

The State of Human Rights in Bangladesh January-June, 2008

Methodology

Information for this report is derived from national newspapers, published reports, journals, and investigative reports by several human Rights organizations (Association for the Welfare of the Disabled People in Bangladesh, Ain o Salish Kendra (ASK), Bangladesh National Women's Lawyers' Association (BNWLA), Law Desk, News Network, Office of the United Nations High Commissioner for Human Rights, Odhikar, RMMRU, *The Daily Star*).

Elections

Bangladesh is preparing for elections in December and it is hoped that conditions will be appropriate for all parties and citizens to participate without fear and coercion to elect persons who will make the Parliament functional and the political process will be positive and non-confrontational. Citizens have urged the government to take measures so that parties, which had worked against the independence of Bangladesh, and their leaders, who were guilty of war crimes are not be given political space to contest. In addition, the political parties demand for lifting Emergency before National elections.

Election Commission Reforms

The Election Commission has announced that elections to the City Corporation will be held on 4 August, to the Upazilla (a secondary level elective unit) on 23 October and Parliamentary elections in the third week of December. The two major political parties have protested the holding of local elections before the parliamentary elections. The Election Commission's has recommended several reforms to regulate the political parties. These include registration, submission of audit reports, nomination of women to one third of seats, no affiliation with students or labour front organizations.¹ Many of this demand were voiced in citizens' meetings during the last two years. The Election Commission has conceded to citizens demands to publish information submitted by candidates to the City Corporation relating to their finances, education, record of laws violated, etc. Many of the political parties have protested the new *The Representation of People Ordinance 2008*, while the two major parties have insisted that national elections to Parliament be held before local elections.

While citizens have urged a return to elected governments there is widespread apprehension that candidates selected by the leading parties may not have a clean corruption free record. Further the alliances formed by the political parties are more opportunistic and not in the public interest.

Delimitation of Parliament Constituencies

In January 2008 the Election Commission (EC) announced a plan for delimitation of parliamentary constituencies in 61 districts of the country based on densities of population. The Election Commission (EC) unveiled a draft list of parliamentary seats with their boundaries redrawn district-wise, of 300 constituencies, 133 have seen changes in boundaries and the rest remained intact.²

Near about 3,000 appeals have been filed with the Election Commission (EC) until 1st June, 2008, the last day for filing of appeals against re-demarcation of 51 parliamentary constituencies. This is by far the largest number of such appeals filed by leaders of various political parties following the EC's move to re-demarcate 133 constituencies.³

¹ SAARC Statement, 2008

² The Daily Star, April 30, 2008

³ The Daily Star, June 02, 2008

State Obligations under the International Human Rights Instruments

Bangladesh has ratified 29 international instruments and 33 ILO Conventions, including seven human rights conventions. It has recently ratified the Convention on the Protection of the Rights of Migrant Workers and Members of their Families (1990). It has signed but not yet ratified the Rome Statute on International Criminal Court. Through its ratification the State is committed to endorsing the conventions into domestic legislation, and to set up mechanisms for their enforcement. As a ratifying state, Bangladesh has the responsibility to submit an initial report within a year of its ratification and periodic reports to the treaty bodies. Bangladesh has, however, placed reservations on several significant articles; As a member of the Human Rights Council elected for a three year term in 2006, Bangladesh has reiterated its reporting responsibility, but has yet to comply with it. While Bangladesh has submitted reports (however late) to ICERD, CEDAW and CRC, it has not done so after ratification of CAT, ICCPR and ICESCR.

The system of justice in Bangladesh is derived from the common law system. The judiciary tends to be conservative in its application of international law. While in many cases the judiciary has cited international laws, its decisions have not always been based on these laws. The High Court Division, in cases relating to women's rights, has often based its decision on the Constitution, rather than on the Convention on Elimination of All forms of Discrimination against Women (CEDAW).

Recent Institutional Developments

I. Bid to Revive Deal for Repatriation

Bangladesh has not yet signed 1951 Refugee Convention but recently it has agreed with UNHCR to revive the tripartite agreement under which Rohingya refugees would be able to voluntarily return to their homeland in Myanmar.⁴

II. UN International Convention on the Rights of Persons with Disabilities

The Government in 30 November 2007 ratified the UN International Convention on the Rights of Persons with Disabilities. This will facilitate measures to implement the rights of the differently challenged persons.

III. National Human Rights Commission

The Government approved the Human Rights Commission Ordinance on 26th February, 2008. Several human rights' organisations expressed their concern at the narrow powers of the National Human Rights Commission Ordinance and urged the Government to consult with human rights groups, professionals and other citizens to make necessary amendments in the ordinance to ensure an effective mechanism for protection and promotion of human rights.

IV. Truth Commission

The Government has set up the office of Truth and Accountability Commission under the Chairmanship of Justice Habibur Rahman. The purpose is to curb corruption and reduce the massive load of corruption cases through quick adjudication within 30 days of filing of applications from political leaders, business persons and others, willing to acknowledge their misappropriation or accumulation of funds through illegal means, and who will be required to pay penalties fixed by the Commission. The Commission is expected to function for five months from the date of its inception.⁵

V. Anti-Corruption Commission

The *Money Laundering Prevention Ordinance, 2008* was promulgated to prevent transfer of illegal money. The Government has recovered Tk 1,219 crores illegally acquired money during its anti-corruption drive, and deposited it in the national exchequer.

VI. Right to information Ordinance

The Council of Advisers has approved the Right to Information Ordinance 2008 to ensure free flow of information to the citizens. The draft is now ready and sent it back and awaits final

⁴ The Daily Star, May 28, 2008

⁵ The Daily Star, June 11, 2008

approval. In addition, a RTI forum has been set up comprising of a wide section of civil society organizations and individuals with MJF as Secretariat to monitor effective implementation of RTI once the ordinance is enacted.

VII. Anti-Terrorism Ordinance

The Anti-Terrorism Ordinance, 2008 approved by the Government has a provision for capital punishment, which is a violation of the State's commitment to the right to life.⁶ Some of its other provisions have also been critiqued as they may not ensure the right to a fair trial.

Civil and Political Rights

Prisoners Issue

According to reports of the Newspaper in the reporting period there are 87,579 prisoners in 68 jails in the country which more than three times the combined capacity of 27,368.⁷ At least two thirds of this number was prisoners awaiting trial, many of them for petty crimes, who may actually have over stayed their likely prison sentence. Slow court procedures have violated their right to a fair trial and their freedom.

Mass Arrests

According to reports of newspaper and HR organization, 50,215 persons were arrested in a month long operation by the joint forces in May.

Minors in Jail

At least 350 minor⁸ children were reported to be living in jails with their mothers are denied even the minimum opportunities for primary education and recreation. Undoubtedly this is a denial of their constitutionally guaranteed fundamental human rights.

Foreign Prisoners in Jails

At least 299 prisoners of foreign nationality have been confined in different jails⁹ of the country due to diplomatic and bureaucratic tangles, even though their jail terms have expired. After the High Court order to release those prisoners whose jail term had expired and to repatriate them, the home ministry and the foreign ministry have contacted their diplomatic missions.¹⁰ Unfortunately, the prisoners' identities and addresses have yet to be verified, since they do not hold passports. A few human rights and legal aid organizations have liaised with organisations in other South Asian countries to trace their families and facilitate their repatriation. SAHR too has been involved in helping the exchange of prisoners.

Arrests and Confinement on charges of Corruption

Many politicians and business leaders have been arrested on corruption charges since January 2007. Recent High Court orders and subsequent decisions by the Ministry of Home Affairs has granted parole to a number of high profile prisoners, on 'humanitarian grounds', whereas 'ordinary' prisoners have been refused parole under section 401 (4A) of the Code of Criminal Procedure of 1898. This selective use of laws, favouring the politically influential prisoners has been a denial of justice.

Extra judicial Killings

Extra judicial killings continued to be committed by the security forces of Bangladesh despite national and international concern. According to published figures compiled by ASK, a national human in the last six months, 74 persons were allegedly killed by law enforcement agencies. The 74 instances of extra judicial deaths were explained as occurring in 'crossfire' (before arrest), 'crossfire' (in custody) 'Physical torture', 'encounter', 'shootout', 'gunfight', 'suicide' etc.

⁶ The Daily Star, June 10, 2008

⁷ Directorate of Prisons, Bangladesh, 30th June, 2008

⁸ The Daily Star, 17 April, 2008

⁹ The Daily Star, April 14, 2008

¹⁰ The Daily Star, April 14, 2008

Table –1: Death by Law Enforcing Agencies (January – June 2008)¹¹

Force/Agency Nature of Death	RAB	RAB & Police	Police	Joint Force/ Army	BDR	Total
Crossfire (before arrest)	32	5	15		2	54
"Crossfire" (in custody)	1		3			4
Physical Torture (not arrested)			2			2
Physical Torture (in Custody)			2		5	7
Shot (Before arrest)	2		3			5
Sick (in custody)			1			1
Suicide (in custody)			1			1
Total	35	5	27	0	7	74

Beside this statistics:

1. One person died by heart attack by during RAB operation

Source: *Prothom Alo, Ittefaq, Janakantha, Inqilab, Jugantor, Samakal, Daily Star, New Age, Sangbad & Noyadiganto.*

Table-2: Comparative Incidents of Extra Judicial Killings and Torture by State Agencies (January- June, 2006, 2007 & 2008)¹²

Agency	No. of deaths in 2008	No. of deaths in 2007	No. of deaths in 2006
Rapid Action Battalion (RAB)	35	70	84
Police	27	29	80
Army	0	7	0
Army & Police joint operation (Joint forces)	0	7	0
RAB & Police joint operation	5	3	0
Navy	0	3	0
Dept. of Narcotics	0	1	0
Jail Police	0	1	0
Forest Guard	0	0	1
BDR	7		
Detective Branch Police	0	0	1
Total	74	121	166

The above-mentioned table depicts a comparative scenario of extra judicial killings and torture by State Agencies in the last three years and highlights the gradually decreasing trend of incidences.

3. Freedom of Expression

The fundamental right of freedom of expression has been curtailed since the imposition of the State of Emergency on 11 January 2007. *Since January to 30 June 2008, 67 journalists were reportedly the victim of torture, harassment and threat by different law enforcement agencies.*

Table- 3: Journalist Harassment (January – June 2008)¹³

Description	No. of Harassment
Torture/Harassment/Threat by Law Enforcement Agency	12
Threat to Murder	8
Torture/Attach/Threat/Harassment by Terrorist	31
Torture/Harassment/Threat by Govt. Employee	
Case filed for published news in Newspaper	7
Legal notice against Newspaper	1
Case filed against Newspaper	
Torture/Attack/Threat/Harassment by Shibir	1
Attack/Torture/Threat/Harassment by Militants	
Torture/Attack/Harassment/Threat by BNP	
Murdered by Terrorist	

¹¹ Documentation Unit, Ain o Salish Kendra (ASK),

¹² Odhikar Report, July 1, 2008

¹³ Documentation Unit, Ain o Salish Kendra (ASK),

Torture/Attack by JCD and BCL	3
Torture/Attack by BCL	3
Others	
Newspaper band for published news	
Attack/Torture by JCD	1
Total	67

Source: *Prothom Alo, Ittefaq, Janakantha, Inqilab, Jugantor, Samakal, Daily Star, New Age, Sangbad & Noya-diganto.*

4. **India Bangladesh Border Violence**

Tension between the border forces of India (BSF) and Bangladesh (BDR) has led to civilian casualties and more recently the death of two BDR personnel who were shot inside Bangladesh territory. Such violence has continued in the border region between Bangladesh and India. The Indian Border Security Force (BSF) reportedly killed 32 Bangladeshis, Injured 20 and abducted 20 between January to June 2008.

In many of the cases, BSF has intruded into Bangladesh territory and killed Bangladeshi nationals. The two governments should take effective measures to protect rights of those living and working in border areas.

5. **Bangladeshis repatriated from Indian jails**

53 Bangladeshis, who served two years' imprisonment in Indian jails, were handed over to Bangladesh authorities by BSF at Benapole check post, raising the number of returnees to 162 in the last three days. Newspapers reported that the Bangladeshis who went to India two years back in search of jobs were arrested by Indian police and then sent to jails. India and Bangladesh have signed an agreement for joint efforts to combat cross-border crimes such as arms smuggling and trafficking in women and children by sharing timely and actionable information. The agreement should help to end any suspicion and distrust.¹⁴

6. **BDR Rescues 21 Victims of Trafficking on the Border¹⁵**

Bangladesh Rifles (BDR) personnel rescued 21 persons of different ages including male, female and children while they were being taken to India through Godagari border in Rajshahi on 2 June 2008. However, BDR could not arrest the trafficking agent as he fled the scene.

Social and Economic Rights

Safety net and Economic Security

The Caretaker Government has increased the allocation for social safety net by 48 per cent¹⁶ (in the new Budget (2008-2009). It has also increased the number of recipients (women and children, orphans, elderly people, widowed persons, wounded freedom fighters, persons with physical disabilities, students with disabilities, poor and low-income workers, working mothers (particularly in the garment manufacturing sector) in the social safety net, following the impact of global food shortages and price hike of essentials.

It has also introduced an employment guarantee scheme ensuring payment for 100 days during the periods of mid-October to mid-January and mid-March to mid-May for the rural unemployed. For effective implementation of this programme, the Government will engage NGOs. It has allocated Tk 526 crore for Palli Karma Shahayak Foundation, NGO Foundation, Social Development Foundation and other such micro-credit organizations.

It has set up a national committee to assess measures for mitigating the sufferings of people in *monga* (scarcity) stricken areas. The proposed safety net has been extended to 1,000,000 persons in the *char* (islands) areas in 150 unions under 28 upazilas along the flood plains of the Brahmaputra delta.

¹⁴ The Daily Star, April 14, 2008

¹⁵ June 2, 2008

¹⁶ <http://www.bangladeshnews.com.bd/2008/06/10/sure-jobs-for-poor/>

Migrant Workers

A huge number of Bangladeshi workers in Malaysia are under imminent risk of losing their legal work status due to flawed and illegal recruitment process.¹⁷ Unpaid, underpaid, abused and cheated; around 500 such workers have been deported in April 2008 from Malaysia, in May from Bahrain Besides, many underpaid workers who possess work permits cannot afford to renew their permits upon the expiration of the permits in one year and thus are made irregular as per the immigration rules Malaysia and other countries.

Employment of Bangladeshi workers in Bahrain comes to a halt, as the country on 26th May, 2008 stopped issuing work permits to Bangladeshis.¹⁸

Rights of Women, Children and the Differently Abled

Rights of Women

Violence Against women:

Violence against women, in particular, incidents of rape has remained high. In the last six months, 266 women and girls became victims of rape out of which 113 were women and 153 were minors. Actual figures are likely to be much higher since not all incidents are reported to police or in media.

Domestic violence due to dowry¹⁹ demands or other causes is very common. Between January and June, 140 women reportedly became victims of dowry demands. Due to dowry related violence, 96 women were killed and 38 tortured. During this period, 65 persons became victims of acid violence; amongst them, 37 persons were women, 17 men and 11 children (6 girls and 5 boys).

Women's rights in jeopardy

On 8 March 2008, the Chief Adviser declared A National Policy for Women's Development (Jatio Nari Unnayan Niti 2008). This policy was to replace the policy approved by the Government in 2004, which had introduced many retrogressive changes in the earlier policy of 1997. Several religious parties protested the announcement of this policy and organized violent rallies and attacked police from the main mosque in Dhaka. Four members of the Council of Advisers met with the religious parties after which a Review Committee was formed to submit their recommendations. Samajik Protirodh Committee, a platform of 40 women's rights organisations, submitted a five-point memorandum to the Chief Adviser demanding immediate dissolution of the review committee and implementation of the Policy.²⁰

Women's Reserved Seats in Local Government

In a surprise move, the caretaker government has retreated from its earlier pledge of reserving 40 percent seats for women in all tiers of the local government system for three consecutive terms. The pledge however was made to effectively empower women at all levels of the local government system. Currently there are around 14,500 women representatives elected to reserved seats in over 4,000 union parishads, 6 city corporations, and the municipalities.

Rights of Children

At least 15 lakh children are engaged in hazardous occupations in the country²¹ and the number is rising day by day. In Bangladesh, there are 79 lakh working children of whom 64 lakh are in rural and 15 lakh in urban areas. At least 7.20 lakh primary school-aged children are not enrolled in schools. In the city, at least five lakh female children work as domestic help. They get only three

¹⁷ The Daily Star, February 20, 2008

¹⁸ The Daily Star, May 28, 2008

¹⁹ A dowry is the money, goods or estate that a woman brings to her husband in marriage. The Dowry Prohibition Act 1980 enacted for prohibiting dowry and makes provision that giving or taking/demanding of dowry is an offence punishable with imprisonment and/or fine.

²⁰ The Daily Star, April 22, 2008

²¹ <http://taraqee.wordpress.com/2008/07/04/15-lakh-children-in-bangladesh-work-in-hazardous-jobs/>

meals a day and on an average Tk 300 per month. At the age of 16 to 17, they look for jobs in garment factories.²²

Right to Education

Despite a guarantee in the Constitution that "the state shall adopt effective measures for the purpose of (a) establishing a uniform, mass-oriented and universal primary system of education, and extending free and compulsory education to all children to such stage as may be determined by law; (b) relating education to the needs of society and producing properly trained and motivated citizens to serve those needs; (c) removing illiteracy within such time as may be determined within law", and the introduction of compulsory and free primary education following the Jomtien Declaration, many children of disadvantaged and marginal communities do not have access to school, because of the costs and distance involved or because they have to work to earn a living.

Ethnic Communities in the Chittagong Hill Tracts

Land grabbing and Violence in Sajek,

On the night of 20 April 2008 Bengali settlers, attacked seven villages of indigenous Jumma peoples in Sajek union under Baghaichari upazila (sub-district) in Rangamati district in Chittagong Hill Tracts (CHT). More than 100 houses of indigenous villagers were burnt to ashes. Bengali settlers beat the Jumma villagers including women and children indiscriminately and looted valuables from the houses.

Mobile phone network in CHT Region

On 15th May, 2008 the Chief Adviser (CA) formally inaugurated mobile phone network in Chittagong Hill Tracts (CHT). The people in the CHT region have been deprived of access to mobile phone network, but now they have been connected through the mobile phone.

Land Commission in CHT Region

Land grabbing is a common occurrence in CHT. The Caretaker Government has reportedly taken an initiative to reconstitute the Chittagong Hill Tracts (CHT) Land Commission to settle the longstanding land disputes between indigenous communities and settlers in the region.²³

Criminal Courts start in CHT

Sessions courts have started functioning in the three districts of Chittagong Hill Tracts (CHT). People in the hill tracts have had little access to justice with no district or sessions judge's court instituted even 36 years after independence. Meanwhile, the High Court on 24th February, 2008 directed the Government to set up civil and criminal courts run by judicial officers in the CHT within a year to implement the Chittagong Hill Tracts Regulation (Amendment) Act, 2003. It also ordered the Government to establish tribunals for preventing repression on women and children in the three hill districts within the same period.

On 28th February 2008, five prominent human rights bodies in Bangladesh, at a press conference, demanded immediate publication of the judicial inquiry report of the killing of Garo leader Choles Ritchil and punishment to the persons involved in this incident.

Rang Lai Mro, a popular Mro community leader, an eminent environmental activist and human rights defender was apprehended from his home in Ujanipara, Bandarban on Friday 23rd February by Army personnel, and taken along with three members of his office staff to the Army Cantonment at Bandarban, where he was allegedly tortured by uniformed people. Human rights defenders in Bangladesh, have urged that he be released on bail since he suffers from a serious heart condition. SAHR submitted a memorandum to the Chief Advisor of Bangladesh to ensure a fair trial.

Stranded Pakistanis to become Bangladesh citizens

As per the High Court (HC) rule on 14th May, about three 300,000 Biharis living in different parts

²² <http://taraqee.wordpress.com/2008/07/04/15-lakh-children-in-bangladesh-work-in-hazardous-jobs/>

²³ The Daily Star April 01, 2008.

of the country are to be recognized as citizens of Bangladesh. Responding to a writ petition filed by eleven Urdu speaking people, an HC bench directed the Election Commission (EC) to include the petitioners' names in the voter list.²⁴

Environmental protection

The geographical position of Bangladesh makes it prone to all sorts of geophysical events (floods, riverbank erosions, storms and cyclones). The process of environmental degradation only intensifies the effect. With or without climate change, Bangladesh would face these difficulties. The recent SIDR surges, two consecutive floods in the same year, variation of seasons, gradual decline in agricultural production and increased frequency of natural calamities further strengthens this notion.

In recent years, governments have adopted some concrete steps, such as setting up of Environmental Courts and legislation to protect the environment; the 1995 Act was amended to ban production, marketing and distribution of polythene bags. Wetland Act 2000 was enacted to ensure that water bodies (*haor* and *baor*) are protected to protect the wetland ecosystem.

Not only government, but also NGOs have created awareness among people to protect natural environment. The media has published articles warning of environmental degradation and its adverse consequences. Bangladesh and other low-lying countries may make combined efforts through international forums of the UN to embark on a programme of sustainable development.

Food Security

In March 2008 the SAARC countries decided to set up a forum to enhance cooperation among farmers with a view to arrest slow growth in agriculture in South Asia. The South Asian Forum for Farmers and Co-operatives will meet in Pakistan in September to move the initiative forward.

²⁴ The Daily Star, May 19, 2008.