

# Bangladesh UPR Stakeholders Report



Human Rights Forum Bangladesh  
Dialogue with Diplomats  
12 February 2013

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# Context

- Initial review of Bangladesh – Feb 2009
- 42 Recommendations (Working Group Report)
- GoB Responses
  - 35 = Accepted
  - 4 = rejected
  - 6 = no clear position
- Pre-Sessional Discussion March 2013
- Review of Bangladesh May 2013

# ABOUT THE FORUM

# Human Rights Forum- 19 Members

<b>Ain o Shalish Kendra (ASK), Forum Secretariat</b>	<b>Karmojibi Nari (KN)</b>
<b>Acid Survivors Foundation (ASF)</b>	<b>Kapaeeng Foundation</b>
<b>Bandhu Social Welfare Society (BSWS)</b>	<b>Manusher Jonno Foundation (MJF)</b>
<b>Bangladesh Adivasi Forum</b>	<b>National Alliance of Disabled Peoples' Organizations (NADPO)</b>
<b>Bangladesh Dalit and Excluded Rights Movements (BDERM)</b>	<b>Nagorik Uddyog</b>
<b>Bangladesh Institute of Labor Studies (BILS)</b>	<b>Nari Pokkho</b>
<b>Bangladesh Legal Aid &amp; Services Trust (BLAST)</b>	<b>Nijera Kori</b>
<b>Bangladesh Mohila Parishad (BMP)</b>	<b>Steps Towards Development (Steps)</b>
<b>Boys of Bangladesh (BOB)</b>	<b>Transparency International Bangladesh (TIB)</b>
<b>FAIR</b>	

# Forum Activities

## Ongoing

Regular meetings

- Media campaign
- Capacity building and awareness raising

## *One Year after the UPR*

- REPORT CARD ON status of implementation of recommendations and concerns.
- DIALOGUE WITH GOB (Foreign Secretary) June 2010

## *Two Years after the UPR*

- REPORT highlighting the status of implementation of recommendation and concerns
- DISSEMINATION TO GOB, MOFA, MEDIA
- ATTEMPTED DIALOGUE WITH GOB

# KEY CONCERNS

# Economic Social & Cultural Rights

## ✓ POSITIVE TRENDS:

### *Right to Health*

- Maternal and child mortality rates considerably reduced.
- Community health centres revived

### *Right to Food*

- Bangladesh is close to attaining food security.

### *Right to Education*

- National Education Policy 2010 adopted (includes scope for mother language education for IPs)
- Private University Act 2010 adopted
- All registered primary schools nationalised
- Policies to prohibit corporal punishment in educational institutions and to stop private coaching adopted.

### *Land & Property Rights*

- Vested Property (Return) 2011 Act provides for return of private properties, mainly of religious minorities, expropriated by the state.

## **✗ NEGATIVE TRENDS:**

### ***Right to Health***

- General health services remains largely inaccessible to the public.
- Misuse, mismanagement and corruption in the health sector.

### ***Right to Food***

- Inadequate implementation of the National Food Policy 2006
- Lack of application of laws and monitoring resulting in wide availability of adulterated foods
- Corruption and mismanagement of safety nets
- Lack of recognition of right to food

### ***Right to Shelter***

- No official plans adopted for ensuring adequate shelter for 2.3 to 3 million slum dwellers in Dhaka city
- Continuing forced evictions such as of 2,000 persons in Korail slum, Dhaka one day's notice (2012).
- Land conflicts remain unresolved in the Chittagong Hill Tracts.

### ***Land and Property Rights***

- Patterns of land usage, including use of agricultural land for shrimp and tobacco cultivation and housing development
- Failure of state to act against widespread land-grabbing by powerful sectors.
- Land registration remains complicated.

# Civil & Political Rights

## RIGHTS TO LIFE AND LIBERTY

### ✓ Positive Trends:

- International Crimes Tribunal (ICT) established and operational since 2011 with trials ongoing for war crimes, crimes against humanity, genocide, mass rape and other international crimes which occurred during the Liberation War of 1971.
- Opportunity created to effectively challenge impunity enjoyed for too long by those who committed crimes against humanity

## NEGATIVE TRENDS:

- Alleged 156 **disappearances** between Jan 2009 to Sept 2012 (ASK reports) – higher than Government figures.
- Alleged 462 ‘**crossfire**’ **deaths** following shootings by law enforcing agencies between Jan 2009 to Sept 2012.
- Concerns regarding trials including by ICT, being held in accordance with due process and consistent with the highest possible standards
- Vigilante attacks, with complicity of law enforcing agencies (Aminbazar).

## NEGATIVE TRENDS CONTD...

- Continuing border killings of Bangladeshi nationals - 270 Bangladeshis killed 257 tortured and 156 abducted by the BSF from Jan 2009 to June 2012 (ASK) at India-Bangladesh border -- despite repeated promises from the Indian authority.
- Slow progress in acting on road safety, ensuring proper licensing for drivers, improving road conditions, enforcing traffic rules and speed limits.
- Threats to witnesses and lack of protection, especially in ICT
- Poor prison conditions and gross overcrowding –eg - May 2012, 72,000 prisoners held against jail capacity of 30,630
- **Allegations of torture and unfair trial including** of accused in the 2009 BDR mutiny related trials, including unexplained custodial deaths
- Withdrawal of cases against many ruling party members without transparent process

# Freedom of Association, Assembly & Expression

- About 1564 incidents of political violence, with over 228 persons killed and 23,084 injured (2009 to September 2012, ASK reports); about 492 orders (Section 144, CrPC) issued imposing restrictions on assembly
- Restrictions on NGOs, foreign journalists and human rights activists in the Chittagong Hill Tracts, stopping IPs from carrying out rallies on UN World Indigenous Peoples' Day following a government circular and deportation of three foreigners from the CHT
- Cancellation of NGO registrations without sufficient transparency
- Draft legislation to regulate NGOs perceived to result in restricting rights
- Bangladesh Labour Law 2006 excludes agricultural and domestic workers and limits union participation in factories.
- Controls including [bans on publication of some newspapers](#) and TV stations, and direct or indirect restrictions on TV talk shows
- Control over the Internet, including the social media

# Independence of National Institutions

## ***JUDICIARY***

### **Positive Trends:**

- Laws adopted for formal separation of lower judiciary from the executive
- Requirement of consultation with the Chief Justice restored in 15<sup>th</sup> Amendment to the Constitution

### **Negative Trends:**

- Laws requiring separation of the judiciary not fully implemented; no SC secretariat yet set up
- No criteria for appointment of Supreme Court judges, despite High Court guidelines
- Continuing controversies over appointment of the Chief Justice, promotions/ appointments to the Supreme Court and public prosecutors on partisan political basis

## ***NATIONAL HUMAN RIGHTS COMMISSION***

### **Positive Trends**

- NHRC established and operational, working closely with civil society

### **Negative Trends**

- NHRC Rules not yet enacted
- No effective complaint mechanism or legal panel
- Understaffed and underresourced

## ***ANTI CORRUPTION COMMISSION***

### **Negative Trends**

- Political influence hindering institutional independence
- No code of conduct for staff.
- Lack of financial independence

# Women's Rights

## POSITIVE TRENDS:

- **New laws** address: civil protections for domestic violence (2010), criminalising and increasing sentences for human trafficking (2012), enabling (optional) registration of marriage under Hindu laws (2012), and enabling Bangladeshi women to transmit citizenship rights to foreign spouses and children (2009).
- **National Women's Development Policy 2011** adopted (refers to CEDAW)
- **High Court directives:** (i) Declaring unconstitutional extra-judicial punishments in the name of 'fatwa' (2010), (ii) Prohibiting forced veiling in educational institutions and workplaces (2010), (iii) Guidelines against sexual harassment in public places (2010), (iv) Directing verification of birth certificates and/or NIDs for marriage registration to prevent early marriages (YEAR).

## **NEGATIVE TRENDS:**

- **Gender-discriminatory personal laws** and policies denying equal rights to **marriage**, divorce, custody and inheritance prevail
- Inadequate enforcement of law, social stereotypes, stigma, lack of witness and victim protection contribute to continuing violence against women including DV (including dowry related violence), rape, acid attacks, ‘fatwa’, stalking and sexual harassment.

# Rights of HRDs

## *Negative Trends*

- **HRDs face intimidation** from state and non-state actors
- Law enforcement agencies and non-state actors clamped down on peaceful citizen protests.
- **Local journalists** and activists were threatened, harassed and tortured by influential local ruling party leaders

# Child Rights

## *Positive Trends*

- National Children Policy, National Child Labour Elimination Policy, Human Trafficking Act, Pornography Control Act adopted

## *Negative Trends*

- Continuing **child marriage**
- **Children employed in hazardous occupations** (with undocumented numbers in domestic work) and exploited by low wages, long hours, physical abuse and deprivation from education
- Continuing **violence against children**
- Alleged custodial abuse, physical and sexual, of children
- Children continue to be subjected **to corporal punishment** at educational institutions and other settings despite HC guidelines prohibiting this

# Workers' Rights

## *Negative Trends*

- Protests in the ready-made garments sector over wages and work conditions, retrenchment
- Growing concerns about workers' rights and security (87 workplace deaths, 513 workplace injuries, and 19 killings and 140 injuries in violence, Jan to July 2012, ASK Reports)
- Alleged disappearance of labour union leader Aminul Islam.
- Migrant workers faced inhuman conditions, being overworked, underpaid including sexual harassment, deportation and even execution
- Domestic workers not included in the Labour Act 2006 and face deplorable conditions of work including long hours, low wages, physical and sexual abuse from employers
- Informal sector workers wholly unprotected by law, and face abuse, discrimination, do not get regular work, are paid low wages, and work long hours
- Sex workers particularly vulnerable

# Rights of Indigenous People, Minorities & Other Vulnerable Groups

## INDIGENOUS PEOPLE

### *Negative Trends*

- GoB yet to ensure constitutional recognition to IPs, on the contrary declared IPs do not exist in the country; constitutional amendment declaring all citizens as Bengalis, undermining basic rights of people of non-Bengali identities
- Slow progress in [implementation of CHT Accord](#)
- Human rights violations in CHT continue including killings, torture, religious persecution, sexual violence against IP women and children and land dispossession
- IPs not consulted regarding the terminology of the 2010 Small Ethnic Groups Cultural Institutes Act 2010 which recognizes only 27 "small ethnic groups"

# **RIGHTS OF RELIGIOUS MINORITIES**

## ***Positive Trends***

- Vested Property (Return) Act 2011 adopted
- Hindu Marriage Registration Act 2012 adopted
- Increased employment and promotion of religious minorities in the public sector

## ***Negative Trends***

- Declaration of Islam as State religion, under the 15th amendment to the Constitution (2011) contravening equality and inconsistent with constitutional principle of secularism, rendering religious minorities second-class citizens
- Alleged police inaction in upholding law and order following attacks on Hindu temples and a church, reported incidents of land grabbing and impeding religious programs
- Reported torture and harassment of Buddhist monks including in Sajek, Rangamati, CHT, Teknaf and Ramu, Cox's Bazaar

# Rights of Persons With Disabilities

## **Negative Trends**

- No constitutional or legal prohibition against disability-based discrimination
- Disability Welfare Act 2001 and the National Policy on Disability 1995 remain unimplemented
- Widespread discrimination of PWDs includes sexual violence against women with disabilities

# Rights of Gender & Sexual Minorities

## *Positive Trends*

- Recognition of gender and sexual minorities by receiving and disbursing funds for MSMs, and by including Hijras in the voter list, providing national identity cards

## *Negative Trends*

- Gender and sexual minorities lack legal recognition and protection and face social marginalization
- Harassment using [section 377 of the Penal Code](#) and sections 54 and 55 of CrPC and provisions of the Metropolitan Police Ordinances

# Rights of Dalits

## *Positive Trends*

- Governmental recognition of Dalits and other socially excluded groups by budgetary allotment in 2012-13

## *Negative Trends*

- No laws on protection of Dalit rights.
- Widespread social discrimination against Dalits includes denial of entry to religious institutions, restaurants, private homes and public places in certain areas.
- Many Dalits denied Government services including getting bank loans, education and health care.

# Rights of Linguistic Minorities

## *Positive Trends*

- NIDs issued to nearly half of the 300,000 Urdu-speakers in pursuance of HC judgment.

## *Negative Trends*

- No mother-language teaching of languages other than Bengali, despite significant linguistic minorities including IPs and Urdu-speakers.
- Urdu speakers face discrimination in education and employment and continue to live in deplorable conditions in camps set up in the aftermath of the Liberation War.

# Conformity with International Human Rights Standards

## **POSITIVE TRENDS:**

- Since 2009, GoB has only ratified the International Criminal Court Statute (ICC) in 2010 and the Convention on Migrant Workers (CMW) in 2011.
- Since 2009, two Special Rapporteurs (SRs) have visited Bangladesh.
- **Domestic Incorporation:** The DV Act 2010 and NWDP 2011 expressly refer to CEDAW, while several High Court judgments on women's and children's rights refer also to the CRC, ICCPR and ILO Convention 182

# NEGATIVE TRENDS:

- Bangladesh is not a party to the Refugee Convention, the OP on Status of Refugees, CED, the OP-CAT, or the ILO Convention No 169 on Indigenous and Tribal Peoples 1989.
- GoB has not withdrawn CEDAW reservations despite repeated international commitments.
- Bangladesh has not yet submitted initial reports relating to CAT, ICCPR, ICESCR, CRPD, despite delays of over 10 years (ICCPR /ICESCR)

# RECOMMENDATIONS

# ***ECONOMIC & SOCIAL RIGHTS***

***Recos No. 30, 31, 32, 33, 36 (Algeria, Bahrain, Bhutan, Cambodia, China, Venezuela, Vietnam, Zimbabwe, Saudi Arabia, Sudan)***

- **Right to Health:** 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
- **Social Safety Nets:** 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
- **Right to Shelter:** 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.
- **Right to Education:** 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.
- **Land & Property Rights:** 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 & POLITICAL RIGHTS***

## ***Right to Life & Liberty***

***Recos No. 10, 20, 26, 27 (Australia, Czech Republic, Germany, Mexico, Netherlands)***

- 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

***Reco No. 28 (Australia, Netherlands)***

## ***Freedom of Expression***

- 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.

### **Judiciary**

#### **Reco. No. 11 (Australia, Bhutan, UK)**

- 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.

# National Human Rights Commission

## **Reco No. 5, 6, 7 (Australia, Egypt, Netherlands, UK)**

- 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.

# Anti-Corruption Commission

## **Recommendation No. 7, 24 (Australia, Azerbaijan, Netherlands)**

- Disclose draft Anti-Corruption Act for public information and adopt at the earliest subject to consultation with stakeholders

# Women's Rights

**Recommendation No. 8, 13, 14, 15, 21, 32, 37  
(Algeria, Australia, Bahrain, Cuba, Czech  
Republic, Germany, Lao PDR, Liechtenstein,  
Malaysia, Netherlands, Nigeria, Norway, Republic  
of Korea, Saudi Arabia, Singapore, Thailand)**

- **Repeal gender-discriminatory personal laws re marriage, divorce, child custody, inheritance**
- **Effectively enforce laws on VAW**
- **Implement National Women's Development Policy**

## **Children's Rights**

***Reco No. 16, 22, 23 (Australia, Brazil, Czech Republic, Indonesia, Italy, Netherlands, Turkey)***

- Amend the Children Act 1974 reflecting needs-based and rights-based approach
- Appoint a Children's Ombudsperson
- End child labour
- Ensure children's free access to health and education

## **Worker's Rights**

- Adopt Domestic Workers' Welfare Policy; and include informal workers within Labour Laws
- Ensure effective enforcement of laws
- Provide protection for migrant workers and establish specialized training institutions

# RIGHTS OF VULNERABLE GROUPS (RELIGIOUS MINORITIES, REFUGEES, PWDS, SEXUAL MINORITIES)

Reco. No.18 (UK)

Religious Minorities

**Reco No. 17, 29 (Holy See, Italy)**

## **Indigenous People's Rights**

### **Reco. No. 34 (Australia, Norway)**

- Give constitutional recognition to the identity and integrity of IPs. Abandon politics of 'non-existence of IPs' and amend the Constitution to recognise non-Bengali / diverse ethnic identities
- Establish a Land Commission for plains IPs, and activate CHT Land Commission after amending relevant law and make it effective to address IP land rights, appoint a credible chairman of the CHT Land Commission
- Conduct impartial enquiries into all IP rights violations and ensure perpetrators are brought to justice

# Sexual and Gender Minorities

## **Reco No. 27 (Chile, Czech Republic)**

- Acknowledge the existence of sexual and gender minorities and incorporate the issue in relevant Policies/Plans.
- De-criminalize consensual adult same-sex activities by repealing section 377 of the Penal Code

## ***CONFORMITY WITH INTERNATIONAL HUMAN RIGHTS STANDARDS***

***Recos 1-4, 12 (Azerbaijan, Brazil, Chile, Czech Republic, Egypt, France, Lao PDR, Liechtenstein, Mexico, Netherlands, Norway, Slovenia, Sudan)***

- Criminalise 'untouchability' and discriminatory practices, pursuant to CERD 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
- Ratify CED, OP-CAT, OP1-ICCPR, OP-2-ICCPR, OP-ESCR, Optional Protocol on Status of Refugees, ILO Conventions 169 and 189
- Withdraw reservations to ICCPR, ICESCR, CAT, CERD, CEDAW, CRC
- Standing Invitation to all Special Procedures

# OTHER RECOMMENDATIONS

- **Reco. No. 9** (raise HR awareness)(Azerbaijan)
- **Reco. No. 19** (abolition/moratorium on death penalty, amend laws to restrict scope) (Brazil, Chile, France, Italy)
- **Reco. No. 35** (share best practices on fight against poverty, re right to food and microcredit) (Malaysia)
- **Reco. No. 38, 39, 40** (int'l support to build capacity) (Algeria, Azerbaijan, Egypt, Vietnam)
- **Reco No. 41** (mitigate negative impact of climate change/ disaster management) (Algeria, Bhutan, Palestine)
- **Reco No. 42** (full civil society involvement in follow up to UPR) (UK)

# GoB's Responses to UPR

- 35 Recos Accepted
- 4 rejected
  - Reco 12 (invitation to Special Procedures)  
*'we do not consider that issuance of a standing invitation is the only way to ensure full cooperation'*
  - Reco 15 (uniform family code)
- *'diversified cultures and religions ... need broad agreement acceptable to all religions and ethnic minorities'*
  - Reco 19 (death penalty)  
*'Only maintained as an exemplary punishment for heinous crimes... Low rate of implementation... judiciary and administration deal with caution and compassion'*
  - Reco 27 (sexual orientation)  
*'same sex activity is not an acceptable norm to any community in the country. Indeed sexual orientation is not an issue in Bangladesh'*

- **6 no clear position**

- Reco 1, 2 (intl treaties)
- Reco 10 (EJEs, torture)
- Reco 17 (discrimination against minority religions)
- Reco 20 (EJE, torture by security forces)
- Reco 26 (culture of impunity for HRV by law – enforcing agencies)

*“govt does not condone such incidents... will bring any official found responsible for such acts to justice”*