

# Rights of Minorities



On 29 September 2012, a mob destroyed 12 temples and more than 50 houses in Ramu upazila of Cox's Bazar. The following day, two monasteries and a Hindu temple were vandalised in Chittagong's Patiya upazila and two monasteries set ablaze in Ukhia of Cox's Bazar.

In 2012 when rival gangs from religious or ethnic groups attacked Hindu, Buddhist and Ahmadiya communities in Shatkhira, Dinajpur, Rangpur and Ramu, their neighbours were unable to resist and law enforcement agencies failed to provide adequate safeguards. The gangs grabbed their land, looted or destroyed temples, monasteries, statues and artefacts. Most vulnerable among minority communities were women who suffered rape, sexual harassment, physical torture and murder.

Kapaeeng Foundation's report on Human Rights of Indigenous People found 278 incidents in 2012 of destruction of house and property, killing of 16 persons, and 133 incidents of torture and intimidation. The report alleged that 165 persons had to flee across the border. In some areas of the country minority groups have faced discrimination in access to education, employment and other opportunities for development. Dalits in particular faced social exclusion on account of their caste.

ASK's Investigation Unit has consistently monitored and investigated reports of discriminatory practices or violation of rights. In order to provide support to citizens outside Dhaka the Unit began, in 2008, to train local journalists, lawyers and other professionals in monitoring the situation of human rights, in particular to investigate violations of minority rights in different districts. By 2012 fifteen teams of Human Rights Defenders Forums have been formed in 15 districts.

Their rapid responses included investigation into incidents of violence or violations of human rights in their local areas and sending alerts to ASK. These findings were disseminated by ASK in its publication Bulletin, in press releases and in its annual Human Rights Reports to mobilize public opinion. Reports were sent to relevant authorities.

ASK's Advocacy Unit campaigns for legal and policy reforms and seeks legal redress to protect the rights of minorities. In case of communal attacks where the State fails to take adequate measures to protect minority groups, the Advocacy Unit issues legal notices and files public interest litigation in cooperation with other organisations. ASK has raised national and international alerts through press conferences, workshops and field research. In case of attacks on individual members of the minority communities, extortion or similar violations, the Legal Aid Unit has pursued cases in court.



## Collaboration with Other Organisations

ASK has undertaken many of these activities in collaboration with BLAST, Nagorik Uddyog, Bangladesh Hindu Buddhist Christian Oikya Parishad, Shommilito Samajik Andolon, SEHD, Sammilita Shangskritik Jote and Manusher Jonno Foundation. Their investigations and research have drawn the attention of policy makers to the causes of discrimination.

## Violation of the Rights of Minorities

Article 27 of the Constitution affirms that all citizens are equal under the law and Article 41 guarantees freedom of religion. However, by prioritising Bengali nationalism, Bangla language and culture, the Constitution ignored the cultural and ethnic diversity of Bangladesh. Subsequent amendments to the Constitution in the mid-seventies and eighties introduced Islam as a State religion which set the stage for differentiation amongst religious communities. Further changes in the Fifteenth Amendment have not cleared these anomalies. We give below some incidents to illustrate the prevailing insecurity of these communities and actions taken by ASK and other human rights defenders.

### Attacks on the Hindu Community

The Hindu community has suffered from direct communal attacks, or due to consequence of the Vested Property Act, 1974.<sup>1</sup> The media has reported on alienation of Hindu properties by influential land grabbers who have used every possible tactic – from threats to violent physical assaults on individual families or community/institutional property. A report published in the *Daily Star* on 15 October, 2004 suggested that more than two thirds of the country's total vested property had been appropriated illegally. Hindu women have been vulnerable to violence because of their religious identity. Some of the recent incidents are described below:

On 31 March, 2012, seven Hindu families of Fatehpur village of Shatkhira district were attacked and their houses looted on a false report in *Dristipat*, a local newspaper, that a school play staged on 25 March had defamed the Prophet. The local Imam committee broadcast a demand over loudspeakers for actions against the persons who staged the play and an UP member filed a case against the school Headmaster Rezwan Harun and assistant Headmaster Mita Rani Hazra, both of whom were arrested on 30 March. On 31 March, a 2,000 strong mob came from different areas

into Fatehpur school and destroyed school furniture and property. They then vandalised the homes of the administration committee members Abdul Hakim and Mita Rani and set fire to the property. Abdul Hakim's shop in the market was also set on fire. The host of the play Mir Shahinur faced similar violence in his home. By sundown, the mob had attacked 28 houses. The UNO, UP Chairman and police officers put up no resistance.

In response to alerts from ASK's local Human Rights Defenders' Forum (HRDF) the Investigation Unit visited the site for fact finding. They met the District Commissioner and Superintendent of Police and requested them to protect the three victims, who had demanded action against those responsible for the attack. Later, the OC of Kaliganj thana was transferred from Shatkhira district for his failure to take action against the attacks. The DC of Shatkhira district also cancelled the Declaration of the Daily *Dristipat* for provocative news reports and its failure to respond to the show cause notice from the High Court. The Police arrested the reporter who had given the news. In 2012, ASK's Investigation Unit also reported on attacks on the Hindu communities of Chiribandar and Dinajpur, Sitakunda and Patia in Chittagong, Jessore, Jhenaidah and Bagerhat districts.

In 2001, the Hindu community was subjected to brutal communal attacks during the parliamentary elections. Between 15 September and 1 October, about 330 incidents of violence against the Hindu community were reported that included rape, gang rape, killing, physical abuse, damage of property, bomb explosions, arson and extortion. The attacks were reported to be politically instigated. ASK, Sammolito Samajik Andolon, Nijera Kori, BNPS, Nari Uddyog, Bangladesh Mohila Parishad, BLAST and SEHD sent investigation teams to the areas and appealed to the Government, political parties and civil society members to rehabilitate the survivors and to compensate the affected persons. ASK also filed a Writ Petition No. 6556/2001 against the Home Secretary and the Inspector General of Police on 21 November, 2001 on grounds of the Government's failure to provide security to the Hindu community and thereby to enforce Articles 27, 28, 31, 32, 35 and 42 of the Constitution. The High Court directed the Home Secretary and the Inspector General of Police to submit a report regarding the measures taken against the perpetrators by 15 January, 2002. The Government submitted a brief reply several months later. No further report has been given and the case is pending final hearing.

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1. *Human Rights in Bangladesh 2005*, ASK, 2006

**The Vested Property Act** came into effect in 1974, with the stated justification that it would allow 'enemy' property to vest in the Government. Since then, provisions of this Act have been used arbitrarily by powerful groups or individuals, abetted by officials to dispossess Hindus, Christians and *Adibashis* of large portions of land.<sup>2</sup> It has served to alienate the right of minorities, especially of Hindus, to their property.<sup>3</sup> In 2001, the Parliament enacted the Vested Property Return Act to enable Hindus to reclaim their property occupied by individuals or Government. However, the religious communities demanded amendments to the Act to facilitate recovery. It was further amended in 2011 and 2012, extending the time frame for application to reclaim property after publication of the list in the Government Gazette. In 2012, ASK, BLAST, HDRC, Sommlito Samajik Andolon, Nijera Kori, Bangladesh Hindu Buddhist Christian Oikyo Parishad, Orpito Sampotti Ain Protirodh Andolon and Association for Land Reform and Development (ALRD), jointly organized a series of workshops calling for full implementation of the Vested Property Return Act 2001 (amended in 2012) and to incorporate amendments recommended by the community.

**Gender Violence and Discrimination:** Hindu women have struggled to eliminate discriminatory laws of their community. This year, in response to their demand, the Government initiated measures for registration of Hindu marriages. Unregistered marriages placed Hindu women at a disadvantage since they could not provide evidence of their marriage when traveling or to obtain a civil divorce. It also affected their plans for remarriage, inheritance or access to legal remedies for compensation if they were deserted by their husbands or subjected to abuse. ASK and other human rights organizations, in a sustained campaign to legalise registration of Hindu marriages and divorce prepared a draft bill which was presented to the Minister of Law, Justice and Parliamentary Affairs on 7 April, 2012. On 18 September, 2012, the Parliament adopted the Hindu Marriage Registration Act, 2012 for the legal and social protection of Hindu women. The Act provides a partial remedy by making marriage registration optional, contrary to the draft prepared by the coalition. It does not make any provision for divorce.

### **The Ahmadiya Community**

The Ahmadiya Muslim community has been facing severe hostility from fundamentalist religious groups including Hifazate Khatme Nabuwat Andolon (HKNA), International Khatme Nabuwat Movement Bangladesh (IKNMB), International Tahaffuz-e-Khatme Nabuwat Committee Bangladesh and Amra Dhaka Bashi and other groups campaigning to declare the Ahmadiyas as non-Muslims. They have been subjected to verbal and



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physical assaults and their property and mosques have been repeatedly desecrated. The worst attacks against the Ahmadiyas took place in 2003-2004 when members of the International Khatme Nabuwat Movement Bangladesh (IKNMB) demanded that the Government declare them non-Muslims. They attacked their mosques, and subjected Ahmadiyas to harassment, intimidation and violence. In response to these ultimatums the Government banned their books, which led to widespread unrest with police and extremist groups conducting unwarranted searches and subjecting Ahmadiyas to further abuse.

ASK joined solidarity marches outside the Ahmadiya mosque, and organized national and international discussions for tolerance and respect. ASK, Shommilito Shamajik Andolon, Mohila Porishod and Naripokkho issued a legal notice to the Government on the unconstitutionality of the ban on Ahmadiya publications. Later a writ petition No. 7031/2004 was filed by ASK and six other human rights organizations including Jatiya Ainjibi Parishad, Kormojibi Nari, Nijera Kori, Odhikar, Sammlito Shangskritic Jote, as well as a leader of the Ahmadiya Jamaat group, seeking directions upon the Government to withdraw the ban on Ahmadiya publications. On 21 December, 2004, the High Court issued a stay on the ban on publications.

On 3 January, 2005 the High Court asked the Government to show cause why the banning of some publications of the Ahmadiya Muslim Jamaat should not be declared illegal and in violation of the Constitution.

2 & 3. *Human Rights in Bangladesh 2005*, ASK, 2006

On 5 October, 2012, the construction of an Ahmadiya mosque in Jummapara village in the district of Rangpur was vehemently obstructed by local Sunni Muslims. This dispute had carried over from 2001 when Sunni Muslims set fire to a mosque built by an Ahmadiya on his land. Even though the two communities had reached an understanding to allow the Ahmadiya community to build a mosque 2.5 kms away from the Sunni mosque, later, in October 2012, the Ahmadiya community was accused of a breach of agreement.

ASK investigations found that anti-Ahmadiya sentiments had been stirred by a Jamaat-e-Islami Amir who had declared the Ahmadiyas as non-Muslims and alleged that the Ahmadiyas were conspiring against Islam. This was reported to lead to insecurity in the community and ten Ahmadiya residents of Kisamat Menangar village in the Jummapara area of Rangpur had allegedly fled to the Ahmadiya Jamaat Head Office in Rangpur town for shelter. The local district officials and police could not provide any protection. ASK continued to liaise with the Ahmadiya community and to inform the administration of any violence.

## Indigenous/Adibashi Communities

There are about 17 different indigenous or *Adibashi* communities living in the Chittagong Hill Tracts of which the *Chakmas* form the majority. Since liberation, the *Chakmas* have demanded recognition of their identity and security of their rights to their land and their language. The Government's policy in the mid-seventies of forced settlement of Bangalis from the mainland led to their displacement. While many Chakmas fled their homes, some taking refuge in India, it also sparked violence between the Shanti Bahini, the armed wing of the PCJSS and the military. Forced settlement of the Bangalis has resulted in demographic changes, with the Chakmas who once were a majority in the CHT, now comprising about 50-60 percent of the population.<sup>4</sup>

Earlier the media had report that 300 indigenous persons had been killed in Kalampati on 25 March 1980, and several hundred killed in Logang in 1992.<sup>5</sup> In 1997, the Chittagong Peace Accord was signed between the Government of Bangladesh and the PCJSS, to settle land disputes which had arisen due to land allocated to Bangalis, and to provide for the functioning of regional councils. However, the CHT Peace Accord of 1997 has yet to be implemented effectively and the Land Commission appointed by the Government has not been functional. Between 1999 and 2013 attacks on the indigenous communities have continued. On 26 August

2003 there were reported attacks on the life security and property of *Adibashi* inhabitants of Mohalchori Union, Khagrachari District, CHT where allegations of human rights violation included the extra-judicial killings of two persons – one being an 8/9 month old infant; the torture of several people including rape of 10 women; desecration and looting of three Buddhist temples and arson attacks and looting of 300-400 *Adibashi* homes.<sup>6</sup> Investigations by ASK with several other human rights organizations found that money lenders and businessmen were the key instigators.

Due to their marginalized and insecure positions, ethnic women are vulnerable to sexual violence. Rarely are the perpetrators brought to justice. In 2008, in response to a public interest litigation and following the High Court's judgement on 24 February, the Government set up three separate district/session courts and the Nari o Shishu Nirjatan Domon Tribunals in Rangamati, Khagrachari and Bandarban districts in the Chittagong Hill Tracts. In spite of these developments, rape and killings of ethnic women have not ceased. In 2012, six cases of rape of indigenous women living in the plains were reported by different newspapers in the country, of which four resulted in death.

ASK has actively dialogued with key lawmakers and policy makers to expose and address human rights violations in the CHT so as to bring an end to the long-standing conflict and violence. In 2012, ten human rights organizations including ASK jointly hosted a discussion on Land and Human Rights of Indigenous People as part of the campaign to implement the CHT Peace Accord, addressing the issues of land grabbing and ongoing incidence of sexual crimes and arson among indigenous communities.

**Right to Property (Writ Petition No. 5412/2007):** Forcible forestation by the Forest Department in Anterpur village under the PS, Dharmopasha, District Department Sunamgonj violated the lease deed given by the Deputy Commissioner, Sunamganj to 570 Garo and Bangali families who had maintained usufructual right over the lands for generations. ASK's Advocacy Unit, along with members of the affected community, filed a writ petition in the High Court Division as to why the forestation should not be declared to be unlawful and why the Forest Department should not be directed to stop the forestation on this land. The Court directed the Forest Department not to disturb the Garo and Bangali families from the scheduled land till disposal of the case. While the case is pending, 570 Garo and Bangali families possess the lands peacefully.

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4. *Human Rights in Bangladesh, 2006*, ASK, 2007, pg 82

5. *Minorities at Risk Project, Chronology for Chittagong Hill Tribes in Bangladesh, 2004*

6. *Human Rights in Bangladesh 2003*, ASK, 2004, pg104,

## Attacks on Buddhist Community

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Members of ASK visit destruction sites at Ramu upazila of Cox's Bazar where a mob destroyed 12 temples and more than 50 houses on 29 September, 2012.

## Constitutional and International Guarantees

Article 11: "The Republic shall be a democracy in which fundamental human rights and freedoms and respect for the dignity and worth of the human person shall be guaranteed."

Article 28: "The State shall not discriminate against any citizen on grounds of religion, race, caste, sex or place of birth."

Article 41:

(a) Every citizen has the right to profess, practice or propagate any religion;

(b) Every religious community or denomination has the right to establish, maintain and manage its religious institutions;

(c) No person attending any educational institution shall be required to receive religious instruction, or to take part in or to attend any religious ceremony or worship, if that instruction, ceremony or worship relates to a religion other than his own.

Bangladesh has accepted obligations under International Covenant on Civil and Political Rights (ICCPR) in 2000 and the Convention on the Elimination of all Forms of Racial Discrimination in 1979, Convention on

the Right to Freedom of Belief. The ICCPR is however subject to reservations to a few articles. The Government submitted its last report to the CERD Committee in 2001.

## Challenges and Way Forward

- Constitutional amendments making Islam a state religion are contradictory to a secular state.
- Reservations to international treaties limit state obligations.
- Politicisation of religion.

ASK will continue to struggle for equality of all citizens and challenge policies and laws that contribute to social differentiation. Human rights defenders need to address social and political vulnerabilities of minority communities by enabling access to the legal system, ensuring enforcement of laws promoting social tolerance, protecting their right to land and denying immunity to perpetrators. Education Policy should include human rights education in school and college curriculums.

7. *The Daily Star*, 1 October, 2012