

# HUMAN RIGHTS FORUM ON UNIVERSAL PERIODIC REVIEW (UPR), BANGLADESH

## **BANGLADESH: STAKEHOLDERS' REPORT UNDER THE UPR**

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I.	METHODOLOGY	2
II.	NORMATIVE AND INSTITUTIONAL FRAMEWORK FOR PROTECTION OF RIGHTS	2
	a) International Human Rights Obligations	
	b) Domestic Law Obligations	
	c) Institutional Structure for Protection of Human Rights	
III.	PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND	6
	a) Overarching Issues	
	b) Human Rights Situation on the Ground	
IV.	COOPERATION WITH HUMAN RIGHTS MECHANISMS	16
V.	ANNEXES	17

**Keywords:** adoption; affirmative action; assembly; association; arrest; bail; caste; children; citizenship; custodial death; crimes against humanity; cruel, inhuman and degrading treatment; detention; disability; discrimination; domestic violence; domestic worker; elections; emergency; ethnic minorities; equality; expression; extra-judicial execution; fair trial; forced eviction; genocide; impunity; indigenous people; judicial remedy; judiciary; legal aid; land; livelihood; marriage; migrant workers; movement; police; prisoners; property; public interest litigation; religious minority; reservation; right to development; right to food; right to life; right to liberty; right to shelter; terrorism; torture; war crimes; women; worker.

## I. METHODOLOGY

1. This report has been prepared by the Human Rights Forum on UPR ('the Forum'), Bangladesh, a coalition of 17 human rights and development organisations formed to prepare a joint stakeholders' report under the UPR (see **Annex 1** for list of members of the Forum, and contributors to the Report). It draws upon a series of national consultations held in March, April and August 2008 by the Forum and on the publications, documentation and experience of Forum members. The key concerns raised in this Report have also been discussed nationally by Forum Members at a consultation convened by the Government of Bangladesh (Ministry of Foreign Affairs) in August 2008. This report follows the guidelines adopted by the Human Rights Council. It refers to continuities of law and practice impacting on human rights, but focuses on incidents occurring within a four year period (with references to the Government referring to either the Bangladesh-Nationalist Party led Four Party Alliance Government (Oct 2001 to Oct 2006) or the Caretaker Government (Oct 2006 to Jan 2007, appointment of new Advisors from Jan 2007).

## II. BACKGROUND AND FRAMEWORK

### **International human rights obligations**

2. **Core Human Rights Treaties:** Bangladesh has ratified all the core human rights treaties (ICCPR, ICESCR, CERD, CEDAW, CAT, CRC). However it has entered reservations to several treaties, notably in relation to clauses on the guarantee of equality (ICCPR, ICESCR, CEDAW), implementation of convention obligations (CEDAW), trial in absentia (ICCPR) and compensation for torture (CAT). It has accepted the individual communications procedure under only one treaty (CEDAW) and does not accept any inquiry procedure by any treaty body. (See **Annex 2** for List of Bangladesh's Ratification of International Human Rights Treaties).

3. **Other Human Rights Treaties:** In addition to the core instruments noted above, Bangladesh is a party to the Genocide Convention, the Geneva Conventions, several key ILO Conventions as well as treaties on women's political rights and on consent to marriage. It has signed, but not ratified, the Rome Statute on the ICC and the Convention on the Protection of Migrant Workers and their Families. It has not as yet acceded to the Refugee Convention, or the Convention on Protection from Enforced Disappearance, or ILO Convention No169 on Indigenous and Tribal Peoples 1989.

4. **Bangladesh's Voluntary Pledges:** Prior to election to the Human Rights Council in 2006, the Government made voluntary pledges (see **Annex 3** for the full text of the voluntary pledges) including, among others, to:

- *Ensure independence of the Anti-Corruption Commission;*
- *Strengthen its efforts to meet its obligations under the treaty bodies to which it is a party;*
- *Contemplate adhering to the remaining international and regional human rights instruments;*
- *Continue to cooperate with the special procedures and mechanisms of the Council with a view to further improve its human rights situation;*
- *Continue to endeavour, through its national development policies, to ensure provision of the basic necessities of its people including food, clothing, shelter, education and primary health care;*
- *Establish the National Human Rights Commission as soon as possible; and*
- *Separate the judiciary and the executive as soon as feasible.*

The state has only partly met some of these obligations to date, but many remain wholly unfulfilled and unaddressed. With respect to pledge on ensuring independence of the Anti-Corruption

Commission ('ACC'), while the ACC has been significantly overhauled, with new appointments, and capacity building commenced, concerns have been expressed regarding its actual operations. Regarding its pledge on meeting obligations under the treaty bodies, Bangladesh has not as yet withdrawn any reservations or declarations to any treaty, nor taken steps to incorporate treaty provisions in national law, nor made significant progress with the reporting process (except with regard to CEDAW) or to comply with the observations of treaty monitoring bodies. Regarding its national development policies, while important steps forward have been taken in adopting the National Women's Development Policy and Food Policy, concerns remain regarding implementation. Regarding its pledge on the NHRC, though the Government promulgated the National Human Rights Commission Ordinance in 2007 and announced establishment of the Commission on 1 September 2008, concerns remain regarding the effectiveness of the proposed NHRC given that no appointments have been made as yet. With regard to separation of the judiciary, although critical legislation has been adopted under the current Government, subsequent steps taken by the Government (Ministry of Law) have faced constitutional challenges before the Courts, and reports of interference with the decisions of the lower judiciary continue to be made.

### **Domestic Law Obligations**

**5. Constitutionally Protected Rights:** The Constitution of 1972, promulgated within a year of the establishment of the new state of Bangladesh following victory over Pakistan in the 1971 war of liberation, contains explicit guarantees of a wide range of civil and political rights, and also secures the right a remedy for their violation by way of a constitutional petition before the Supreme Court. These rights include equality before law, equal protection of the law, non-discrimination on grounds of race, religion, caste, sex, or place of birth, special measures for women, children and 'backward sections of citizens', equality of opportunity in public employment, protection of the rights to life and personal liberty, the right to be treated in accordance with law, safeguards as to arrest and detention, prohibition of forced labour, protection in respect of trial and punishment, freedom of assembly, freedom of association, freedom of thought and conscience, freedom of expression freedom of profession and occupation, freedom of religion, the right to property and the right to protection of the home and correspondence.

**6. Fundamental Principles of State Policy:** The Constitution also sets out the fundamental principles of state policy, which mandate the state to ensure, among others, women's participation in national life, free and compulsory education, public health, equality of opportunity, work as a right and duty, rural development and promotion of local government institutions, as well as respect for international law. Although traditionally considered to be non-justiciable, these fundamental principles have been applied in a number of cases by the Supreme Court, in order to protect economic and social rights.<sup>1</sup>

7. Notably, among these fundamental principles, the original 'four pillars' of the Constitution – that is the principles of secularism, nationalism, democracy and socialism' – were systematically eroded under years of autocratic and military rule. The principles of democracy were replaced in 1974 by effective one party rule. Subsequently the principle of 'secularism' was replaced under military rule in 1976 with that of 'absolute trust and faith in the Almighty Allah', which in turn was supplemented by the declaration, again under military rule in 1982, of Islam as the state religion, despite the diversity of faith communities within the country.

**8. Domestic application of international law:** International treaty obligations must be incorporated into national law before they can be directly enforceable.<sup>2</sup> Such incorporation has not taken place with respect to most treaty provisions (with the exception of parts of the Genocide Convention). However, international human rights norms have been judicially applied in order to interpret expansively the scope of constitutionally guaranteed rights in a number of significant cases.

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<sup>1</sup> See I. Byrne and S. Hossain, "Economic and Social Rights Case Law of Bangladesh, Nepal, Pakistan and Sri Lanka" in M. Langford, *Socio-Economic Rights*, Cambridge University Press, 2009, forthcoming.

<sup>2</sup> For example, the State is required to base its international relations on the principles of respect for [...] equality, [...] and respect for international law and the principles enunciated in the United Nations Charter (Art. 25, Constitution of Bangladesh, 1972).

9. **Exceptions to protection of constitutional rights:** The Constitution itself excludes protection under certain situations or for certain categories of persons. Most significantly, during a state of emergency, certain guaranteed rights may be suspended such as freedom of movement, assembly, association, expression, profession or occupation, property and significantly, as may the right to enforce such rights by way of a constitutional remedy (Article 141A). Further not all fundamental rights may be enjoyed by all persons, with certain rights only being enforceable by citizens; enemy aliens and persons in preventive detention are further denied certain safeguards on arrest. In addition, members of disciplined forces are barred from seeking enforcement of their fundamental rights.

10. **Legislative Framework:** Although the Constitution clearly states that laws violative of fundamental rights shall be void, pre-constitutional laws, which are discriminatory or in clear contravention of guaranteed fundamental rights continue to be applied and enforced. Such laws include respectively the gender-discriminatory Citizenship Act 1951, the Passport Act and Rules, and personal laws governing rights within the family. In addition, the Constitution itself expressly limits the exercise of certain rights as being ‘subject to law’ and thereby protects, for example, pre-constitutional laws which define offences such as criminal defamation or contempt of court which are not in consonance with international standards.

11. A number of post-constitutional laws have been consistently identified as furthering human rights abuses, but nevertheless remain in application. The most notorious among these is the Special Powers Act 1974, which every Government to date has failed to repeal, despite clear electoral commitments in this regard. Anti-terrorism laws, enacted by every elected government since 1990, have also enabled the exercise of arbitrary powers or arrest and severely encroached on fair trials. Most recently, the Anti-Terrorism Ordinance, 2008 has created a set of new offences of ‘terrorism’ and provides for the speedy trial of persons accused of such offences, many of which are punishable by the death penalty, before one or more Special Tribunals.

12. Recent progress on long-standing demands for legislation include, for example, dialogues with civil society on the need for a law on Protection from Domestic Violence, or the preparation of the Right to Information Bill, the draft Police Ordinance, the Consumer’s Protection Bill and the Citizenship Bill. However, some of these have been criticized by human rights groups and the media as failing to comply with international standards. The Draft Police Ordinance has raised concerns regarding empowering District Police Officers (DPO) with administrative powers, and on the responsiveness and effectiveness of the proposed Police Complaint Commission. The momentum for framing these laws has largely been from civil society, and while the Caretaker Government has responded, it is unclear whether it will follow through on adopting legislation prior to elections; the major political parties have yet to make clear commitments on these issues.

13. **Policy Framework:** Two important new policies have been adopted within the reporting period with regard to rights protection. First, the Government adopted the National Food Policy (NFP) in 2006, statedly to ensure dependable and sustained food security for all, at all times.<sup>3</sup> Its objectives are to: (i) ensure the adequate and stable supply of safe and nutritious food; (ii) enhance the purchasing power of the people for increased accessibility; and (iii) ensure adequate nutrition for all (particularly for women and children).<sup>4</sup>

14. The original National Women’s Development Policy 1997 was significantly amended in 2004, in a highly secretive process, in an apparent effort not only to limit women’s equal rights to and participation in the economy but also to bolster a specific construction of femininity and the role of women in the family. After long and consistent advocacy by women’s rights groups, when the present government announced a new National Women’s Development Policy (NWDP) on 8 March 2008, it was widely welcomed except by certain Islamist groups, which publicly demonstrated on the streets, threatened women’s rights activists, and wholly erroneously claimed that the Policy guaranteed equal inheritance rights and thus ‘contravened the provisions of the [Holy] Qu’ran’. Ironically, the original

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<sup>3</sup> Md. Korban Ali, ‘Right to Food’, in ASK, *Human Rights in Bangladesh*, ASK, Dhaka, 2006 at p.92.

<sup>4</sup> *National Food Policy*, 2006, Ministry of Food and Disaster Management, 14 August 2006.

1997 Policy's reference to equality regarding inheritance and property was omitted from the final 2008 version.

### **Institutional Structure for Protection of Human Rights**

15. Bangladesh has a parliamentary form of government, with the Prime Minister as the head of the government and the President as the head of the state. Direct elections involving all citizens over the age 18 are required to be held every five years for the unicameral parliament known as the Jatiya Sangsad. Some 45 seats in addition to a total of 300 are reserved for women, on the basis of election by proportional representation from among parties or alliances already represented in Parliament.<sup>5</sup>

16. Parliament is the highest law making body in the country, but subject to the provisions of the constitution. When Parliament is not in session or stands dissolved, the President may make laws by ordinance. Since October 2006 to date, all legislation has been made by way of Presidential Ordinance, as Parliament stands dissolved. Several petitions are pending before the Supreme Court regarding the constitutionality of such laws.

17. Local government elections are also required to be held regularly for the City Corporations, Municipalities and to Union Parishads, the lowest units of local government in rural areas, and also – in the three districts comprising the Chittagong Hill Tracts – to the Regional Council<sup>6</sup> and the three Hill District Councils. One third of seats in all local government bodies are reserved for women. Significant reservations are also made for Paharis (indigenous people) in the local government bodies in the CHT.

18. The Judiciary, and in particular the Supreme Court – comprising the Appellate and High Court Division respectively – is responsible for the enforcement of fundamental rights through its constitutional jurisdiction. Despite clear guarantees of judicial independence in the original Constitution, a series of amendments and continuing executive interference have resulted in significant erosion of the traditionally high esteem in which the judiciary has been held. Deep and partisan politicization of the higher judiciary – mainly through appointment and non-confirmation of judges, as well as providing opportunities for their holding high office following retirement – has affected public perceptions of its impartiality and competence. Allegations of direct executive interference in judicial appointments to the Supreme Court under the BNP led Government, as well as reports of the then Chief Justice's partisan interference in court administration and in pending proceedings (most notoriously in staying a 2006 constitutional challenge to the President's authority to hold simultaneously the office of Chief Advisor) the succeeding violence in the Supreme Court premises and the subsequent involvement of Supreme Court Justices in adopting a 'resolution' for prosecution of lawyers in this connection, widely seen as in support of the then ruling party, further lowered public morale. Under Emergency Regulations, the powers of the Supreme Court have been substantially curtailed both de jure and de facto and public confidence in its functions have been eroded.

19. With respect to the lower judiciary, the Supreme Court gave effect to the constitutional mandate for separation of the lower judiciary in its landmark *Masdar Hossain v Bangladesh*<sup>7</sup> judgment in 1999. Although two successive elected governments failed to comply with the Court 12-point directives, the Caretaker Government in January 2007 ultimately adopted the necessary legislation.<sup>8</sup>

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<sup>5</sup> Although a cross-section of the women's movement challenged this law as being unconstitutional, and failing to further substantive gender equality, the Supreme Court upheld the relevant laws. See Human Rights in Bangladesh, ASK, Dhaka 2004; Human Rights in Bangladesh, ASK, Dhaka 2005.

<sup>6</sup> The Chittagong Hill Tracts Regional Council has powers to make recommendations and to scrutinize any laws which are likely to impact upon the residents of the Chittagong Hill Tracts, the south-western region which contains more than thirteen separate Adivasi populations.

<sup>7</sup> Hossain, a subordinate court judge, had contended that since judges and magistrates were part of the judiciary, they should not be controlled under laws regulating the civil service. The Appellate Division upheld the High Court's judgment in favour of Hossain (*Secretary, Ministry of Finance v Masdar Hossain* 2000 BLD (AD) 104).

<sup>8</sup> This comprised the Bangladesh Judicial Service Pay Commission Rules 2007, the Bangladesh Judicial Service (Service Constitution, Composition, Recruitment Suspension, Dismissal and Removal) Rules 2007 and the Bangladesh Judicial Service (Posting, Promotion, Leave, Control, Discipline and other Service Condition) Rules

Thus, the magistracy – the front lines of the criminal justice system – was finally separated into judicial and executive branches, in the face of vocal opposition from vested interests within the bureaucracy. More recently, civil courts were also established in the CHT. Serious concerns remain regarding the extent of effective separation of the lower judiciary, in particular the lack of adequate resources and capacity building, and reports of continuing interference by the executive, despite important progress having been made in putting in place the legal and institutional framework. The retention of key functions relating to appointments and postings with the executive (in particular the Ministry of Law) requires urgent attention.

20. Despite promulgation of the National Human Rights Commission Act 2007, a national human rights institution has not been established to date. Human rights organisations have questioned the capacity of the proposed Commission to function as an effective human rights watchdog, noting the executive predominance in the composition of the selection committee; the lack of any special measures to ensure diversity within the Commission; the Commission's limited jurisdiction to investigate cases already pending before a Court, Ombudsman or Administrative Tribunal, and its limited powers to ensure state compliance with its recommendations and directives.

21. Despite express constitutional and legislative provisions, the office of the Ombudsman has not been established to date.

**22. Law Enforcement Agencies:** Continuing concerns regarding executive interference with the police, as well as issues regarding lack of efficiency and effectiveness laid the ground for the Government's Police Reform Programme (in partnership between the Ministry of Home Affairs, Bangladesh Police, UNDP and DFID). The Programme is focused on key areas of access to justice; including crime prevention, investigations, police operations and prosecutions; human resource management and training; and, future directions, strategic capacity and oversight. Other initiatives taken have been to prepare a Draft Bangladesh Police Ordinance 2007, to replace the Police Act of 1861; to establish two Forensic Laboratories in Dhaka and Khulna; to establish 'model' police stations; to prepare and distribute gender guidelines to hold police trainings and form a network of women police personnel; a victim support centre is also anticipated.

### **III. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND**

#### ***Overarching Issues***

**23. The State of Emergency and the 'Reform Process':** Many citizens, as well as the media and civil society organisations, greeted the initial formation of the interim Caretaker Government on 11 January 2007 with a sense of relief and even of hope. This initial welcome, which was barely dented by the Proclamation of Emergency, reflected widespread and profound disillusionment and despair at the increasingly intense conflict between the two leading political alliances, led respectively by the Bangladesh Nationalist Party and the Awami League, which had virtually brought the country to a standstill. The spiraling corruption and abuse of power under the BNP-Jamaat led Government, in office until October 2006, and its resistance to relinquishing power to the Caretaker Government, had further exacerbated the tensions. From the outset, the CTG's stated political agenda was to create conditions that would enable the holding of free and fair elections, and to hand over power to a democratically elected government regime. To this end, it undertook a highly publicized anti-corruption drive during which many previously 'untouchable' political and business figures were arrested. The Government also initiated a series of institutional reforms, welcomed by citizens' groups and the media: these included the production of a more comprehensive and inclusive voter list, re-constituting and then reforming three institutions which had largely lost all credibility due to their incapacity, incompetence in discharging their mandate in accordance with law and their overt bias to the earlier ruling regime, namely the Election Commission (EC), the Public Service Commission, and the Anti-corruption Commission (ACC). Significant changes were also made to the Attorney General's Office, with many persons who had enjoyed partisan appointments resigning after serious criticisms of their roles while in office. Despite continuing demands from the Bar and civil society to

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2007 as well as the Code of Criminal Procedure (Amendment) Ordinance 2007 (the Judicial Service Commission Rules 2002 having been adopted earlier).

take action with respect to ensuring the integrity of the Supreme Court, and to address the impact of the Court on the partisan removal and appointment of judges, only one High Court Judge resigned before proceedings against him progressed. Two years on, and following an increasingly unwieldy and ineffective ‘anti-corruption drive’ in which powerful political actors who had enjoyed virtual impunity during their years in office appear able to evade accountability, and with issues such as the handling of August 2007 student protests at Dhaka University, sharp rises in food prices and other essentials, highly publicized cases of over-reach by intelligence agencies, among other things, the CTG’s standing appears considerably diminished. Human rights abuses continue to occur, largely unchecked and unredressed, and accountability for both past and present abuses remains difficult to initiate or achieve.

**24. Continuing Impunity:** The pervasive culture of impunity experienced in Bangladesh, greatly exacerbated during the current period of Emergency, may be traced to 1971, when major crimes of international concern such as genocide, war crimes, crimes against humanity and the crime of aggression took millions of lives, but went unpunished. Post-independence, no coherent mechanism of accountability was put in place and legislation enacted separated perpetrators into two groups, local collaborators and military perpetrators. Ultimately, due to lack of resources, capacity and international pressure, credible investigation or prosecutions could not be held, resulting in impunity for international crimes. Impunity now permeates the justice system, in the absence of functioning democratic accountability. Those in power have abused office and authority without regard to law, with little or no consequence. Serious crimes have remained unresolved and the judicial system as well as other institutions have failed, with a few significant exceptions, to end impunity. Recent attempts to challenge this culture and enforce the law against persons hitherto considered ‘untouchable’ and ‘above the law’ are themselves faltering. Without ending impunity and reinforcing the rule of law, respect for human rights will elude Bangladesh.

### *Human Rights Situation on the Ground*

#### **Civil and Political Rights**

**25. Right to life, liberty and security of the person:** In both the pre- and post-Emergency periods, continued reports of extra judicial killings by law enforcing agencies, custodial death and torture, including rape, and lack of any public reports of investigation and prosecution of those responsible demonstrate the vulnerability of the right to life of Bangladeshi citizens.

**Table II: Extra Judicial Killings from 2004 to June 2008<sup>9</sup>**

<b>Nature of Violence</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007</b>	<b>2008 (till June)</b>
‘Crossfire’ (without arrest)	46	94	62	81	54
‘Crossfire’ (In custody)	88	260	196	34	4
Physical torture (without arrested)	3	1	7	9	2
Physical torture (in custody)	23	11	26	18	7
Shot (without arrest)	33	11	61	24	5
Shot (in custody)	12	-	-	14	1
Suicide (as claimed by the police after arrest)	2	-	-	-	1
<b>Total</b>	<b>207</b>	<b>377</b>	<b>352</b>	<b>180</b>	<b>74</b>

26. In the vast majority of instances, the state failed to publish any information regarding actions taken to investigate, prosecute or punish those responsible for such killings. Exceptionally, the 2007 case of Cholesh Richil, a prominent Adivasi rights leader and a key activist against the proposed

<sup>9</sup> ASK Documentation Unit, 2008.

“Eco-Park” in Modhupur, who died after being taken into custody following arrest by the joint forces resulted in the formation of a one-person judicial inquiry commission. However, its findings and information regarding action against those responsible, if any, (like those of so many judicial inquiry commissions in earlier years) have not been made public as of the writing of this report.

27. Violent attacks, reportedly led by religious extremist groups with virtual impunity for several years, had severely curtailed the right to life, liberty and security of persons. During the reporting period, bomb blasts had targeted court premises, progressive cultural gatherings, cinema halls, religious shrines, and political gatherings. A reported total of 27 major incidents of bomb and grenade attack during 1999-2005 claimed the lives of 171 people and wounded 1773 persons.<sup>1</sup> While leaders of the Jamaat e Mujahideen Bangladesh were tried and executed following confessions of their involvement in several of these incidents, the hurried manner of their execution and the denial of their requests to speak publicly about their involvement, gave rise to public concerns regarding the transparency of the process and continues to fuel speculation about the nature and source of patronage enjoyed by such groups, to allow them to operate beyond the law for such prolonged periods.

28. Prolonged delays continue to plague efforts to bring to account persons accused of the assassination of high-profile politicians and the targeted killings of professionals including teachers and journalists (including the murder of the late president Sheikh Mujibur Rahman and his family members in August 1975, the killing of the former Prime Minister and three other Ministers in Dhaka Central Jail in November 1975, the killing of the former Finance Minister Shah AMS Kibria in a grenade attack, the killing of Professor Taher of Rajshahi, and the killing of BBC stringer Manik Saha). These are the instances of the deep-rooted and pervasive culture of impunity, which has been steadily reinforced with the ongoing failure to investigate, prosecute and punish those responsible for war crimes and crimes against humanity during the 1971 war of liberation.

29. Incidents of arbitrary arrest and detention, as well as the reported ‘mass arrests’ continued to occur during the reporting period. Under Emergency Rules, the law enforcing agencies powers of arrest, including to arrest without warrant – even on nothing more than suspicion of a ‘prejudicial act’ – combined with the restrictions on the right to seek bail in the case of any offence falling within the ambit of the Emergency Rules, severely curtailed the right to liberty, with a disproportionate impact on the poor and marginalized who were unable to access fast-track procedures for relief and redress in the superior courts, available to many of the ‘VIP’ accused implicated in corruption cases. ASK documentation noted that in 2006, 47,235 persons were victims of mass arrest while from 26 May 2008-17 June 2008, the joint forces arrested some 23,949 persons.

**30. Freedom of expression:** Repression and harassment of journalists from both state and non-state actors are commonplace. Changes in the patterns of harassment are discernible during the reporting period. Under the BNP-led Government, these took forms both legal and extra-legal. At the most extreme, journalists known for their reporting on the corruption or abuse of power by partisan political groups or powerful economic interests faced murder by unknown actors: the most well-known cases, which are still at the trial stage, include the killing of Manik Saha, BBC stringer, on 15 January 2004, and Humayun Kabir Balu in 2004. In contrast, other journalists faced criminal defamation proceedings throughout 2005-2006.

31. The post-Emergency period saw a shift, with no killings being reported, and very few cases of defamation. The Emergency Powers Rules contain wide-ranging provisions that restrict freedom of expression. Despite assurances by the Caretaker Government that these would not be applied, the reported resort to covert threats has resulted in extensive self-censorship across the print and broadcast media. The EPR also permit the use of intercepted communications, like previous legislation, the Bangladesh Telecommunications (Amendment) Act 2006.

32. In 2007, journalists faced arbitrary arrest and custodial torture, in some cases without any formal charge, including Tasnim Khalil, a Dhaka-based freelance journalist, and Jahangir Alam Akash of Rajshahi. One of the most chilling instances of censorship during the Emergency involved the threat of cancellation of the declaration of a newspaper, and public apologies by its Editors to Islamists, following publication of a cartoon already in circulation. The freelance cartoonist, Arifur Rahman, 23,

was arrested on 18 September, 2007, following demonstrations on the streets by Islamist groups and imprisoned for almost six months before being acquitted.

33. Incidents of physical assault on the journalists have been common both pre- and post-Emergency. In 2005, four journalists were killed, 163 received death threats, and 214 faced threats, harassments and attack by different actors including law enforcing agencies and terrorists<sup>ii</sup>. In 2006, four journalists were killed, 48 received death threats, two faced attempted kidnapping, 80 received threats/harassed by law enforcing agencies and 97 by terrorists.<sup>iii</sup> In 2007, three were killed, 56 received threats to life, 239 faced harassment. In January-June 2008, eight journalists faced death threats and 47 reportedly experienced harassment.

34. The autonomy of state run Radio and Television has not been secured by any government to date, despite longstanding public demands. However, many private channels and newspapers were established in the period prior to 2007 – in many cases without any visible compliance with relevant regulations or licensing procedures, and through clear distribution of patronage by the then ruling party – and since then several have faced closure, or transfer of management, reportedly due to reduction of funding sources (Ajker Kagoj), or other reasons (CSB News).

**35. Freedom of association and peaceful assembly:** Both before and during the Emergency, the BNP-led Government and later the Caretaker Government resorted to the practice of ‘mass arrests’ in an apparent bid to prevent rallies and demonstrations by opposition parties. In 2005, the police arrested hundreds of persons on the eve of scheduled rallies, ‘long marches’ or ‘sieges of Dhaka city’ announced by the Awami League-led Fourteen Party Alliance. The resulting arrests affected both political activists and other citizens. Another police practice, of arresting individuals in relation to complaints which name thousands of ‘un-named people’ as the accused, utilized earlier has also been frequently resorted to by the current Government, to restrict freedom of assembly or following public protests (as in August 2007).

36. As noted below, in addition to political party members, workers protesting non-payment of arrears, or the closure of jute mills, as well as farmers demonstrating for distribution of fertilizer have also faced brutal violence from the law-enforcing agencies. In contrast, Islamist groups such as Hizbut Tahrir demonstrating in 2007 - in clear violation of the Emergency Regulations – and inciting violence and hatred against journalists, or condemning the National Women’s Policy, have been able to hold public demonstrations without any interference; a similar latitude has been given to other Islamist groups such as the Jamaat e Islami holding rallies in 2008 on release of their leaders following arrest on charges of corruption.

37. Rights to freedom of association were often restricted under the previous Government, with Government refusing to release funds to several prominent NGOs (such as Proshika, PRIP Trust, BNPS), or obstructing their operations through implicating their management and staff in false criminal cases, and subjecting them to prolonged persecution.<sup>iv</sup> Under the Emergency, while several NGOs have continued to face such threats, others have faced direct interference in the form of arbitrary arrest and detention, or threats of arrest, of their management (see the experience of Uttaran and Proshika, and NGOs in the CHT). The express prohibitions under the Emergency Regulations have also severely hampered political activities across the country, as have widespread arrests of political activists, many on charges of corruption.

### **Economic and Social Rights**

**38. Right to Food:** The occurrences of two consecutive floods and the SIDR cyclone in 2007 severely affected crops in the Northern and Southern belts, and the ensuing scarcity of food combined with continuing price hikes of food commodities created intolerable burdens on the majority of people. Existing government programmes such as Food for Work, Vulnerable Group Development, Food for Education proved inadequate to the need. Further, and despite the ‘anti-corruption drive’ continuing corruption by state agents acted as a major constraint to the implementation of such programmes. No long or medium term strategies have been adopted as yet to address the causes of *Monga* (seasonal

food crisis). There are also concerns regarding the weak enforcement of laws to ensure safety and non-adulteration of food.

**39. Right to Shelter:** Notwithstanding existing constitutional and international obligations to prevent forced evictions, as well as High Court judgments directing the Government to provide for proper notice and rehabilitation measures before displacement, there have been repeated instances of slum demolition every year. According to ASK documentation, during the period of 2003-2006, 14333 families were evicted from 17 slums. In the immediate aftermath of the promulgation of Emergency, from January 2007-February 27 2007 alone, 8890 families from 21 slums were made shelter-less through evictions. Rights organisations and the media protested forced evictions and following their continuous advocacy, the Government set up a high-level Slum Rehabilitation Committee to identify specific lands and develop a scheme for resettlement; however the scheme is limited in scope, and appears to have made little progress to date. Existing rehabilitation schemes are also not being monitored effectively, with the resulting risk that low cost housing targeted for slum dwellers may be taken over by others.

**40. Right to Livelihood:** In addition to eviction drives on slums, the Caretaker Government has indiscriminately evicted hawkers from pavements and roadsides, particularly at the beginning of 2007. Although the Dhaka City Corporation issued an urgent notification on 11 October 2007 declaring 20 sites to be made available for holiday markets for evicted hawkers, there was no systematic attempt to put in place any alternative rehabilitation measures.

### Concerns of Particular Groups

**41. Women’s Rights:** The continued primacy of personal laws based on religion in matters of inheritance, marriage, divorce, maintenance and child custody and adoption discriminates against women in respect of rights within the family. Citizenship laws also discriminate on their face against women. De facto discrimination in opportunities for education and employment as well as access to resources and to services, in particular healthcare, further impose various barriers on women in exercising their rights. Women face discrimination both in public and private spheres.

Violence - public and private - continues to be a significant feature of the everyday experience of many Bangladeshi women. The statistics presented below take into account only those incidents that have been reported in the media. The actual figures for sexual assault, rape and domestic violence are undoubtedly higher, not least because a widespread culture of intimidation inhibits reporting. Moreover, in cases involving the transgression of ‘sexual honour,’ the fear of social stigmatization discourages making such incidents public.

Table I: Comparative Data on Violence against Women, 2004 - 2007<sup>10</sup>

Category of Violence	2004	2005	2006	2007
Acid Attacks	228	130	142	95
Dowry Related Violence	352	356	334	294
Rape	618	585	515	436
Gang Rape	359	250	226	198
‘Fatwa’-related Violence	35	46	39	35
Domestic Violence	264	333	301	283

42. During the reporting period, Government initiatives on ensuring women’s rights included dialogue towards framing a law on domestic violence, review of PRSP guidelines on gender, and declaration of a revised National Women Development Policy. Continuing concerns related to the state’s failure to ensure effective investigation, prosecution and punishment of those including private actors responsible for acts of violence against women, in particular through the holding of unauthorized tribunals pronouncing and executing illegal penalties in the form of ‘fatwas’.

<sup>10</sup> ASK Documentation Unit.

**43. Child Rights:** Numerous challenges remain in ensuring child rights. One of the most serious is the pervasiveness of child labour. Under applicable laws the age bar for prohibition of child labour varies from 14 to 18 years and is not effectively enforced. In practice, one in every eight children in the country is a working child.<sup>11</sup> Nearly one-fifth of children from slum and tribal areas are engaged as child labour to earn a livelihood for themselves and their families. A quarter of children engaged in child labour do not attend schools.<sup>12</sup> Existing estimates also suggest that 149,000 children are engaged in five hazardous industries – welding, auto-workshops, road transport, battery recharging and recycling. They are also found in *bidi* (hand-rolled cigarettes) factories, construction industry including brick breaking, leather tanneries, fisheries, agriculture and informal sector and in domestic services.<sup>13</sup> Between the ages of 5 and 14 years approximately 6.6 million children are engaged in labour force in the country.<sup>14</sup>

**44. Prisoners’ Rights:** Prisoners’ rights are mostly disregarded in practice, despite detailed legal safeguards, with most persons incarcerated in unsafe, overcrowded cells with inadequate ventilation or sanitation. Reportedly, the number of prisoners in November 2006 was 66,778, two and a half times in excess of the total capacity. Among them, the number of women prisoners was 2,219 against a capacity of 1,131<sup>15</sup>. Continued reports of children being held in jails, as well as of foreign prisoners being detained even beyond the expiry of their sentences, and of persons with mental illness being imprisoned for prolonged periods, as well as under-trial prisoners lacking legal aid resulted in repeated directives from the High Court Division following public interest litigation by human rights organisations, but little systematic action was taken to address these issues or release the persons affected.

**45. Workers’ Rights:** Despite national and international obligations to protect workers’ rights, including under the new Labour Code 2006, lax implementation and a flawed monitoring mechanism result in frequent violations. Significantly, current labour legislation does not cover workers in the informal sector, or those who are employed in domestic work.

46. The most common violations in the industrial sector include failure to provide formal appointment letters, delays in payment of wages, failure to pay for overtime hours, failure to provide maternity leave and inadequate childcare facilities. In recent years, employer negligence has resulted in numerous workplace injuries and deaths (see Table below). Recent incidents which remain without legal redress include the burning to death on 7 January, 2005, of 23 workers of Shaan Knitting and Processing Limited at Godnail, Narayangonj, after a factory fire;<sup>16</sup> the 11 April, 2005, collapse of the building that housed Spectrum Sweater Industries in Polashbari, Savar killing sixty four workers, and injuring approximately 80;<sup>17</sup> and the 23 February 2006 fire in KTS Textile and Garments Ltd. in Chittagong, in which 65 workers died and over 150 were injured.<sup>18</sup>

**Table X: Workplace Deaths in 2007<sup>19</sup>**

<b>Sector</b>	<b>Number of Deaths</b>
Construction	107
Manufacturing	68
Service	36
Ship-breaking	6
Miscellaneous (including port, inland shipping)	12
<b>TOTAL</b>	<b>229</b>

<sup>11</sup> UNICEF, 2007

<sup>12</sup> UNICEF, 2007.

<sup>13</sup> ILO-IPEC, 2004.

<sup>14</sup> The Global March against Child Labour, 2007.

<sup>15</sup> ASK, Human Rights in Bangladesh 2005, ASK, Dhaka 2006.

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

<sup>18</sup> ASK, Human Rights in Bangladesh 2006, ASK Dhaka, 2007.

<sup>19</sup> This is the result of monitoring of national newspapers by Occupational Safety Health and Environment Foundation and the Bangladesh Institute for Labour Studies.

47. The rights to assembly and to association are frequently flouted, and the use of violence and intimidation by law-enforcing agencies to suppress worker protests is not uncommon (see box). Under the State of Emergency, the express prohibition on public meetings and demonstrations, and on trade union activities, has further hampered an already repressive climate for the enforcement of labour rights. Thus, on 20 May 2007, a garment worker, Asma Akhtar, 25, from Patuakhali, of Fortuna Apparels Ltd., was killed when police opened fire on workers demonstrating for payment of overtime arrears and monthly salaries in front of their factory in Gazipur.<sup>20</sup>

48. On 9 August, 2007 the police baton-charged 600 workers who had been demanding arrears for over three weeks at Amin Jute Mills in Chittagong, and reportedly assaulted ten workers, and arrested 18 persons, including five injured workers. Reportedly many of those injured stayed decided to forgo medical treatment at government run facilities for fear of arrested.<sup>21</sup>

49. Privatization policies pursued by the government, as part of World Bank and IMF conditionalities, have led to the closure of many state owned jute mills. In 2002, 30,000 workers were retrenched following the closure of Adamjee Jute Mills. In 2007, the four jute mills in Khulna area were closed down with hundreds of workers losing their jobs. The process of retrenchment has been brutal with retrenched workers rarely adequately compensated, and in some instances workers demanding arrears facing violence from the police. No steps have been taken to retrain or place them elsewhere.

50. Bangladeshi migrant workers, who are currently employed in 13 countries of the Middle East and South East Asia, as well as in Europe and North America, are subjected to multiple rights violations. At the pre-departure stage, local recruiting agencies over-charge them for fares, medical tests, visa fees and other levies, and deny them information regarding their terms of employment. In the countries of employment, they are reportedly underpaid, forced to work long hours in hazardous conditions, compelled to live in poor housing and often vulnerable to violence, including sexual harassment, and their mobility restricted, with passports often retained by employers.. Undocumented workers are especially vulnerable to sudden deportation. Lack of transparency in the operation of the migrant workers' welfare fund has allowed for its misuse.

51. Currently, Bangladesh's bilateral agreements with employing countries provide little protection for workers. Existing laws, such as the Emigration Ordinance of 1982 and its Rules 2002 are not fully enforced; they require further revision to incorporate a worker's rights perspective. Existing mechanisms for protection of migrant workers' rights, such as the Ministry of Expatriate Welfare and Overseas Employment or the Bureau of Manpower, Employment and Training (mandated to regulate recruiting agencies and facilitate movement of migrant workers) are weak in their operations, and there is little accountability of recruiting agencies for violation of laws or abusive practices. Bangladeshi consular officials also lack capacity and resources and have been largely ineffective in protecting migrant workers' rights.

## **Discrimination**

**52. Discrimination on grounds of language:** A section of the Bihari Urdu speaking community, which has had a presence in the territories now comprising Bangladesh for six decades, has persistently demanded citizenship rights, and has finally succeeded in obtaining the right to be enrolled as voters following a landmark High Court judgment. However, concerns remain over whether voting rights and citizenship rights would in turn cause new difficulties, with residents of the camps which they have inhabited as stateless persons for so many years, facing a new threat of eviction. The recent crackdown on illegal property by the Caretaker Government had generated a new set of concerns as some 'Bihari' communities around the country have already felt the brunt of these efforts, posing a new challenge for integration with dignity. The community also faces discrimination with regard to access to employment, education and healthcare as well as in relation to language.

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<sup>20</sup> ASK, *Human Rights in Bangladesh 2007*, [www.askbd.org](http://www.askbd.org).

<sup>21</sup> Ibid

**53. Discrimination on grounds of Race or Ethnicity:** The estimated of 2.5-3 million<sup>22</sup> indigenous peoples of Bangladesh, popularly known as Adivasis (in the plains) and ‘Paharis’ (in the Chittagong Hill Tracts) constitute at least 45 distinct ethnic and linguistic groups, and face continuing discrimination in terms ongoing land encroachment and eviction, often in the name of development (eco-parks, plantations, construction of infrastructure), discrimination in access to justice and protection of the law.

54. Recent examples of land-grabbing in the plains include the April 2006 incident in which 10 Khasi families of South Shahbajpur union Baralekha upazila, Moulvibazar district, were reportedly induced to sign false documents by a local tea estate authority that resulted in their being deprived of their homesteads and *betel leaf gardens*. In another incident, in November 2007, about 50 indigenous Oraon families of Kazipara village, Dibar union, Patnitala upazila, Naogaon district faced an attack by local Bengalis, resulting in 17 houses being burnt to ashes and 15 Oraons including women facing severe injuries. Most recently in April 2008, following an arson attack in Sajek union, under Baghaichari upazila Rangamati district in the CHT, a number of Pahari homes were burnt to the ground. No public inquiries have as yet been held into the causes of any of these incidents nor have any effective remedies been provided.

55. In several cases, those who have sought to resist such land expropriation have risked arrest, ill-treatment and death. For example, Rang Lai Mro, an elected local government official and community leader as well as respected human rights defender, from the remote areas of Bandarban District, CHT, was allegedly falsely implicated in a criminal case, arrested and ill-treated, and is currently imprisoned following his attempt to draw public attention to one such case. Earlier, Piren Snal of the Garo community, was fired upon by police in 03 January 2004 while protesting the development of an eco-park; no reparations have been made as yet in this case. Most recently, Cholesh Richil, a local community leader of the Garo community, died reportedly following custodial torture by the security forces after being arrested on 18 March 2007. The judicial inquiry commission established in the face of public condemnation by human rights groups has not as yet published its report.

56. During the period of Emergency, human rights defenders active in the CHT have faced particular difficulties in conducting their operations, with several being targeted for arrest and questioning in a form of apparent racial profiling following the abduction of a donor agency official in the area. In addition, prominent members of political parties primarily comprised of indigenous peoples of the CHT such as the JSS and the UPDF have also faced arrest and detention or the threat of imprisonment.

57. The 1997 Chittagong Hill Tracts Accord signed between the Government of Bangladesh and the Parbattya Chattagram Jana Sanghati Samiti (PCJSS) that ended the twenty year insurgency in the south-western region which is home to over thirteen indigenous communities (Adivasis) has now entered its eleventh year with few signs of implementation. Despite promises by the current Caretaker Government, the Land Disputes Resolution Commission has not yet been activated, pending demands for amendment of the enabling law. While a few “temporary camps” of the security forces (Army, BDR, Armed Police Battalions) have been withdrawn from the area, the majority remain. Further, full control of local civil and police administration to the three Hill District Councils has yet to take place.<sup>23</sup>

**58. Religious Discrimination:** Discrimination against religious minorities continues to be pervasive in the form of very limited representation in public employment or office, as well as in terms of opportunities in educational institutions.

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<sup>22</sup> According to 1991 Bangladesh Census, the size of the Indigenous population is 1.2 million, which many indigenous activist believe to be a gross under-estimation.

<sup>23</sup> "Demand for full implementation of CHT accord", Shantimoy Chakma, Daily Star, 2 December, 2007; "Shantu Larma meets with Iftekhar Ahmed Chowdhury about implementation of Peace Accord", Samokal, 30 March, 2007.

There have also been a number of incidents of interference with the practice of their religion by certain groups. For example, during 2004-2005, under the BNP-Jamaat Government, Islamist groups attacked individuals and places of worship (in Nakhhalpara, Dhaka; Chawk Bazar, Chittagong; Nirala, Khulna, Bogra) of the Ahmadiya community. In one instance, the police reportedly responded to the demand of the Islamist groups and hung a signboard which read: "This is not a mosque, it is a Kadiani Place of Worship. No Muslim should be deceived into presuming this to be a mosque". The then Government failed to take any action against those responsible, and in several instances member of civil society gathered to protect the buildings concerned. On 8 January 2004, the Government (Ministry of Home) imposed a ban on certain publications of the Ahmadiya Muslim Jamaat Bangladesh, following on a demand by in Islamist groups campaigning for the Ahmadiya groups. Following public interest litigation by several human rights groups, the High Court stayed the operation of the ban.

59. Religious and ethnic minorities have faced the most severe discrimination in the form of expropriation of their lands for over almost four decades starting from 1965 through abuse and arbitrary application of the Enemy Property Act 1965/Vested Property Act 1974. Following widespread condemnation and studies identifying its discriminatory impact, the Vested Property Restoration Act 2001 provided for the Government to publish the lists of all 'vested property' within 18 months. However, this time limit was removed by the then Government in 2002, and as a result the Act remains a powerful weapon against minorities. A 2006 Study estimated that from 1965 to 2006 almost 1,200,000 Hindu households lost about 2,600,000 acres land and other movable properties as a result, among whom about 200,000 Hindu households lost their land between the year 2001 to 2006.<sup>24</sup> A recent initiative to further amend this Act has been criticized by human rights organizations including ASK, BLAST, Nijera Kori and ALRD as likely to create further complications and obstacles to restoration of such property.

**60. Caste-based Discrimination:** Despite the constitutional prohibition on caste-based discrimination, the day-to-day lives of Dalits in Bangladesh – among both Hindu and Muslim communities -- still consists of subjection to segregation, exploitation, restrictions on livelihoods and access to services, land grabbing, destruction of houses, intimidation, ongoing violence, and sometimes rape and murder. Considered 'unclean', the Dalits are compelled to live set apart from other so-called 'clean' groups in their own neighborhoods. They face regular denial of access to public spaces, including mosques, temples, shops and restaurants. They may risk sanctions, commonly violent, on handling ordinary domestic items used by non-Dalits in these spaces. Most disturbingly, the perpetrators of such violence usually go unpunished by the state.

61. Dalits also face discrimination and lack of access to basic economic and social rights. Over 60 per cent of Dalits in Bangladesh are reportedly deprived of education, and thus trapped them in a cycle of poverty and exploitation. Those able to find their way into Bangladesh's education system in turn often face discriminatory behaviour from students and school administrators. Many young Dalits thus discontinue their education well before graduation thus losing any possibility of finding secure employment. Many Dalits face a crisis regarding shelter. Social, economic and religious pressures coupled with systematic non-enforcement of the law result in Bangladesh's Dalits being pushed to the limits of the cities, living precariously on the sides of railroads or in reeking, garbage-ridden, densely populated state-sanctioned housing "colonies" (30 such in Dhaka alone). A symptom of the deplorable quality of colony life is the number of Dalit people, particularly children, who die annually from ailments, including malnutrition, diarrhea, typhoid, cholera, tuberculosis, and pneumonia, otherwise by and large treatable from a simple visit to a hospital or doctor. The wider population's perception of Dalits is indeed 'of a different kind'; a perception in turn *de facto* sanctioned by the state.<sup>25</sup>

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<sup>24</sup> Dr. Abul Barkat, *An Inquiry into the Causes and Consequences of Deprivation of Hindu Minorities in Bangladesh through the Vested Property Act*, ALRD, Dhaka 2006.

<sup>25</sup> This section is drawn from a regional study on caste-based discrimination in South Asia by the Indian Institute of Dalit Studies (IIDS) in association with IDSN, 2008, and from the country study on Bangladesh by Iftekhar Uddin Chowdhury.

**62. Disability-based Discrimination:** Significant measures to recognize and further the rights of persons with disabilities include the establishment of 46 focal points in ministries and departments on disability issues, restructuring of the National Disability and Development Foundation (NDDF) as an autonomous body, and the separate identification in the electoral roll of voters with disabilities, by including related information in the voter registration forms, and taking special measures to facilitate registration and issuance of ID cards, following home visits by enumerators.

63. Continuing concerns include the continued application of discriminatory laws (such as the Lunacy Act 1912 which results in gross violations of the rights of persons with intellectual disabilities and persons with mental illness), the lack of enforcement of laws and to activate existing mechanisms, to deliver services and change perceptions and attitudes in order to address the practical realities of the lives of people with disabilities and the continued focus of the Ministry of Social Welfare on disability issues (instead of mainstreaming the issue across Government). The lack of accurate national data on the total number of persons with disabilities and on different areas of disability-based discrimination prevent in-depth analysis and targeted planning.

64. Particular concerns relate to existing employment restrictions (eg on physical fitness requirements for assistant judges),<sup>26</sup> the failure to comply with existing quotas (eg for primary school recruitment) and the absence of affirmative action (10% job quotas in the public sector have been demanded by disability rights advocates).

65. Lack of access to mainstream primary education affects some 96 percent of children with disabilities;<sup>27</sup> the very limited numbers of special schools operated by the Government (Department of Social Services) reportedly do not maintain standards and are not regulated by the Ministry of Education.<sup>28</sup> There is no planning or provision for secondary school education for persons with disabilities. Lack of access to buildings remains a serious issue, due to non-compliance with existing laws (such as the Building Construction Rules 1996 and the Dhaka Mohanagar Building Construction Rules 2006 which require ramps in both public and private buildings).

66. Access to justice is often obstructed for persons with disabilities, leaving them with little remedy in cases of violence against the person or property: for example, in 2006, some 69 persons, mostly women, were reportedly victims of murder, rape, sexual harassment, dowry, torture, cheating, kidnapping, extortion, eviction and property grabbing and no statistics were available on whether such cases had been properly investigated or prosecuted.<sup>29</sup> Persons with disabilities are denied equal protection of the law, as there are no practical arrangements take evidence from persons with hearing difficulties, intellectual difficulties or those who are visually challenged, neither is Bangla Sign language permitted to be used.

#### **IV. COOPERATION WITH HUMAN RIGHTS MECHANISMS**

**67. Cooperation with treaty bodies:** Bangladesh is currently due to submit twelve separate reports to various treaty monitoring bodies (including its initial reports to the Human Rights Committee, CESCR and the CAT Committee). To date it has only submitted such reports to the CERD, CEDAW and CRC Committees. (See **Annex 4**, List of reports from Bangladesh submitted to and considered by Treaty Monitoring Bodies).

68. Bangladesh has so far made limited progress in implementing recommendations of the treaty bodies. With regards to the CERD Committee recommendations, little progress has been made on implementation of the CHT Accord (see below) in the reporting period. While the current

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26 Job advertisement for Assistant Judges issued by the Judicial Service Commission, Prothom Alo, 2 August 2007.

<sup>27</sup> See ESTEEM II project study of the Primary and Mass Education Department, Ministry of Education, Government of Bangladesh, 2002.

<sup>28</sup> ASK, *Human Rights in Bangladesh 2006*, ASK, Dhaka, 2007, page 203.

<sup>29</sup> ASK, *Human Rights in Bangladesh 2006*, ASK Dhaka, 2007, page 203.

Government has complied with a High Court judgment to establish civil courts in the CHT, much remains to be done in practice to ensure equal protection of the law without discrimination on grounds of race and ethnicity or language. With regard to the 2004 CEDAW Committee's recommendations, there have been no steps taken towards withdrawal of reservations to CEDAW. Further, the draft citizenship law eliminates gender-discrimination only regarding transmission of nationality to children, and not to spouses; further, no action was taken by the last elected Government or the present one to enact the law to date. Again, despite a dialogue between the current Government and women's rights groups on the need for a law on domestic violence, there has been no progress yet on framing a law, in this regard, or in respect of reform of gender-discriminatory personal laws. With regard to the 2003 CRC Committee recommendations, the age of minimum criminal responsibility has been raised from seven to nine, but no steps have been taken to date to fix a minimum age for admission to employment, in line with internationally accepted standards, or as noted earlier, to amend legislation to enable transmission of citizenship without gender-discrimination, to prohibit corporal punishment, or to adopt national refugee legislation and accede to the Refugee Convention, or to establish a child-sensitive complaints system. (See **Annex 5**: Recent Concluding Comments by CERD, CEDAW and CRC Committees on Bangladesh's Compliance with International Treaty Obligations).

**69. Co-operation with Special Procedures:** Bangladesh generally has not co-operated effectively with the UN Special Procedures on human rights. Thus within the reporting period only the Special Rapporteur on the Right to Food (2007) has visited Bangladesh, while others have not yet received any response to their request for visits (see **Annex 6**, Special Procedures and Bangladesh).

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**Member Organizations of the Forum**

1. Ain o Salish Kendra (ASK), Secretariat
2. Acid Survivors Foundation (ASF)
3. Bangladesh Mohila Parishad (BMP)
4. Bangladesh Institute of Labour Studies (BILS)
5. Bangladesh Legal Aid & Services Trust (BLAST)
6. Bangladesh Dalit and Excluded Rights Movement (BDERM)
7. Centre for Rehabilitation of Torture Survivors (CRTS)
8. D.Net (Development Research Network)
9. Karmojibi Nari (KN)
10. Nagorik Uddyog
11. Nari Uddoyog Kendra (NUK)
12. Nijera Kori
13. Nari Pokkho
14. National Forum of Organizations working with the Disabled (NFOWD)
15. Research and Development Collective (RDC)
16. Steps Towards Development (Steps)
17. Transparency International Bangladesh (TI-B)

The UPR Report has been prepared on behalf of the Members by its Secretariat at Ain o Salish Kendra, with editing by Ms Sara Hossain, and contributions by Dr. Meghna Guhathakurta, Zakir Hossain, Dr. Hameeda Hossain, Dr. Rayhan Rashid, Dr. Dina Siddiqi, Shirin Sultana, Dr. Nowrin Tamanna and Dr. Ahmed Ziauddin. The Editorial Team included Mr Iftequaruzzman, Dr Mesbah Kamal and Ms Sultana Kamal.

## List of Bangladesh's Ratification of International Human Rights Treaties

Core international human rights treaties	Ratification / Accession (a)/succession	Declaration/reservations
ICERD <sup>vi</sup>	11 June 1979 (a)	
ICESCR <sup>vii</sup>	5 October 1998 (a)	<u>Declarations:</u> Article 1(Right of self determination), 2(state obligations to guarantee the rights enunciated in the Covenant),3(Equality of men and women), 7(the right to the enjoyment of just and favourable conditions of work), 8 (The right of trade unions) 10(Right to Family and protection of mother and child) and 13 (the right of everyone to education)
ICCPR <sup>viii</sup>	6 September 2000 (a)	<u>Declarations:</u> Article 10(prisoners' rights), 11(prohibition of imprisonment merely on the ground of inability to fulfil a contractual obligation),.and 14(safeguard as to trial and punishment) <u>Reservation:</u> Article 14 (no trial in absentia)
Optional Protocol to ICCPR (Individual complaints)	Not yet ratified	
Second Optional Protocol to ICCPR (abolishing death penalty)	Not yet ratified	
CEDAW <sup>ix</sup>	6 November 1984 (a)	<u>Reservation:</u> Articles 2 (Principle of non discrimination and elimination of discrimination against women and 16 (1)(c) (Elimination of discrimination against women in all matters relating to marriage and family relations, in particular the same rights and responsibilities during marriage and its dissolution)
Optional Protocol to CEDAW	6 September 2000	<u>Declaration</u> Article 10 (1) (Regarding obligations under Articles 8 and 9 of the Optional Protocol – inquiry procedure)
CAT <sup>x</sup>	5 October 1998 (a)	<u>Reservation:</u> Article 14 Para 1 right to fair and adequate compensation to the victim of torture
Optional Protocol to CAT (allowing in-country inspections of places of detention)	Not yet ratified	
CRC <sup>xi</sup>	3 August 1990	<u>Reservations</u> Article 14(1)- the right of the child to freedom of thought, conscience and religion and article 21- the adoption of a child
OP-CRC-AC <sup>xii</sup>	6 September 2000	<u>Declaration:</u> Article 3 (2)- minimum age for the recruitment of armed forces
OP-CRC-SC <sup>xiii</sup>	6 September 2000	
Convention on the Rights of persons with Disabilities	30 November 2007(R)	
Optional Protocol (OP) to the Convention on the Rights of persons with Disabilities	Not yet ratified	

CMW <sup>xiv</sup>	7 October 1998 (Signed) – not yet ratified	
Convention for the Protection of All Persons from Enforced Disappearance	Not yet ratified	
Rome Statute of the International Criminal Court	16 September 1999 (signed)	
Convention on the Prevention and Punishment of the Crime of Genocide	5 October 1998 (a)	
Four Geneva Conventions and their protocols	4 April 1972 (s)	
Protocol 1 to the Geneva Conventions	8 September 1980 (a)	
Protocol 11 to the Geneva Conventions	8 September 1980 (a)	
ILO Conventions Nos 29,87,98,100,105, 107, 11	State party to all these conventions	
Convention on the Political Rights of Women, 1953	5 October 1998	
Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages, 1962	5 October 1998	
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1950	11 January 1985 (a)	
Slavery Convention, 1926 and subsequent Protocols	7 January 1985	
UNESCO Convention against Discrimination in Education, 1960	Not yet ratified	
Convention Relating to the Status of Refugees, 1951	Not yet ratified	
ILO Convention No. 138	Not yet ratified	

<sup>1</sup> International Convention on the Elimination of All Forms of Racial Discrimination

<sup>1</sup> International Covenant on Economic, Social and Cultural Rights

<sup>1</sup> International Covenant on Civil and Political Rights

<sup>1</sup> Convention on the Elimination of All Forms of Discrimination against Women

<sup>1</sup> Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment

<sup>1</sup> Convention on the Rights of the Child

<sup>1</sup> Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

<sup>1</sup> Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography

<sup>1</sup> International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

## **Voluntary Pledges made by Bangladesh prior to the Human Rights Council Election 2006**

If elected to the Human Rights Council, Bangladesh would:

- I. Extend its fullest cooperation to the Council in its work of the promotion and protection of all human rights and fundamental freedoms for all without distinction of any kind and in a fair and equal manner.
- II. Support the Council in its work guided by the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation.
- III. Emphasize on meaningful dialogue and cooperation with the Member States, as well as on advisory services, technical assistance and capacity building required to fulfill their human rights obligations.
- IV. Actively participate in the Council's work to review and rationalize and improve the Commission's mandates, mechanisms, functions and responsibilities.
- V. Remain prepared to be reviewed under the universal periodic review mechanism during its tenure in the Council under terms, conditions and modalities to be developed by the Council.
- VI. Continue its journey towards development of its entire people with particular attention to empowerment of women and other vulnerable sections of the population, primarily through the application of indigenous concepts.
- VII. Strengthen its fight against corruption and also against terrorism. She would continue to ensure independence of the Anti-Corruption Commission.
- VIII. Intensify its efforts, while formulating its national policies and strategies, to uphold the fundamental principles enshrined in the constitution, those of the Universal Declaration of Human Rights, as well as those of the international and regional human rights instruments to which she is a party.
- IX. Strengthen its efforts to meet its obligations under the treaty bodies to which she is a party.
- X. Contemplate adhering to the remaining international and regional human rights instruments.
- XI. Continue to cooperate with the special procedures and mechanisms of the Council with a view to further improve its human rights situations.
- XII. Continue to promote the constructive role of the NGOs in the work of the Council, and would strive to promote effective participation of the NGOs from developing countries in the work of the Council.
- XIII. Endeavor to further integrate the promotion and protection of human rights and fundamental freedoms into her national policies, including that on development and poverty eradication, with special focus on the rights of women, children, minorities and persons with disabilities.
- XIV. Continue to work towards further strengthening and consolidating the institutional structures that promote good governance, democracy, human rights and rule of law.
- XV. Continue to endeavour, through its national development policies, to ensure provision of the basic necessities of her people including food, clothing, shelter, education and primary health care.
- XVI. Establish the National Human Rights Commission as soon as possible.
- XVII. Separate the judiciary and the executive as soon as feasible.

## Annex 4

### **List of reports by Bangladesh submitted and considered by UN Treaty Monitoring Bodies**

Treaty Body	Latest report submitted and considered	Latest concluding observations	Report due
HR Committee			2 Reports due including the initial report
CESCR			2 reports due including the initial report
CERD	Seventh, eighth, ninth, tenth and eleventh periodic report: Due on July 1992, Submitted on March 2000 and examined on March 2001	March 2001	Three Periodic reports due
CEDAW	Fifth periodic report, due on December 2001, submitted on December 2002, examined on July 2004	July 2004	Combined Sixth & Seventh periodic report due on 06/12/2009
CRC	Submitted third and fourth periodic report on 04/09/2007	September 2003	1 Report due on 01/09/2007
OP-CRC-AC	Initial report submitted on 16/11/2004	January 2006	
OP-CRC-SC	Initial report submitted on 12/12/2005	5 July 2005	
CAT			3 Reports due including the Initial report which was due on 04/11/99

## Annex 5

### **Recent Concluding Comments by CERD, CEDAW and CRC Committees on Bangladesh's Compliance with International Treaty Obligations**

The **Committee on CERD**, in its last concluding comments on the 2001 Bangladesh report, made the following recommendations:

- Give full effect to the provisions of article 4 of the Convention in [the state party's] domestic legal order, ensure penalization of acts of racial discrimination, and ensure access to effective protection and remedies under article 6 of the Convention through competent national tribunals and State institutions besides the High Court Division of the Supreme Court, in respect of acts of racial discrimination.

- Implement effective measures to guarantee to all Bangladeshis, without distinction based on race, colour, descent, or national or ethnic origin, the right to security of person and protection by the State against violence or bodily harm.
- Intensify its efforts in this regard and recommends that the State party provide in its next report details regarding, inter alia, the work of the Chittagong Hill Tracts Regional Council, the effective results of the work of the Land Commission, the repatriation and rehabilitation of refugees and internally displaced persons in the Chittagong Hill Tracts, the work of the Special Task Force on Internally Displaced Persons, the resettlement of Bengali settlers outside the Chittagong Hill Tracts pursuant to the deliberations of the Land Commission, and the process of withdrawal of security forces from the Chittagong Hill Tracts.
- Include in its next report relevant information about the enjoyment of the rights contained in article 5 of the Convention by all groups, including castes.
- to continue to take steps to strengthen awareness about human rights in general, and the Convention in particular, through education.
- Undertake training in the provisions of the Convention in the training programmes of law enforcement officials.
- Provide in subsequent reports, inter alia, information about jurisprudence relating specifically to violations of the Convention, including the awarding by courts of adequate reparation for such violations.
- Ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties.

The **CEDAW Committee**, in its last concluding observations on the 2004 state party report, made the following recommendations:

- Expedite the decision on the withdrawal of the remaining reservations to the Convention within a concrete time frame;
- Adopt the definition of discrimination against women in conformity with article 1 of the Convention;
- Adopt specific legislation on domestic violence within a clear time frame;
- Adopt without delay a uniform Family Code that fully complies with the provisions of the Convention; and
- Ensure that a new citizenship law, which is in line with article 9 of the Convention, is adopted without delay, in order to eliminate all provisions that discriminate against women in the area of nationality.

The **Committee on CRC**, in its last concluding observations on the 2003 Bangladesh report, made the following recommendations:

- Take all effective measures to harmonize its domestic legislation fully with the provisions and principles of the Convention, in particular with regard to existing minimum ages of criminal responsibility and of marriage, child labour and harmful traditional practices affecting children and raise the minimum age of criminal responsibility to an internationally acceptable level;
- Expedite the establishment of the Directorate for Children's Affairs;
- Expedite the process to establish an independent and effective mechanism in accordance with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles, General Assembly resolution 48/134, annex) and the Committee's General Comment No. 2 on the role of independent human rights institutions;

- Fix a minimum age for admission to employment, in line with internationally accepted standards;
- Ensure that domestic legislation on minimum ages is respected and implemented throughout the country;
- Amend its legislation so that citizenship can be passed on to children from either their father or their mother. It also encourages the State party to introduce proactive measures to prevent statelessness;
- Review existing legislation and explicitly prohibit all forms of corporal punishment in the family, schools and institutions, as well as carry out public education campaigns about the negative consequences of ill-treatment of children, and promote positive, non-violent forms of discipline as an alternative to corporal punishment, particularly at the local level and in traditional communities;
- Adopt national refugee legislation and accede to the Convention relating to the Status of Refugees of 1951 and its Protocol of 1967;
- Establish an independent child-sensitive and accessible system for the reception and processing of complaints by children.

## Annex 6

### **Invitations to and Visits by Special Procedures**

Standing Invitation	No
Latest visit or Mission Reports	SR on the right to food in 2002, Report E/CN.4/2004/10/Add.1
Visits requested but not agreed upon	(R in 2005) SR on adequate housing, (R in 2006) IE on minority issues, (R in 2006) SR on summary executions, (R in 2007) SR on independence of judges and lawyers
Visits agreed upon in principle	(A) SR on freedom of religion, request made in 2003

