



# Human Rights Watch Submission to the CEDAW Committee Consideration of Bangladesh's Periodic Report, 65<sup>th</sup> Session

Human Rights Watch welcomes the opportunity to provide input drawn from our research on Bangladesh's obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

## A. Marriage Rights (Article 16 and 13a)

Bangladesh has the highest rate of child marriage in Asia, with a particularly shocking number of girls marrying before the age of 15. The prevalence of child marriage has devastating consequences for individual girls, their families, and Bangladesh's development as a whole.

### *Child Marriage*

Between 2005 and 2013, 29 percent of girls in Bangladesh married before the age of 15 and 65 percent married before the age of 18.<sup>1</sup> Despite a commitment by Prime Minister Sheikh Hasina in 2014 to end child marriage under age 15 by 2021 and to end child marriage under age 18 by 2041, the government has made little progress in reducing child marriage and has backtracked on these commitments in a destructive manner by seeking to create changes in the law that would effectively lower the age of marriage for girls from 18 to 16<sup>2</sup>

### **Causes and Consequences**

Gender discrimination feeds social attitudes and customs that harm girls at every stage of their lives and fuel the country's extremely high rate of child marriage. Desperate poverty remains a daily reality for many families in Bangladesh, and many parents see child marriage as their best option to safeguard the future of a daughter they feel they can neither feed nor educate nor protect. Bangladesh's status as one of the countries in the world most affected by natural disasters and climate change adds an additional element of hardship to many families, especially those living in the most marginal and disaster-affected parts of the country.<sup>3</sup> In many of the villages Human Rights Watch visited in the course of researching

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<sup>1</sup> UNICEF, "State of the World's Children 2015: Executive Summary," November 2014, [http://www.unicef.org/publications/files/SOWC\\_2015\\_Summary\\_and\\_Tables.pdf](http://www.unicef.org/publications/files/SOWC_2015_Summary_and_Tables.pdf) (accessed January 8, 2015), pp. 84 and 89.

<sup>2</sup> United Nations Committee on the Elimination of All Forms of Discrimination against Women, "Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, Bangladesh," para. 112.

<sup>3</sup> Human Rights Watch, *Marry Before Your House is Swept Away: Child Marriage in Bangladesh*, June 2015, <https://www.hrw.org/report/2015/06/09/marry-your-house-swept-away/child-marriage-bangladesh>.

the report *Marry Before Your House is Swept Away*, child marriage is not only socially acceptable but also expected.

Child marriage around the world is associated with many harmful consequences, including health dangers associated with early pregnancy, lower educational achievement for girls who marry earlier, a higher incidence of spousal violence, and an increased likelihood of poverty.<sup>4</sup> Research shows that pregnant girls aged 10-14 are five times more likely to die during delivery than mothers aged 20-24; girls aged 15-19 are still twice as likely to die during delivery than women aged 20-24.<sup>5</sup> A study across 7 countries found that girls who married before the age of 15 were more likely to experience spousal abuse than women who married after the age of 25.<sup>6</sup> Global data shows that girls from the poorest 20 percent of families are twice as likely to marry before 18 as girls whose families are among the richest 20 percent.<sup>7</sup>

### **Inadequate Government Response**

At the July 2014 Girls Summit in London, Bangladesh's Prime Minister Sheikh Hasina committed to end marriage for girls under 15 and reduce by more than one-third the number of girls between the ages of 15 and 18 who marry by 2021. She further pledged to end all child marriages before the age of 18. The legal age of marriage in Bangladesh is currently 18 for women and 21 for men, but the law is weak, outdated, rarely enforced, and widely ignored.<sup>8</sup> As part of this effort, the prime minister pledged that her government would: 1) reform Bangladesh's law which prohibits child marriage, the Child Marriage Restraint Act (CMRA) before 2015; 2) develop a national plan of action on ending child marriage by the end of 2014; and 3) take other steps to change social norms and engage civil society in the fight against child marriage.<sup>9</sup> But within weeks of pledging to end child marriage, Sheikh Hasina's government

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<sup>4</sup> Ibid.

<sup>5</sup> World Health Organization (WHO), "WHO Guidelines on Preventing Early Pregnancy and Poor Reproductive Outcomes Among Adolescents in Developing Countries," 2011, [http://whqlibdoc.who.int/publications/2011/9789241502214\\_eng.pdf](http://whqlibdoc.who.int/publications/2011/9789241502214_eng.pdf) (accessed January 8, 2015), p. 2. Studies on other countries show that women who marry early have the highest proportion of unfavorable pregnancy outcomes at all stages throughout their childbearing years. S. Shawky and W. Milaat, "Early Teenage Marriage and Subsequent Pregnancy Outcome," *Eastern Mediterranean Health Journal*, vol. 6, issue 1 (2000): 46-54, <http://www.emro.who.int/publication> (accessed July 22, 2014).

<sup>6</sup> This correlation was clear in all seven countries, but there was significant variation between countries in the extent to which early marriage was linked to greater risk of spousal violence. For example, in India and the Dominican Republic, the two countries with the strongest correlation, women who married before age 15 were more than three times more likely to have experienced spousal abuse in the previous 12 months than women who had married over age 25 (17.3 percent v. 4.4 percent in the Dominican Republic, and 13.6 percent v. 4.2 percent in India). Sunita Kishor and Kiersten Johnson, "Profiling Domestic Violence: A Multi-Country Study," Measure DHS+ ORC Macro, <http://dhsprogram.com/pubs/pdf/od31/od31.pdf> (accessed January 13, 2015), p. 29.

<sup>7</sup> United Nations Population Fund, "Marrying Too Young: End Child Marriage," 2012, <http://www.unfpa.org/sites/default/files/pub-pdf/MarryingTooYoung.pdf> (accessed January 8, 2015), p. 64.

<sup>8</sup> "Bangladesh: Don't Lower Marriage Age," Human Rights Watch news release, October 13, 2014, <http://www.hrw.org/news/2014/10/12/bangladesh-don-t-lower-marriage-age>.

<sup>9</sup> Ibid

proposed new legislation to lower the age of child marriage to 16.<sup>10</sup> Subsequent drafts of the proposed changes to the law have retained 18 as the age of marriage for girls, but proposed sweeping exceptions to that minimum, for example permitting marriage from 16 on with parental consent, that would constitute a de facto lowering of the age of marriage. Amid fierce opposition from activists and international partners to the proposed change in the age of marriage, the government's effort to develop a national plan of action on ending child marriage has stalled, as has the process of reforming the law.

Addressing these issues can be complicated, but as long as the government looks the other way, or even facilitates child marriage, for example, when local government officials provide forged birth certificates,<sup>11</sup> marrying off young daughters will be a survival strategy for parents who feel unable to care for their children or succumb to social pressures to marry their daughters off early.

***Suggested Questions for the State Party:***

- Is Bangladesh proposing to change the law which will in effect make it possible for more children to marry?
- What is the current status of the national action plan to end child marriage which Sheikh Hasina said would be finalized by the end of 2014?

***Suggested Recommendations for the State Party:***

- Do not lower the age of marriage below 18 or add exceptions to the age of marriage which would allow children to marry. Make the minimum age of marriage 18 years for both women and men, and update the Child Marriage Restraint Act so that it can be better enforced and provides stronger protections for children who are at risk of or victims of child marriage.
- Continue expansion of birth and marriage registration and establish measures to ensure that all births and marriages are registered and this process is used to detect and prevent child marriages.
- Take administrative or criminal action to end corruption of local officials who take bribes to provide false birth certificates in order to facilitate child marriages.
- Government agencies providing assistance to families in poverty or affected by disasters should be more directly involved in preventing child marriage.
- Follow through on goals set to end child marriage under 15 by 2021 and child marriage under 18 by 2041.

***Discriminatory Personal Laws***

About 330,000 women in Bangladesh are divorced, according to government data, and an unknown number live separated from husbands.<sup>12</sup> Rather than offer equal protection, Bangladesh's discriminatory

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<sup>10</sup> Heather Barr, "Dispatches: Going Backwards on Child Marriage in Bangladesh" Human Rights Watch, October 21, 2015, <https://www.hrw.org/news/2015/10/21/dispatches-going-backwards-child-marriage-bangladesh>.

<sup>11</sup> Human Rights Watch, *Marry Before Your House is Swept Away: Child Marriage in Bangladesh*.

<sup>12</sup> Bangladesh Bureau of Statistics, "Population 10 Years and Over by Age Group, Sex and Marital Status," Statistical Yearbook of Bangladesh (Dhaka: Bangladesh Bureau of Statistics, 2010), p. 45.

personal laws often trap women in abusive marriages or propel many of them into poverty when marriages fall apart. As we documented in our report, *Will I Get My Dues...Before I Die?* especially for poor women, discriminatory personal laws contribute to homelessness, hunger, and ill health for those divorced or separated and their dependents.<sup>13</sup>

### **Hindu Law**

Hindu personal law, which is only minimally codified, allows Hindu men to marry any number of times, without any procedural preconditions. Divorce is not permitted for men or for women. Under a 1946 statute that partially codified Hindu personal law, Hindu women can formally apply in family courts to seek a separate residence and maintenance from their husbands, but only on limited grounds.<sup>14</sup> Even those minimal rights are nullified if a court finds that the woman is “unchaste,” has converted to another religion, or fails to comply with a court decree ordering restitution of “conjugal rights.”

Hindu women applying for maintenance or a separate residence must prove they were married in the first place. Until 2012, when Bangladesh passed legislation allowing couples to register marriages should they opt to do so, most Hindu marriages were not registered.<sup>15</sup>

### **Christian Law**

Christian personal law also discriminates against women. Divorce is allowed on limited grounds for both men and women, but the grounds are far more restrictive for women. Men can divorce if they allege their wife committed adultery. Wives, on the other hand, must prove adultery and one of a range of other acts. Such acts include: conversion to another religion, bigamy, rape, sodomy, bestiality, desertion for two years, or cruelty. Charges of adultery are particularly humiliating for women in Bangladesh’s conservative society.<sup>16</sup>

Christian women are entitled to maintenance during marriage and alimony after divorce, but this is tied to their “chastity.”

### **Muslim Law**

Muslim personal laws are discriminatory in their embrace of polygamy for men and existing procedural safeguards<sup>17</sup> with respect to polygamy have failed to protect women.<sup>18</sup> Women do not have the same rights to divorce as men.<sup>19</sup> Muslim women also have limited rights to maintenance during marriage, and after divorce, there is no maintenance beyond 90 days. Even though Muslim law treats a marriage as a

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<sup>13</sup> Human Rights Watch, *Will I Get My Dues... Before I Die? Harm to Women from Bangladesh’s Discriminatory Laws on Marriage and Divorce*, September 2012,

<https://www.hrw.org/sites/default/files/reports/bangladesh0912ForUpload.pdf>.

<sup>14</sup> Hindu Married Women’s Right to Separate Residence and Maintenance Act, 1946.

<sup>15</sup> Hindu Marriage Registration Act, 2012.

<sup>16</sup> Divorce Act, 1869.

<sup>17</sup> Muslim Family Laws Ordinance, 1961, sec. 6.

<sup>18</sup> Human Rights Watch, *Will I Get My Dues...Before I Die? Harm to Women from Bangladesh’s Discriminatory Laws on Marriage and Divorce*, pp. 34-38.

<sup>19</sup> *Ibid*, pp. 38-39.

contract, with a standard form contract that women can sign, women's poor awareness of the contract terms does not allow them to negotiate better protections at the time of marriage, especially regarding property rights. Muslim personal law recognizes wives' right to *mahr* pursuant to marriage contracts. But *mahr* amounts are often so small, especially for older women who have been married for a long time, that they fail to reflect the overall contributions a wife makes to marital assets. Moreover, even where higher *mahr* amounts were fixed for younger married women, Human Rights Watch found this right, more often than not, existed only on paper. Most women interviewed said their husbands defaulted on payments without sanction.

### **Lack of Marital Property Rights**

Despite the significant contributions that Bangladeshi women make to their marital households and assets, Bangladesh has no legal regime governing marital property. The 2010 law against domestic violence fills this legal gap to some extent. It gives a victim of domestic violence the right to reside in a "shared residence."<sup>20</sup> The law also treats acts that cause "economic loss" as domestic violence. These include cases where a man refuses to let his wife enjoy or use properties and facilities that she is entitled to use because of her family relationship, denies her daily necessities, or deprives her of gifts she received during marriage.<sup>21</sup> However, apart from these protections in the law against domestic violence, neither civil laws nor personal laws in Bangladesh recognize, define, or set out rules for control over marital property during marriage or the division of marital property on an equal basis between spouses upon divorce.

Married women make contributions in many forms to family homes, businesses, fields, and other assets, providing vastly more unpaid household and caregiving labor than men. All married women whom Human Rights Watch interviewed for the report *Will I Get My Dues... Before I Die?* bore almost sole responsibility for household work, including cooking, cleaning, washing, grazing livestock, and fetching water. Many said they contributed significantly financially to their households at the time of, or during, marriage to their husbands to aid in their education and careers. Almost all women said they gave their husband or in-laws a dowry. Yet despite these myriad contributions, all but a handful of the women told Human Rights Watch they were unable to exercise control over their income and marital property. Nor were they able to recoup anything or have their economic value recognized when their marriages ended.

Most divorced or separated women described severe economic hardship, including losing marital homes, living on the street, begging for food, working as live-in domestics to have a roof over their heads, pulling children from school to work, struggling with ill health, and lacking resources to deal with any of these problems.<sup>22</sup>

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<sup>20</sup> Domestic Violence (Prevention and Protection) Act, 2010, secs. 10 and 15.

<sup>21</sup> *Ibid.*, sec. 3(d). Section 3 (d) defines "economic loss" and lists five different situations where economic loss is said to have occurred.

<sup>22</sup> Human Rights Watch, *Will I Get My Dues... Before I Die? Harm to Women from Bangladesh's Discriminatory Laws on Marriage and Divorce*.

## **Courtroom Battles and Social Assistance**

Bangladesh established specialized family courts that deal with separation, divorce, and maintenance cases. But courts are so plagued with obstacles to timely maintenance, such as delays, dysfunction, and burdensome procedures, that women wait months or years for any result. Some women even face harassing counter-suits by husbands. Human Rights Watch's research found that there are significant barriers to, and shortcomings in, Bangladesh's social assistance programs, which fail to reach many women in extreme economic hardship after separation or divorce, and they fail to address women's multiple vulnerabilities such as disability, ill-health, old age, and marital breakdown.

### ***Suggested Questions for the State Party:***

- What steps has the Bangladesh government taken to amend discriminatory personal laws, especially to allow Hindu and Christian women to seek divorce?
- What steps has the Bangladesh government taken to ensure that judges implementing the law against domestic violence and sitting in family courts are trained to understand "economic loss" and women's financial and nonfinancial contributions to the family?
- What steps has the Bangladesh government taken to ensure that family courts proactively issue interim maintenance to ensure that divorced and separated women are not impoverished during protracted legal battles?
- What steps has the Bangladesh government taken to introduce stricter rules for polygamy under Muslim law?

### ***Suggested Recommendations for the State Party:***

- Reform all personal laws to remove discriminatory features; grant equal access to divorce to men and women; remove barriers to securing maintenance; and ensure women's equal right to marital property during marriage and upon divorce.
- Disseminate information about the protections available in the law against domestic violence in different media, including through disabled-friendly methods, and monitor implementation of the law.
- Review and reform family court proceedings to eliminate delays and ensure that judges grant interim maintenance in eligible cases.
- Strengthen social assistance programs, including access to shelters for poor women, divorced and separated women, and survivors of domestic violence.

## **B. Labor Rights (Article 11)**

In the past five years, two major disasters have taken numerous lives, many of them of women working in garment factories, at Rana Plaza and Tazreen. Garments account for almost 80 percent of the

country's export earnings and contribute more than 10 percent of GDP.<sup>23</sup> Industry growth drives Bangladesh's economic boom, but it should not come at the price of the safety and health of workers.

## **Garment Work**

80 percent of garment workers in Bangladesh are women.<sup>24</sup> A recent Human Rights Watch Report, *Whoever Raises Their Head Suffers the Most* found factories expose women to abuse, unsafe conditions, discrimination when it comes to wages and maternity leave, and anti-union tactics by employers, including assaults on union organizers.<sup>25</sup> More than 1,100 workers died in the catastrophic Rana Plaza collapse on April 24, 2013 and efforts are underway to make Bangladesh factories safer, but the government and Western retailers can and should do more to enforce international labor standards to protect workers' rights, including their right to form unions and advocate for better conditions.<sup>26</sup>

## **Abuse**

Workers report violations including physical assault, verbal abuse, forced overtime, denial of paid maternity leave, and failure to pay wages and bonuses on time or in full. The vast majority of garment workers are women, while supervisors and managers are mostly men, and sometimes the verbal abuse of women workers is of a sexual nature.<sup>27</sup> In 2009, the Bangladesh High Court issued strong guidelines to prevent and respond to sexual harassment at the workplace, which have yet to be systematically implemented.

## **Barriers to Forming Unions**

While Bangladesh has changed some labor laws, including provisions to ease and facilitate the union registration process, there are significant legal barriers to forming unions, which have yet to be amended.<sup>28</sup> In practice, even though there has been a growth in the number of unions registered since 2013, labor authorities have arbitrarily rejected registration applications of newly formed unions.<sup>29</sup> Union leaders told Human Rights Watch that they continue to be targeted by threats, intimidation, and sometimes physical assault at the hands of factory management or hired third parties. In some factories, workers leading efforts to form unions have been dismissed for their organizing activities.

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<sup>23</sup> BGMEA, "RMG - the mainstay of the Bangladesh economy," <http://www.bgmea.com.bd/home/pages/Strengths#.VAB6tYwjwJ> (accessed August 28, 2014).

<sup>24</sup> Ibid

<sup>25</sup> Human Rights Watch, *Whoever Raises Their Head Suffers the Most: Worker's Rights in Bangladesh Garment Factories*, April 2015, <https://www.hrw.org/report/2015/04/22/whoever-raises-their-head-suffers-most/workers-rights-bangladeshs-garment>.

<sup>26</sup> "Bangladesh: Tragedy Shows Urgency of Worker Promotions," Human Rights Watch news release, April 25, 2013, <http://www.hrw.org/news/2013/04/25/bangladesh-tragedy-shows-urgency-worker-protections>.

<sup>27</sup> Human Rights Watch, *Whoever Raises Their Head Suffers the Most: Worker's Rights in Bangladesh Garment Factories*.

<sup>28</sup> "Bangladesh: Garment Workers' Union Rights Bleak," Human Rights Watch news release, April 21, 2016, <https://www.hrw.org/news/2016/04/21/bangladesh-garment-workers-union-rights-bleak>.

<sup>29</sup> Ibid.

The Bangladesh government's mechanism for investigating unfair labor practices is opaque and lacks process—workers who complain are not even assured the right to be heard during the investigations and the outcomes of complaints and action taken remains unknown.

***Suggested Questions for the State Party:***

- What measures has the Bangladesh government taken to ensure that the Bangladesh High Court's guidelines on prevention and response to sexual harassment at the workplace are implemented in all the factories?
- What steps has the Bangladesh government taken to pass comprehensive legislation on preventing and responding to sexual harassment at the workplace?
- What steps has the government taken to transparently and periodically report on action taken against complaints of unfair labor practices?
- What steps has the Bangladesh government taken to amend labor laws to bring them in line with international core labor standards?
- What steps has the Bangladesh government taken to maintain safety and labor rights standards in all factories including those that rely on subcontracts.

***Suggested Recommendations for the State Party:***

- Strengthen the ability of the Ministry of Labour and Employment to effectively investigate and prosecute unfair labor practices, including anti-union discrimination, intimidation, and harassment cases, in a time-bound manner, allowing workers the right to fair hearing, and publicly report on the outcome of such cases.
- Revise national labor laws to fully comply with the standards of International Labour Organization (ILO) conventions 87 and 98 on freedom of association and collective bargaining.
- Pass comprehensive legislation governing sexual harassment at the workplace and in the interim strictly monitor implementation of High Court guidelines governing sexual harassment.
- Carry out effective and impartial investigations into all workers' allegations of mistreatment, including beatings, threats, and other abuses, and prosecute those responsible.

## **C. Education (Article 10)**

Girls in Bangladesh have made tremendous strides in education. For example, the UN notes that in 2013 Bangladesh had achieved gender parity in primary school enrolment.<sup>30</sup> However, obstacles remain to achieving total participation of girls in school throughout their education. Some of these obstacles include child marriage, indirect costs that burden poor families, distance to school, lack of water and sanitation facilities and sanitary supplies in schools, and sexual harassment of girls on the way to school and at school.

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<sup>30</sup> United Nations Development Programme, *Millennium Development Goals Bangladesh: Progress Report 2013*, p. 15.

## ***Exclusion of Girls***

Lack of access to education is both a cause and a consequence of child marriage in Bangladesh. The link between access to education and child marriage is borne out by research finding that in Bangladesh women with primary, secondary, and higher education were respectively 24 percent, 72 percent, and 94 percent less likely to marry at a young age compared to women with no formal education.<sup>31</sup> Children that are out of school also often end up in the worst forms of labor.

While Bangladesh has made progress in abolishing school fees, students face associated costs for notebooks, pens, paper, textbooks, uniforms, transportation, and tutoring which put education out of reach for many poor families. Many married girls and their families interviewed by Human Rights Watch said that they had to leave school, often because of costs associated with education, and once they were out of school they were expected to marry or work. For others, a child marriage was the cause of them dropping out; when girls leave school to marry, schools do not intervene.

Other factors pushing girls out of school, especially as they reach secondary school age, include long distances to school in some areas, and unchecked sexual harassment of girls by men and boys on their way to school.

A lack of private toilets and sanitary supplies are also a factor in some girls' absence from school. This makes it more difficult for girls to manage as they reach the onset of menstruation, when they become particularly likely to miss school. A study found that 40 percent of girls reported missing school during menstruation for an average of three school days each menstrual cycle.<sup>32</sup> In this study, 82 percent of girls said their school facilities were not appropriate for managing menstrual hygiene, only 12 percent had access to female-only toilets with water and soap available, and only 3 percent said the toilet they used had a trash bin.<sup>33</sup> Gaps in attendance caused by a lack of sanitation and care for menstrual hygiene also compromise girls' eligibility for government stipends linked to attendance, cause girls to fall behind in their studies, and undermine parental support for keeping girls in school.<sup>34</sup>

### ***Suggested Questions for the State Party:***

- What steps is the government taking to stop poor families from having to pay associated costs of education, for supplies, uniforms, etc.?
- What steps is the government taking to expand access to private toilets and sanitary supplies in schools?

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<sup>31</sup> S. M. Mostafa Kamal, "Decline in Child Marriage and Changes in Its Effect on Reproductive Outcomes in Bangladesh," *Journal of Health, Population and Nutrition* 30:3 (2012): 317–330, <http://www.ncbi.nlm.nih.gov/pubmed/23082634> (accessed August, 25, 2015)

<sup>32</sup> Mahbub-Ul Alam et al, "Menstrual hygiene management knowledge, facilities, and practices associated with school absence among Bangladeshi adolescent girls," ICDDR, B and Water Aid, undated, <http://whconference.unc.edu/files/2014/11/alam.pdf> (accessed July 31, 2015).

<sup>33</sup> Human Rights Watch, *Marry Before Your House is Swept Away: Child Marriage in Bangladesh*.

<sup>34</sup> Ibid.

### ***Suggested Recommendations for the State Party:***

- Follow through on commitments to end child marriage.
- Abolish associated costs of education by measures such as providing supplies and uniforms free of charge.
- Ensure hygienic conditions in schools, including providing private and safe bathrooms and materials to help girls manage their menstrual hygiene.

### ***Protecting Students, Teachers, and Schools***

As detailed by the Committee in its concept note for its 2014 discussion on girls' and women's right to education, in conflict-affected areas, "girl's access to education is jeopardized due to among others, insecurity, the occupation of schools by state and non-state actors as well as targeted attacks and threats against girls and their teachers by non-State actors."

A 2012 report on the human rights situation in the Chittagong Hill Tracts by the International Work Group for Indigenous Affairs documented the destruction of a school by the Bangladesh army, the burning of schools by armed settlers, and the expropriation by the army of a school built by the international organization World Vision.<sup>35</sup>

Bangladesh has two laws that should regulate schools and universities from being interfered with by security forces. Under the "Manoeuvres, Field Firing and Artillery Practice Act" military forces are not authorized to "pass over, or encamp, construct military works of a temporary character, or execute military Manoeuvres" that enter or interfere with any educational institution.<sup>36</sup>

Under the "Acquisition and Requisition of Immovable Property Ordinance" educational institutions may not be requisitioned even for a public purpose or in the public interest, "save in the case of emergency requirement for the purpose of maintenance of transport or communication system."<sup>37</sup>

Bangladeshi troops who partake in UN peacekeeping operations are also obliged to not use schools in their operations.<sup>38</sup>

### ***Suggested Questions for the State Party:***

- What action has the Government taken to prevent attacks on schools and universities and to mitigate their impact when they do occur?
- What concrete measures has the Government taken to deter military use of schools, in line with United Nations Security Council resolution 2225 of 2015?

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<sup>35</sup> International Work Group for Indigenous Affairs, "Militarization in Chittagong Hill Tracts, Bangladesh: The Slow Demise of the Region's Indigenous Peoples," 2012, available at [http://www.iwgia.org/iwgia\\_files\\_publications\\_files/0577\\_lgia\\_report\\_14\\_optimized.pdf](http://www.iwgia.org/iwgia_files_publications_files/0577_lgia_report_14_optimized.pdf).

<sup>36</sup> The Manoeuvres, Field Firing and Artillery Practice Act, Act No. 5 of 1938, March 12, 1938, art. 3.

<sup>37</sup> Acquisition and Requisition of Immovable Property Ordinance, April 13, 1982, art. 18(1).

<sup>38</sup> United Nations Infantry Battalion Manual, 2012, section 2.13, "Schools shall not be used by the military in their operations."

- Is the ban on the military using schools contained in pre-deployment trainings provided to Bangladeshi peacekeeping forces?

***Suggested Recommendations for the State Party:***

- Investigate, prosecute and, if guilt is proven, punish individuals responsible for ordering, or bearing command responsibility for, or taking part in, the range of violations of international and domestic law that constitute attacks on education, and where appropriate, provide remedial measures for violations.
- Take concrete measures to protect education from attack and deter the military use of schools, following UN Security Council Resolutions 2143 (2014) and 2225 (2015), including by joining the Safe Schools Declaration, thereby endorsing and committing to use the Guidelines for Protecting Schools and Universities from Military Use in Armed Conflict.

## **D. Health (Article 12 and 14)**

Women in Bangladesh, and particularly rural women, face health risks from arsenic poisoning in the drinking water supply.<sup>39</sup>

### ***Arsenic Poisoning***

Arsenic occurs naturally in Bangladesh’s groundwater, and contaminates the drinking water of many millions of Bangladesh’s rural poor. Arsenic does not contaminate the drinking water of Bangladesh’s capital Dhaka or other large cities, where drinking water comes from deep aquifers of higher-quality water, or from treated surface water, which is then distributed through a network of pipes. Rather, it affects hand-pumped, mostly shallow, tubewells across huge swaths of rural Bangladesh. The common figure given for the number of shallow tubewells across the country is about 10 million, although this is a crude estimate.<sup>40</sup> Women are overwhelmingly responsible for the task of fetching water and other domestic work, Human Rights Watch found.<sup>41</sup> This exposes them to harmful health effects or forces them to travel great distances in order to find safe drinking water for themselves and their households.

Today, an estimated 43,000 people die each year from arsenic-related illness in Bangladesh, according to one study. The authors go on to estimate that, depending on progress of ending exposure, between 1

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<sup>39</sup> CEDAW Committee, “Consideration of reports submitted by States parties under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, Bangladesh,” para.144.

<sup>40</sup> “Strengthening National WASH MIS/GIS System: Nation-Wide Water Point Mapping,” UNICEF fact sheet, 2014, [http://www.unicef.org/bangladesh/Nat\\_\\_Water\\_Point\\_Mapping\\_WASH.pdf](http://www.unicef.org/bangladesh/Nat__Water_Point_Mapping_WASH.pdf) (accessed March 15, 2016), p.1. According to Johnston and Sarkar, NAMIC estimated 8.6 million tubewells in the country in around 2006: Richard Johnston and Motaleb Sarkar, “Arsenic mitigation in Bangladesh: national screening data and case studies in three upazilas,” *Journal of Environmental Science and Health, Part A: Toxic/Hazardous Substances and Environmental Engineering*, vol. 42(12) (2007), p. 1890.

<sup>41</sup> Human Rights Watch, *Will I Get My Dues... Before I Die? Harm to Women from Bangladesh’s Discriminatory Laws on Marriage and Divorce*.

and 5 million of the 90 million children estimated to be born between 2000 and 2030 will eventually die of diseases caused by exposure to arsenic in drinking water.<sup>42</sup>

***Suggested Questions for the State Party:***

- What steps has Bangladesh taken since its last review to mitigate and remediate arsenic contamination in drinking water?
- Why does it remain such a widespread problem?

***Suggested Recommendations for the State Party:***

- Improve targeting of resources for new wells in areas with high risk for arsenic contamination, end the influence of political representatives on the allocation of new water points, establish remediation plans for communities serviced by contaminated water points, and test all wells, including private shallow tubewells, and make results widely accessible.
- Strengthen the ability of local clinics to diagnose, treat, and care for individuals exposed to arsenic through contaminated water.

## **E. LGBT Rights**

Bangladesh's lesbian, bisexual, and transgender women face cultural, social, and political obstacles to acceptance as well as threats of violence. Lesbian women and sex workers continue to face discrimination and stigmatism. Furthermore, Bangladesh government policy and harassment by government ministry officials violates the privacy and right to work of transgender women, or hijras, in Bangladesh.

***Suggested Questions for the State Party:***

- What has the government done in response to violent crimes against LGBT activists in the country? How will it ensure they do not happen in the future?
- Will the government take steps to protect hijras? What obstacles prevent full legal recognition?

### **Fear and Violence Against LGBT persons**

Attacks on prominent LGBT activists have contributed to a climate of fear among LGBT people in Bangladesh. Lesbian women in particular face abuse from families and heterosexual partners.

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<sup>42</sup> Sara Flanagan, Richard Johnston, and Yan Zheng, "Arsenic in tube well water in Bangladesh: health and economic impacts and implications for arsenic mitigation," *Bulletin of the World Health Organization*, vol. 90(11) (2012), pp. 839-846.

## **Attacks on LGBT persons**

Human Rights Watch reported the killing of two LGBT activists in Bangladesh in April 2016. These brutal machete attacks are part of a trend of extremist violence on intellectuals, bloggers, and activists in Bangladesh. Attacks like these have forced dozens of LGBT human rights activists to go into hiding.<sup>43</sup>

This is a failure on the government's part to protect free speech in Bangladesh, and it comes at the price of security for LGBT people in the country. The government has not thoroughly investigated threats and attacks perpetrated by Islamic extremists. Same sexual behavior is illegal in Bangladesh under the colonial era penal code.<sup>44</sup> The government has a duty to use laws to protect LGBT activists, not repress and prosecute them. The culture of fear that surrounds anti-LGBT violence is a threat to not just LBT women, but all LGBT persons in Bangladesh.

## **Violence and Discrimination Against Lesbian Women**

In December 2012, a CREA report entitled "Count me IN" documented numerous instances of discrimination and violence against lesbian women in Bangladesh. Often facing extreme social and economic pressure to marry, lesbian young women and girls are sometimes beaten into accepting a heterosexual marriage that they do not desire. Women in these heterosexual relationships are more likely to face domestic abuse from their partners.<sup>45</sup>

### ***Suggested Recommendations for the State Party:***

- Legalize same-sex sexual behavior.
- Investigate threats and attacks on LGBT activists and prosecute perpetrators.
- End child marriage and with it, social pressure for lesbian women to enter abusive marriages.

## **Discrimination against Hijras**

On January 26, 2014, the Prime Minister's cabinet recognized the hijra, or transgender women, community of Bangladesh as a third legal gender called "hijra."<sup>46</sup> This represented a major step toward securing a range of human rights for Bangladesh's hijras—people who, assigned "male" at birth, identify as feminine later in life and prefer to be recognized as hijra or a third gender. However the cabinet decree lacked a definition for the category, or a procedure for recognizing hijras, so implementation was left up to individual officials involved in programs designed for hijras. Hijra individuals still face

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<sup>43</sup> Kyle Knight (Human Rights Watch) "Slaughtered for Promoting Love and Diversity," commentary, *The Advocate*, May 2, 2016, <https://www.hrw.org/news/2016/05/02/slaughtered-bangladesh-promoting-love-and-diversity>.

<sup>44</sup> "Bangladesh: Investigate LGBT Murders" Human Rights Watch news release, April 26, 2016, <https://www.hrw.org/news/2016/04/26/bangladesh-investigate-lgbt-murders>.

<sup>45</sup> Creating Resources for Empowerment in Action (CREA), "Count me IN! Violence Against Disabled, Lesbian, and Sex-working Women in Bangladesh, India, and Nepal," December 2012, <http://www.creaworld.org/sites/default/files/The%20Count%20Me%20In!%20Research%20Report.pdf> (accessed June 11, 2016), p. 91.

<sup>46</sup> Government of the People's Republic of Bangladesh, Ministry of Social Welfare, Bangladesh Gazette, No. sokom/work-1sha/Hijra-15/2013-40

significant obstacles, including harassment and abuse at the hands of families, neighbors, employers, and government officials.

### **Legal Obstacles**

In December 2014, the Ministry of Social Welfare invited hijras to apply for government employment—a major boon for a population often condemned to begging and sex work. However, Bangladesh currently lacks a policy outlining the steps that individuals must take to legally change the gender marker on their official documents from “male” to “hijra.” Absent such guidelines, or even a definition of the category, officials involved in implementing hijra-oriented programs operationalize their personal understandings of what the identity category means, leading to exclusion and abuse.

### **Harassment**

Ministry officials who conducted interviews for a government employment program subjected hijras to harassment and humiliating questions during the initial interviews, including queries about the male sex they were assigned at birth and the genuineness of their hijra identity. This experience led some, like Turvi A., a hijra who spends all of her daily life dressed as a woman, to alter their appearance for subsequent steps in the process, in the hopes of increasing their chances of being hired.

In June 2015, the dozen hijras who were selected went to medical examinations with the purpose to identify “authentic” hijras<sup>47</sup>. During the procedures, some of which required multiple return visits, physicians ordered non-medical hospital staff such as custodians to touch the hijras’ genitals while crowds of staff and other patients observed and jeered—sometimes in private rooms, sometimes in public spaces. Following this abusive affair 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.

### ***Suggested Recommendations for the State Party:***

- To define the term hijra by consulting with individuals who identify as hijra, organizations that represent them, and allow individuals to identify themselves as third gender on all legal documents such as National ID cards, educational certificates, and separate the legal recognition process from any medical examinations.
- Bring Bangladesh’s medical curriculum and transgender healthcare standards in line with global best practices, including the World Professional Association for Transgender Health Standards of Care.

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<sup>47</sup> Department of Social Welfare, “The Living Standard Development Program for the Hijra Community,” unpublished document on file with Human Rights Watch, February 2016.