailystar.net/city/2-stabbed-dead-kalabagan-1214434>

⁴⁴ <http://www.gsdmagazine.org/fighting-for-lgbt-rights-in-bangladesh/>

⁴⁵ Section 57 of the ICT Act states: (1) If any person deliberately publishes or transmits or causes to be published or transmitted in the website or in electronic form any material which is fake and obscene or its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, or causes to deteriorate or creates possibility to deteriorate law and order,

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defamatory or false information is considered to be a cognizable and non-bailable offence. Punishment for committing this offence has been amended from a maximum of 10 years, with no minimum to a term of a minimum of seven years and maximum of 14 years' imprisonment and a fine of Taka 10 million.

Most of the cases until now were filed under Section 57 of the Act. There are a few other cases of hacking and publishing obscene materials on the internet coupled with the Pornography Act. This frequent use of Section 57 raised concern among the writers, journalists, bloggers and human rights activists as it directly interferes with the freedom of expression and right to privacy as guaranteed by Articles 39 and 43 of the Constitution. This law has curtailed the freedom of expression and the government is using this Act against human rights defenders, journalists, bloggers and people who have alternative opinions.

The UN Special Rapporteur on freedom of religion or belief has also expressed concern on this. In his report, it is stated *“restrictive laws, such as section 57 of the Information and Communication Technology Act, which threatens draconian sanctions for vaguely defined defamation offences, have created an atmosphere of legal insecurity, in which people are afraid to participate in public debates on sensitive issues, including religious issues”*.⁴⁶

The Criminal Code of Bangladesh contains blasphemy laws that originate from the era of British colonial rule, including sanctions against *“outraging religious feelings”*, as provided for in section 295A of the Criminal Code. Section 57 of the Information and Communication Technology Act 2006 was called by some the *“online version”* of section 295A of the Criminal Code. At the same time, the application of section 57 of the Act is even wider and the punishments threatened are by far more draconian. In addition, the procedural safeguards connected with the Criminal Code do not fully apply, which renders section 57 a flexible and broadly applicable instrument in the hands of the Government.

The abovementioned UN SR on freedom of religion has commented that the law undoubtedly has a chilling effect on civil society organizations, human rights activists and members of religious minority communities. It contributes greatly to the perception of a shrinking space for frank public discourse.⁴⁷

In 2016, the Bangladesh parliament began considering the draft Digital Security Act (draft Act), which the Cabinet [approved](#) in August and which now awaits parliamentary approval. The draft Act is an improvement on the 2013 ICT Act in some ways, clarifying sections 54 and 57. The punishments associated with both defamation and *“hurting religious sentiment”* are reduced from 14 years to a maximum of two years. Minimum punishment under the proposed act is two months and a 200,000 Taka fine (approx. €2,300). However, the proposed Act also contains new problematic language which may be used against HRDs.

Under the draft Act, if an *“offence”* related to defamation is committed by one member of an organisation, the leaders and other members in the organisation need to prove that the offence was committed without their knowledge, or that, if they were aware of the offence, they tried at their *“best level”* to prevent that offence. If they cannot prove one of those two conditions, they can also be found guilty of the crime. This provision is problematic as it poses the burden of proof on the co-accused and contravenes the principle of individual criminal responsibility. This has the potential to endanger and criminalise not only HRDs writing and blogging about rights issues, but also their colleagues, regardless of whether or not they have ever written or posted publicly about their work.

If enacted, the draft Act poses yet another threat to collaboration between HRDs, who already face extreme barriers to networking and communication as a result of security risks. HRDs report that while the reduction in sentences for freedom of expression related offences is positive, the potential to endanger their entire

prejudice the image of the State or person or causes to hurt or may hurt religious belief or instigate against any person or organization, then this activity of his will be regarded as an offence.

(2) Whoever commits offence under sub-section (1) of this section he shall be punishable for a term of minimum of seven years' imprisonment and a maximum of 14 years or a fine of Taka one crore or both.

⁴⁶ Report of the Special Rapporteur on freedom of religion or belief on his mission to Bangladesh, 22 January 2016

⁴⁷ Ibid

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organisation or network by writing about a sensitive issue has already caused HRDs to self-censor to protect their networks from legal harassment by the government.

From the viewpoint of freedom of religion or belief, religion-based personal status laws usually give rise to different concerns. Although the structure is to a certain degree pluralistic, the system does not easily, if at all, accommodate certain constellations of interreligious partnership. Moreover, some people –for instance, converts, agnostics, atheists and others may face even greater difficulties to fit into the limited options provided by a religion-based structure of personal status laws. The Special Rapporteur reiterated Human Rights Committee, general comment No. 22(CCPR/C/21/Rev.1/Add.4), para.2 that freedom of religion or belief does not merely protect the followers of traditional religions, but also those who profess other religions or beliefs, including agnostic or atheistic convictions.⁴⁸

The Special Rapporteur has recommended that the Government should be consistent in expressing its position against any acts of intolerance, discrimination and extremism. It should send messages of solidarity with religious minorities, including small groups, such as Ahmadis, on the basis of the understanding that, under freedom of religion or belief everyone should be respected in their own religious self-definition.⁴⁹

A case was filed in Chittagong on 23 January 2017 under section 57 of Information and Technology Act over derogatory comments on Obaidul Qader, Minister, Ministry of Road Transport & Bridges and Nurul Islam Nahid, Minister, Ministry of Education in facebook. Md Iqbal, a local Awami League leader of the city's EPZ area, filed the case with Chittagong Metropolitan Magistrate Court of Abu Saleh Md Noman. In this case he accused Hazi Mohammad Ali, aged 50, a senior teacher of Meher Afazal High School. However, Md Ali denied the allegation and stated that this case was filed due to personal dispute against him. The allegation was- Mohammad Ali made the derogatory comments on the two ministers in Facebook from August 8, 2015 to February 5, 2016. Md Ali said *“Over reunion programme of the school a personal conflict was arose with Md Iqbal. He also said that he did not post anything against the ministers in his facebook account”*.⁵⁰

Journalist Probir Sikdar was arrested from his Indira Road office in Dhaka in a case under Information and Communication Technology (ICT) Act on 16 August 2015. The local (Faridpur) court sent journalist Probir Sikdar to jail in connection with a case filed against him on 17 August 2015.⁵¹ On 10 August 2015, he posted a statement on Facebook saying a government minister – and others should be held responsible if he were to be killed, or harmed in any way. Probir Sikder says he posted the statement after police refused to take action over the death threats against him. Veteran Journalist Probir Sikder has been accused of *“tarnishing the image”* of Khandker Mosharraf Hossain, Bangladesh's Minister for Local Government, under Section 57 of the Information and Communications Technology (ICT) Act. Police produced the journalist before the Faridpur court on 17 August 2015, seeking a 10-day remand. But the court sent Probir, 55, to prison and was later placed on a three-day remand. Finally, he was released on Bail on 19 August 2015.⁵² The case has sparked outcry among many civil society and media organizations in the country, who see it as another attempt by the authorities to silence independent media and critical coverage by targeting independent journalists.

Recommendations:

The government should publicly recognise the positive role of HRDs in society and the importance and legitimacy of their work and refrain from shrinking spaces for the work of the HRDs.

The government should immediately review the potential impact of the draft Digital Security Act particularly the segments which hold entire organisations responsible for expression related “crimes” committed by one member which pose a further threat to networking and collaboration amongst HRDs.

⁴⁸ Ibid

⁴⁹ Ibid

⁵⁰ <http://www.theindependentbd.com/arcprint/details/77742/2017-01-24>

⁵¹ <http://www.thedailystar.net/country/journalist-probir-sent-jail-128287>

⁵² <http://www.thedailystar.net/country/journalist-probir-sikdar-gets-bail-129166>

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All repressive laws, including the Information and Communication Technology Act, 2006 (amendment 2009 & 2013) and the Special Powers Act, 1974 must be repealed.

Attacks and repression on minority communities must be stopped. The Government should take all measures to protect the rights of the citizens belonging to all minority communities and ensure their security.

Issue 19: *Please respond to allegations that non-governmental organizations (NGOs) and civil society representatives have been intimidated and harassed by the authorities. Please clarify the status of the draft law on NGOs, that was due for consideration by the Parliament during its November 2015 session, and that would prevent NGOs from working by unduly restricting their access to foreign funding.*

Reply / Comments from Civil Society

On 18 May 2016, a parliamentary Committee proposed to introduce a provision in the Foreign Donations Regulations Act, to take actions against NGOs making “insulting or derogatory remarks” on constitutional bodies. The parliamentary committee only used vague terms in its recommendations and did not clarify which type of remarks can be considered insulting and derogatory.

On 5 October 2016, the Parliament of Bangladesh passed the Foreign Donations (Voluntary Activities) Regulation Bill 2016. This bill will further restrict the space for human rights NGOs in Bangladesh.

According to the bill, any foreign funded NGO, which engages in anti-state activities and finances extremism and terror activities, or “making derogatory comments about the Constitution and constitutional institutions” of Bangladesh, would be considered as offences. The NGO Affairs Bureau (NGOAB) supervised by the Prime Minister’s Office are granted authority to cancel or withhold the legal registration of foreign funded NGO or ban its activities for committing the offence.

Foreign funded NGOs are required to register with the NGOAB, submit reports and seek approval for all their activities before receiving the foreign grant. The NGOAB will also be inspecting, monitoring and assessing NGOs’ activities and approve the hiring of any foreign specialist or advisers.

Recommendations:

Foreign Donations (Voluntary Activities) Regulation Act 2016 must be revealed.

Issue 20: *Please respond to allegations that, as a result of excessive requirements and complicated procedures provided by the law as well as intimidation and threats from employers, workers, in particular in garment factories, cannot fully exercise their right to form trade unions, which could be helpful to improve their working conditions, in particular regarding safety and health, and prevent serious incidents such as the collapse of the Rana Plaza building on 24 April 2013.*

Reply / Comments from Civil Society

On April 24, 2013, the eight-story Rana Plaza came crashing down. The building, in the Savar area outside Dhaka, the Bangladesh capital, contained five garment factories on its upper floors. These supplied clothes to well-known fashion brands around the world. A government inspector had ordered the Rana Plaza’s evacuation the previous day after large cracks had appeared in the walls. But on the morning of the collapse, factory managers persuaded and cajoled workers to return, telling them it was safe. In some cases managers threatened them with dismissal if they did not comply. Shortly afterwards, Savar was affected by a power cut. Once the Rana Plaza’s electrical generators were switched on, the building started to shake and then collapsed. More than 1,100 people were killed and over 2000 were grievously injured.

In the two years since the Rana Plaza collapse, a huge effort has been put into making Bangladesh’s garment factories safer. In light of the recent calamities, the focus on physical factory safety is both understandable and vitally important. If the Bangladesh government, factory owners, foreign retailers, and donors are to

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truly address worker safety and well-being, however, they need to go much further. Real and sustained worker safety requires respect for workers' rights and an end to mistreatment.

Section 195 of the Bangladesh Labor Act, 2006 (amended 2013) outlaws numerous “*unfair labor 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 worker is or proposes to become, or seeks to persuade any other person to become, a member or officer of a trade union.”⁵³

However, workers involved in setting up trade unions have faced extreme violence by managers or by local criminals, known locally as “*mastans*” who at times openly admit to acting on behalf of factory managers. In one case a worker was beaten by a man he described as being an influential political person connected to the factory owner. In another case, a pregnant worker was beaten by a man wielding a curtain pole. In yet another case, a female worker was hospitalized after being attacked by men with cutting shears.

Four activists of the Bangladesh Federation for Workers Solidarity (BFWS) were attacked as they helped workers at the Korean-owned Chunji Knit Ltd. factory sign union registration forms in February 2014.

Factory owners sometimes also dismiss workers who chose to form unions. Some of the workers subsequently find it hard to find work elsewhere, suggesting that factory owners may share names or maintain a blacklist of labor activists. For instance, in July 2013 and March 2014, workers tried to organize a union at a Mirpur-based subcontractor factory, but on both occasions organizers were dismissed.⁵⁴

Some factory owners file criminal complaints against workers who form unions as well as staff from national worker federations who support them. Those against whom such complaints have been filed say that these are false charges and trumped up against them in retaliation for their union activity. In some cases, agreements reached to end labor disputes expressly stipulate that all such criminal complaints will be withdrawn. For example, following the attack on four members of BFWS, who were helping workers at Chunji Knit organize a union, managers filed a criminal case against them and 45 factory employees following their strikes in the Ashulia district of the Bangladeshi capital Dhaka on 12 December by workers demanding an increase in the minimum wage from US\$ 68 to US\$ 190 per month. In retaliation for the strikes, the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) suspended production at 59 factories and owners arbitrarily suspended well over 1,600 workers.

Two factories affected by the strikes, Windy Apparels Ltd and Fountain Garments Ltd have filed criminal complaints against 239 workers, while the Hemeem Group is reported to be filing complaints against as many as 1,000 workers.

At least 24 garment workers and labor leaders remain in police custody without bail for more than a month of their arrest.⁵⁵ Meanwhile, more than 1,600 workers have been suspended and police have filed cases against 600 workers and trade union leaders.

Bangladesh has a dire history of targeting independent trade unions and worker activists, including beatings, torture and death threats. In 2012, activist Aminul Islam was found brutally murdered.⁵⁶

Recommendations:

The Government should immediately revise the labor law to ensure it is in line with international labor standards as the law and 2013 amendments fall short of International Labour Organization labor standards ratified by Bangladesh, including Convention No. 87 on freedom of association and Convention No. 98 on the right to organize and bargain collectively.

⁵³ Workers' rights in Bangladesh's Garment Factories, HRW, April, 2015

⁵⁴ Ibid

⁵⁵ http://www.theinvestigativefund.org/blog/2320/crackdown_on_bangladeshi_garment_workers_following_wildcat_s_trikes/#.WJVpbQA1q8A.facebook

⁵⁶ <http://www.industrialunion.org/crackdown-on-garment-workers-in-bangladesh-must-stop>

f. Rights of the child (art. 24)

Issue 21: Please provide information on measures taken to ensure the full implementation of the Children’s Act, 2013, in particular to guarantee the systematic registration of births in rural areas. Please explain how the 2014 draft citizen bill that provides that only persons born in Bangladesh and both of whose parents are Bangladeshi nationals can gain citizenship at birth is in compliance with the Covenant’s provisions on the right of the child to acquire a nationality. Please respond to the allegations that the Government refuses to register Rohingya children who have fled from Myanmar and provide them with birth certificates.

Reply / Comments from Civil Society

In February 2016, the Cabinet of the Government of Bangladesh reportedly approved the Citizenship Bill 2016 (the “Bill”), in order to “enact provisions on Bangladesh Citizenship and Relevant Matters”. No public or effective consultations regarding the content of the law was organized by the government prior to its being placed before the Cabinet. The Convention on the Rights of the Child (CRC) stipulates an obligation on the state to put safeguards and appropriate legal protections in place for children before and at birth, including on the right to nationality. The Bill violates this principle, and several articles in the bill leave the child at risk of statelessness:

Section 4(2)(b) of the Bill discards the right of a child of her/his citizenship if **her/his father or mother is an alien enemy**. This is contrary to the Constitution as it would arbitrarily deprive individuals of constitutional protection. It is also inconsistent with international human rights law.

Section 5(2) unduly penalizes a child for lack of birth registration or possessing a birth certificate – restricting a child’s right to nationality should never be used as a penalty, especially for lack of action of the parent/guardian.

Section 5(3) also violates the best interest of the child where if the state establishes that the child’s either parent joins or associates with a quasi or a military force that undermines the sovereignty of the state.

Section 11 extends even to the grandparents – if they are considered enemies of the state the nationality of a child may be at risk.

The Bill talks of forbidden marriages contrary to the Special Marriage Act Section 2 that states that no law or custom as to consanguinity shall prevent two parties from marrying, unless a relationship can be traced between two parties through some common ancestor, with a specified closeness of relationship.

Section 11 of the Bill talks of validity of marriage. This provision can be abused and the state cannot dictate on which union is valid or not.

Section 11(b) of the Bill also talks of countries whose nationals cannot be married by a Bangladeshi citizen. This Section is a violation on the right to marry and it is discriminatory in nature, potentially targeting vulnerable communities in particular.

Several articles talk about ‘alien enemies’ and citizens who provide support to them. Section 18(b) refers to persons who provided assistance to alien enemy state. This provision can be abused in interpretation, thus opening an avenue for discrimination, i.e., giving an enemy drinking water can disqualify you from getting your nationality. This section will create a risk of statelessness. Section 20 of the Bill confers authority on the Government to terminate citizenship of any Bangladeshi citizen, except citizens by birth, in certain circumstances, namely if: (i) “s/he expresses lack of allegiance towards the sovereignty of Bangladesh or the Constitution of Bangladesh through any action or behavior” (Sub-section (c)); (ii) “if any information is received regarding his/her withdrawing allegiance towards Bangladesh” (Sub-section (d)). The Bill does not contain any definition of “direct or indirect allegiance”, “allegiance”, and “providing assistance”, and accordingly leaves interpretation of these expressions open-ended. It also does not specify which authority will decide when such ‘disobedience’ has been expressed or who will receive information regarding these actions. The terms used are vague and uncertain and appear incapable of definition. Accordingly, this provision lacks clarity or uncertainty. It accords wide and unfettered discretion on the executive authority and is therefore arbitrary. It contravenes Articles 26, 27 and 31 of the Constitution. Therefore, these

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Sections should be removed from the draft Bill and/or very specific definitions of the above-named terms should be inserted in the beginning sections of the Bill.

Recommendations:

The Government should immediately revise the Draft Citizenship Bill in line with the concern raised by different stakeholders.

g. Right to participate in public life and vote in free and fair elections (art. 25)

Issue 22: Please provide information on measures taken to ensure that citizens may fully exercise their right to participate in public life and vote in free and fair elections by preventing the reoccurrence of the violence that prevailed during the January 2014 elections. Please provide further information on the regulation of the registration of political parties and its compatibility with the Covenant, and in particular the cancellation of the registration of JamaatIslami ahead of the 2014 January elections.

Reply / Comments from Civil Society

The 15th amendment made to the constitution on 3 July 2011 scrapped the Care Taker Government system which was instrumental to hold free and fare elections. The government took advantage of the verdict of the apex court to scrap this system eventually. However the government rushed to this amendment and did not take other measures to strengthen the independent Election Commission that can build the trust that they are able to hold a free and fare election.

h. Right of minorities and indigenous peoples, freedom of movement, right to privacy and home (arts. 27, 12 and 17)

Issue 24: Please clarify the measures in law and in practice to ensure the full recognition of the rights of indigenous people in accordance with the Covenant and in particular under the fifteenth amendment to the Constitution, which provides that all citizens are Bengalis, and under the Small Ethnic Groups Cultural Institutions Act, 2010, as a result of which only 27 out of more than 50 indigenous ethnic groups were recognized as such.

Reply / Comments from Civil Society

In Bangladesh there are 50 different indigenous communities living in the plain lands and hill areas. Though they claim that their population is over 3 million, according to the survey of 2011, the country's indigenous population is around 1,586,141, which signifies 1.8% of total population of the country⁵⁷.

Started in 2012, the Government continued with the process of amending the Forest Act in 2015 as well. The draft Forest Act 2015 includes a number of provisions detrimental to the rights of indigenous peoples and forest dwellers. However, The Cabinet approved the draft of “The Chittagong Hill Tracts Land Dispute Resolution Commission (Amendment) Act, 2016” on 31 July 2016⁵⁸.

Civil and political rights of indigenous community are often intimidated and human rights activists from this community engaged in their legitimate actions to protect and promote their rights to self-government, land and resources, are frequently criminalized resulting in their arrests, detention, enforced disappearances and even sometimes become victims to political killings. There is no scope to learn primary education through mother tongue, to earn livelihoods, to mobilize indigenous cultural programs, having no scripts and lack of government’s patronizations are the main reasons behind the extinction of languages of indigenous community.

⁵⁷ <http://www.thedailystar.net/law-our-rights/rights-indigenous-peoples-bangladesh-1266478>

⁵⁸ <http://www.dhakatribune.com/bangladesh/2016/08/01/cabinet-approves-cht-land-commission-amendment-act/>

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In 2015, at least 74 members of indigenous communities including women and schoolgirls were arrested. Besides, 13 indigenous persons (including three indigenous women and girls) were extra-judicially killed in both the CHT and the plains. At least 45 indigenous families were ousted from their ancestral lands, while 1400 indigenous families including 657 from the CHT were threatened with eviction from their lands. In 2015, 26 houses in the plain land were burnt to ashes, while 65 houses were reported to have been looted and ransacked by land grabbers. 44 indigenous persons, 5 from the CHT and 39 from the plain land were physically assaulted and wounded by land grabbers in land related hostilities⁵⁹.

The indigenous people in Chittagong Hill Tracts are displaced from their ancestral lands due to land confiscation in the name of plantation by so-called lease-holders & private companies, establishment of camps and tourist spots, reserved forest and land grabbing by Bengali settlers, while influential Bengalis, tea estate holders, leaders of national political parties and government authorities are responsible in evicting the indigenous people in the plains. In both the cases, the act of eviction is aided by disregarding the customary land management system of indigenous peoples, national laws and policies, including the CHT Accord in the CHT region and the East Bengal State Acquisition and Tenancy Act 1950 in the plains.

According to Save the Children, an estimated 55.5 percent of adivasi children aged 6-10 are not enrolled in school due to the discriminatory nature of the current education system⁶⁰. Among all the plain land indigenous communities in Bangladesh, the Santals became the victims of land grabbing and during their last three generations, around four lakh Santals lost over three lakh bighas (116,400 acres) of land⁶¹.

Recently, mob attacks on Hindu houses and temples in Nasirnagar (Brahmanbaria)⁶² and Gopalganj⁶³, Chittagong, and Sunamganj districts have drawn wide media attention, within and outside the country. The attacks on dozen of Hindu temples and destruction of hundreds of Hindu houses in Nasirnagar alone were based on wild rumours about one local Hindu youth's offensive Facebook posting against Islam. However, these were usual false flag operations to justify the attacks on local Hindus to grab their lands.

On 6 November 2016 some perpetrators, allegedly with police and local ruling party MP's support, attacked and killed two tribal Santal Christians at Gobindapur in Gaibandha⁶⁴ district in northern Bangladesh. Thousands of Santal people lost their movables, forced to flee the villages, and local police had arrest warrants for Santals (who fled to avoid arrest) for resorting to violence⁶⁵. Two Santal men were killed and 27 persons, including 9 police members, were injured in clashes following an attempt by sugar mill workers of Rangpur Sugar Mill to evict the Santals from the mill area with the help of the law enforcers in Gobindaganj upazila⁶⁶.

In Bangladesh, non-Bangali communities, which include indigenous groups but also other linguistic factions, like Urdu-speakers and Marwaris, have had to face constant discriminations, both at the state and societal level. The Urdu-speaking community in Bangladesh remains one of the most marginalised segments of Bangladeshi society, deprived of economic and social status⁶⁷.

⁵⁹ <http://kapaeng.org/kapaeng-foundation-launches-human-rights-report-2015-on-indigenous-peoples-in-bangladesh/>

⁶⁰ <http://www.lcgbangladesh.org/Education/reports/Mother%20Language%20First%20English.pdf>

⁶¹ <http://www.thedailystar.net/backpage/santals-lost-their-land-most-1316992>. The properties are worth Tk 5,114 crore at 2014 prices, says Prof Abul Barkat in the book, titled "Political Economy of Unpeopling of Indigenous Peoples: The Case of Bangladesh".

⁶² <http://www.newagebd.net/article/1790/hindu-houses-temples-attacked-in-bbaria>. Local people alleged that about 100 houses and 15 temples were attacked. The residents of the houses and temples and the neighbouring Muslim community men who tried to resist the attackers were also beaten up, local people said.

⁶³ <http://bdnews24.com/bangladesh/2016/11/01/mob-attacks-continue-on-hindu-temple-homes-in-bangladesh>

⁶⁴ <http://www.dhakatribune.com/bangladesh/2016/11/10/watch-tractor-tramples-burned-santal-village-gaibandha/>

⁶⁵ <http://www.theindependentbd.com/arcprint/details/74825/2017-01-01>

⁶⁶ <http://www.dhakatribune.com/bangladesh/2016/11/23/4-held-santals-attack-gaibandha/>

⁶⁷ <http://www.thedailystar.net/supplements/amar-ekushey-2016/the-land-the-bangalis-575191>