FINDINGS

Recently Human Rights Forum Bangladesh submitted a report on the human rights situation of the country from 2009 to 2012 under the universal periodic review of OHCHR. In this report we have included our concerns on the human rights situation of the country and also presented some recommendations to overcome the situation.


Findings of the UPR Report-2013 contain both positive and negative trends of human rights situations in Bangladesh. The report first notes some positive changes in the economic and social rights of citizens (food security, health, education). It then discusses serious concerns in terms of civil and political rights, particularly regarding life and liberty (enforced disappearances, extra-judicial killings, impunity of law enforcement agencies, attacks on opposition political leaders and labor rights activists), freedom of association, assembly and expression, independence of institutions (judiciary, ACC, NHRC) and rights of particular groups (HRDs, women, children, workers, IPs, minorities, dalits and PWDs). This report also compares the delivery of the Government against commitments made at the 2009 UPR.

In the following sections an attempt has been made to introduce findings of the UPR report. In the subsequent sections we are also going to share our recommendations which are extremely pertinent for improving human rights situations in Bangladesh.
Economic, Social and Cultural Rights:

Government has made some significant development in the sector of health, food and advancements of the women. But there is also some challenges in the enjoyment of economic, social and cultural rights.

Positive Trends:

✓ Maternal and child mortality rates have been considerably reduced. Reviving of community health centers is another positive development.
✓ Bangladesh is close to attaining food security
✓ The Government has nationalized all registered primary schools, enacted the Private University Act 2010, and adopted the National Education Policy 2010, as well as policies to ban private coaching and corporal punishment in educational institutions. The present Educational Policy decreases the scope for discrimination and provides for the right to mother tongue study for IPs.
✓ The Vested Property (Return) 2011 Act marks an important milestone providing for minorities to reclaim lands which have been expropriated over four decades

Negative Trends

✓ It is matter of concern that general health services remains largely inaccessible for the common people. Misuse, mismanagement and corruption in the health sector still denies people’s rights to access to proper health care facilities. Staff-patient ratio remains high.
✓ Inadequate implementation of the National Food Policy 2006, climate change, food adulteration, lack of application of relevant laws and adequate monitoring, using agricultural land for shrimp and tobacco cultivation and also for housing are becoming serious issues of concern. The Government has in many cases failed to the act against widespread land-grabbing by powerful sectors including the military and local
powerful elites and corporate interests, in particularly affecting the poor and minorities. Land registration remains complicated.

- Bangladesh government has no plan yet adopted for providing adequate shelter for the 2.3 to 3 million slum dwellers in the capital city. Despite High Court guidelines for prior rehabilitation/ resettlement of slum dwellers, forced evictions have continued. In April 2012, approximately 2,000 persons in Korail slum were evicted on less than a day's notice.
- Land occupation remains a widespread concern with land conflicts remaining unresolved in the Chittagong Hill Tracts

**Women’s Human Rights:**

**Positive Trends:**

- Government has adopted the 2011 National Women’s Advancement Development Policy expressly referring to CEDAW, and restoring promises of gender equality in various sectors. New laws addressed domestic violence, human trafficking and marriage registration for Hindus, and enabled Bangladeshi women to transmit citizenship rights to foreign spouses and children.
- High Court directives since 2009 addressed gender discrimination, declaring unconstitutional extra-judicial punishments in the name of ‘fatwa’ (2010), prohibiting forced veiling in educational institutions and workplaces (2010), framing guidelines against sexual harassment in public places (2010), directing verification of birth certificates and/or NIDs for marriage registration to prevent early marriages.

**NEGATIVE TRENDS:**

- Discriminatory policies, ineffective laws or their non-enforcement and social stereotypes contribute to violence against women including domestic violence,
dowry related violence, rape, acid attacks, ‘fatwa’, stalking and sexual harassment.

RIGHTS OF THE RELIGIOUS MINORITIES:

**POSITIVE TRENDS:**
- For ensuring the rights of religious minorities, positive measures included employment and promotion of religious minorities in the public sector, enactment of the Vested Property (Return) Act 2011 and the adoption of the Hindu Marriage Registration Act.

**NEGATIVE TRENDS:**
- The 15th amendment to the Constitution (2011) contravenes the equality guarantee and the fundamental principles of secularism, and renders all religious minorities second-class citizens by making Islam the state religion.
- Serious concerns related to alleged police inaction in upholding law and order following attacks on Hindu temples and a church, incidents of land grabbing and impeding religious programs.
- There were several incidents of torture and harassment of Buddhist monks including in Sajek, Teknaf and recently in Ramu.

Independence of National Institutions

**Negative trends:**
- In 2009, GOB formally separated the lower judiciary from the executive, but this is not fully implemented. There are no criteria for appointment of Supreme Court judges, despite High Court guidelines. The 15th amendment of the Constitution restored the provision of consultation with the Chief Justice but controversies have continued over appointment of the CJ, promotions/ appointments to the Supreme Court and
public prosecutors.

- Concerns also related to the trial of suspects of the 2009 BDR mutiny including allegations of torture to extract confessions, unexplained custodial deaths and mass trials in a non-transparent manner.

- The NHRC rules have not been enacted; it lacks an effective complaint mechanism and a legal panel and is understaffed.

- The Anti-corruption Commission has no code of conduct for staffs, lack of financial independence and political influence in its activities is hindering the independence of the commission.

**Right To Life And Liberty:**

**Negative Concerns:**

- Government has some failures ensuring the right to life and liberty. Especially in the context of extra-judicial killings and disappearances of people. In UPR Recommendation 20 (2009) Bangladesh agreed to bring an end to extra judicial killings by law enforcement agencies, and Foreign Minister Dipu Moni pledged ‘zero-tolerance’. But ASK documentation\(^1\) from January 2009 to September 2012, a total of 156 persons had ‘disappeared’, and 28 of their corpses were found later. However according to the Government official source, the number differs significantly with the statistics of ASK. According to ASK documentation, in the name of crossfire 462 persons were allegedly killed by law enforcing agencies from January 2009 until September 2012. Limon Hossain, a school boy from Jhalkathi, was shot and maimed by the RAB.

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\(^1\) ASK’s documentation is compiled from review & 12 national newspapers and its own investigation
Police allegedly instigated vigilante attacks. News reports documented by ASK showed that in seven instances mobs had been instigated by police to inflict violence on petty criminals. There is allegation that the mob beating of Shamsuddin Milon and six students of Aminbazar at Savar was instigated by the police.

It is also a serious human rights concern that border killing against the Bangladeshi nationals continues at the borders despite of repeated promises from the Indian authority. According to ASK, from January 2009 to June 2012, around 270 Bangladeshi citizens were allegedly killed, 257 tortured and 156 abducted by the BSF at the border between the two countries.

For ensuring road safety the government acted quite reluctantly. It has yet to take strict regulatory measures to prevent accidents by ensuring proper licensing for drivers, improving road conditions, enforcing traffic rules and speed limits.

Prisoners at Jails are living in poor conditions. As of May 2012, the total number of prisoners was about 72,000 against jail capacity of 30,630 which pervades overcrowding, malnutrition, unhygienic conditions, and absence of medical care cause spread of contagious diseases for the prisoners.

Bangladesh has no general witness protection law, though a 2011 amendment to the Rules of Procedure of the International Crimes Tribunal provides for witness protection. Several witnesses at the Tribunal have received threats.
**TRIAL OF THE WAR CRIMINAL: POSITIVE TRENDS**

✓ Government has taken a praiseworthy initiative starting the trial of the war criminals. This will bring a positive advancement in the culture of impunity.

**Freedom of Association and Assembly**

*Negative trends:*

✓ A number of restrictions were placed on NGOs, foreign journalists and human rights activists in the CHT, including on activities of the International CHT Commission, stopping IPs from taking out rallies on World Indigenous Peoples’ Day following a circular issued by the LGRD Ministry, and deportation of three foreigners from the CHT.

✓ GOB cancelled many NGO registrations without a transparent process. The NGO Affairs Bureau initially drafted a new NGO Act that drastically curtailed the independence of Bangladeshi NGOs, and concerns remain until the final version of the Act is enacted.

✓ The Bangladesh Labour Law 2006 does not include agricultural and domestic workers. It also limits union participation in factories. The 1974 Special Powers Act, Anti-Terrorism Act 2009, and Section 54 of the Code of Criminal Procedure are used to detain trade union activists. Arbitrary arrests of garment workers and trade union activists have been followed by false cases filed against trade union leaders.

✓ Although the media enjoys relatively more freedom there have been cases of bans on publication of newspapers and TV stations, restrictions on TV talk show programmes, control over the Internet, including the
social media and disruptions to transmission of broadcast of rallies organized by the opposition.

Moreover, in this report we have also focused on the rights of the Child, Dalits, Disabled peoples, Gender and Sexual minorities, Linguistic minorities and Human Rights Defenders.

**Conformity with International Human Rights Standards**

*Positive trends:*

- In 2009, in the context of the recommendations from other states to sign the international human rights treaties, Bangladesh Government replied that, Bangladesh is party to almost all human rights treaties. Other treaties or Optional Protocols are regularly reviewed for accession or ratification. It is also further mentioned that, this is an on-going process, needing careful considerations. But since 2009, the Government has only ratified the International Criminal Court Statute (ICC) in 2010 and the Convention on Migrant Workers (CMW) in 2011.

*Negative trends:*

It has been said regarding the International Conventions related to the rights of the refugees and indigenous peoples that, although not a party to these conventions, Bangladesh, have consistently upheld its principles and objectives and are regularly reviewing this matter. But till now Bangladesh has not become party to the Refugee Convention, the Optional Protocol on the Status of Refugees and the ILO Convention No 169 on Indigenous and Tribal Peoples 1989. In recent times, Bangladesh refuses to give shelter to the Rohingyas who fled from Myanmar which contradicts to their commitments in 2009.
Repeatedly denying the existence of Indigenous Peoples, refusing to give constitutional recognition to the indigenous peoples, slow progress in implementing of CHT Accord, continued killings, torture, religious persecution, sexual violence against women and children and land dispossession by Bengali settlers and military personnel in the Chittagong Hill Tracts (CHT) and the plainlands, does not complement to the commitments of the Govt.

IPs were not consulted regarding the terminology of the 2010 Small Ethnic Groups Cultural Institutes Act 2010 which recognizes only 27 "small ethnic groups", although indigenous activists claim there are about 50 IP communities nationally.

International Convention for the Protection of All Persons from Enforced Disappearance, the Optional protocol of Convention Against Torture, or despite repeated international commitments, the Government has not withdrawn reservations on article 2 and 16 (1) of CEDAW.

The Way Forward: Our Recommendations

**Economic and Social Rights:**

- Deepen and widen community based health services and ensure accountability in such services and rural health complexes. Engage stake holders in designing health related policies and programs.
- Adopt a national Social Safety Net Policy providing at least 3% of GDP for basic social security schemes; strengthen distribution and coordination to ensure openness, equity and accountability
- Finalize and adopt the draft Urban Sector Policy including time bound measures to ensure tenurial rights for low-income groups and slum-dwellers. Stop all
evictions without alternate arrangement for slum residents.

- Develop adequate educational infrastructure and human resources including well-trained teachers. Enact law on right to education to ensure universal access including incentives for poorer families to send children to school.
- Set up dedicated Special Tribunal for Vested Property Act (VPA) cases, and create awareness of judges and land administrators on VPA.
- Amend the NWDP to ensure women’s equal rights to housing, land and property.

**Civil and Political Rights:**

- Establish an independent commission to ensure transparent and accountable investigation and prosecution of alleged human rights violations by state agencies, and reparations for victims. Ensure “zero tolerance” against extra-judicial killings consistent with official statements. Instigate both criminal and departmental proceedings in case of failure or inaction. Repeal the Special Powers Act, and reform other relevant laws.
- Take strong diplomatic initiatives to stop border killings of Bangladeshi citizens.
- End custodial torture, and other human rights abuses, of prisoners and detainees; promote prison reforms including systematic monitoring of prisons.
- Take urgent road safety measures, prosecute illegal issue of license of vehicles and regulate fitness of public transport.

**Freedom of Association and Assembly:**

- Allow trade unions to operate freely.
- No new laws should be enacted to affect the work of NGOs without engaging concerned stakeholders, particularly NGOs.
- Ensure full autonomy of state-run media. Ensure
journalists can discharge professional duties freely and without harassment.

**Independence of National Institutions:**
- Strengthen watchdog institutions and ensure their independent operations and adequate resources.
- Respect constitutional principles (Art 96, 97) regarding seniority in appointing the Chief Justice of Bangladesh. Establish an independent secretariat to support the Judicial Services Commission regarding appointments to the lower judiciary. Enact specific guidelines for appointing Supreme Court judges, eliminating discrimination or partisan influence in all appointments in the justice system.
- Adopt NHRC rules, provide adequate human resources and allow it to investigate violations by security agencies. Adopt a strategic plan to protect HRDs, including special complaint handling mechanism with dedicated staff and confidentiality.

**Rights of the Indigenous Peoples, Minorities and Vulnerable groups:**
- Amend the Children Act 1974 reflecting needs-based and rights-based approach; appoint a Children’s Ombudsperson; end child labour and ensure children’s free access to health and education.
- Adopt Domestic Workers’ Welfare Policy; and include informal workers within Labour Laws, and ensure effective enforcement. Provide protection for migrant workers and establish specialized training institutions.
- Give constitutional recognition to the identity and integrity of IPs.
- Establish a Land Commission for plains IPs, and activate CHT Land Commission after amending relevant law.
- Conduct impartial enquiries into all IP rights violations and ensure perpetrators are brought to justice.
✓ Acknowledge existence of sexual and gender minorities and incorporate the issue in relevant Policies/Plans. Decriminalize consensual adult same-sex activities by abolishing section 377 of the Penal Code.

✓ Criminalise ‘untouchability’ and discriminatory practices, pursuant to Convention against Racial discrimination’s general recommendation No. 29 (2002). Adopt a national action plan to eliminate work and descent-based discrimination.

✓ Ratify the 1951 Refugee Convention and deal with refugees from a human rights perspective.


✓ Withdraw reservations to CAT, CEDAW, CERD, CRC, ICCPR, ICESCR.