

article 2

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special report

Inexistent Rule of Law in Bangladesh

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* * *

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* * *

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Universitas Gadjah Mada, Indonesia

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Introduction:

The Rule of Law does not exist in Bangladesh

Editorial Board, *article 2*

This Special Report, “Inexistent Rule of Law in Bangladesh” (*article 2*, vol. 13, no. 2, June 2014) is a publication by the Asian Legal Resource Centre (ALRC) on criminal justice institutions in Bangladesh.

Bangladesh has a history in terms of struggles for justice, the rule of law, and democracy. People’s aspirations have, however, been deceived by ruling elites since Bangladesh’s inception. People demand change. Parties replace each other in office. But, the condition of the rule of law worsens by the day. There is no correlation between political pledges and practice. A party, which has taken power by making the public pledge of ending extrajudicial executions and bringing perpetrators to book, is not only endorsing extrajudicial executions today, but also multiplying such crimes. The spate of enforced disappearances has put the entire nation in panic mode. Men in civilian clothes, claiming to be state agents, abduct citizens in broad daylight, from their homes or in public. Abductees disappear. Later, some of the bodies are found floating in rivers and canals.

Ten years ago, one political group created the Rapid Action Battalion (RAB). Officially, the RAB was termed an ‘elite force’. Since its inception, this paramilitary force has been dominated by the armed forces, though it comprises of members of the military, the border guards, and the police. The government has claimed that this paramilitary force possesses the skill and efficiency in controlling crimes in the country. In fact, the RAB has been found skilled only in murdering the citizens in the pretext of ‘crossfire’, ‘gun-battle’, ‘exchange of fire’, and like terms that have been added to public vocabulary in Bangladesh. Impunity has been granted to RAB murderers. Gallantry awards are given to perpetrators in routine. This has contributed to changing the behavioural pattern of all law-enforcement agencies in Bangladesh. The police have wasted little time in trying to supersede the murderous performance of the RAB. Now, available statistics often show the police extrajudicially executing more citizens than the RAB.

In Bangladesh political polarization is maximum. Since independence, ruling parties have deliberately and consistently used law-enforcement agencies against political opposition. Arbitrary arrest and detention, followed by custodial torture, is the preferred practiced was for the powerful to attack rivals. Basic institutions, such as the complaint mechanism, criminal investigating mechanism, prosecutors and state attorneys, and the judiciary have been systematically used and abused to protect the interests of political elites in power. As a result, the protection from torture, the right to life, freedom of expression, and peaceful association are guarantees unrealized in Bangladesh. Victims of rapacious state machinery only increase. Torture and extrajudicial methods to deprive of life and liberty continue relentlessly, amidst transfers of political power. This has made political elites more arrogant and careless about the plight of the people. People's frustration, and traumatized survival lacking dignity and freedom, has increased. Every institution is politically polarized to deny space and freedom to the people. There is no room for redress in Bangladesh today.

Importance of this Report

People's rights cannot be conceived without the existence of the rule of law, in any given territory. This special report contains analytical writings that examine the existence of the rule of law in Bangladesh. It should inspire the audience to consider the basic institutions every society needs. The Bangladeshi people should use it as an unflinching reflecting on their reality.

The people should check to see how their policing system functions? Does the police maintain professionalism in their daily operations? Are they recruited, promoted, assigned, and rewarded on merit, efficiency, honesty, and transparency? Do the people trust their police to seek help when in danger? Or, are the people afraid of the police due to the chance of torture, fabrication of charges, extortion, and other forms of harassment?

The people should examine the complaint mechanisms. How much access do people have to such mechanisms? Do the complainants have to pay bribes to the police or bench officers in courts to file complaints? Do victims of ordinary crimes, or human rights abuse, get unhindered access to the complaint mechanism? Or, do the victims have approach powerful political or financial elites in their jurisdictions to intervene on their behalf just to register complaints? Are complaints recorded according to actual stories of the complainants? Or, do the police distort or force the complainants to alter their complaints?

How do the people, including complainants and witnesses, perceive the criminal investigation system of Bangladesh? Is the system credible? Do investigators extort bribes from parties while investigating cases? Do investigators use torture to extract confessions from crime suspects? Do investigators add or remove

the names of defendants or witnesses, arbitrarily, to weaken cases or gain undue benefit? Do investigators destroy material evidence and intervene in the process of forensic examination – the primitive one that Bangladesh maintains – to determine the fate of the case? Does the investigation process accommodate intervention of political and financial elites? These, and others relevant questions need to be asked so the people may assess how credible is their criminal investigation system.

How reliable and professional is the prosecutorial system and the state attorney services? Are the prosecutors and state attorneys qualified, and efficient enough, to assist the courts in upholding the rule of law? Are prosecutors and attorneys recruited on merit and professional integrity? Or, are they recruited due to political allegiance? Do prosecutors and state attorneys maintain professional independence when dealing with cases? Or, are they complicit to the process of prescribed prosecutorial actions to benefit powerful elites? Do prosecutors and attorneys become part of nepotism and corruption when dealing with cases in courts? Do litigants trust the prosecutors to uphold justice through the judicial process?

The role of the lawyers is critical in any criminal justice mechanism. It is important that the people take a step back to check whether lawyers maintain integrity when discharging legal support to their clients? Do lawyers facilitate corruption in defending cases? Do lawyers distort and hide actual evidence in courts? Do lawyers deliberately and habitually facilitate the process of delaying trials?

The role of the judges is undeniably vital when it comes to upholding the rule of law. How credible and transparent is the recruitment process of judges in all branches of the judiciary? Are judges recruited on the basis of merit, honesty, and commitment to judicial norms? Or, are the judges, of any branch, recruited for their political allegiance, loyalty, and relationship with those with high profile portfolios? Do judges maintain ethical norms when entertaining cases? Or, do the judges entertain cases on the basis of the identities of the litigants, or their lawyers? Do the judges adjudicate all cases with professional independence and judicial mindset? Or, do the judges adjudicate select cases in a selective pattern, compromising juridical norms and fundamental principles of fair trial? And, do judges uphold the universal human rights of the litigants when passing orders in courts?

As per universal human rights instruments, the Executive and the Legislature have an obligation when it comes to upholding the rule of law. In the Bangladesh context, it is important to consider the role of these two pillars of the state. Does the Executive branch maintain a culture of impunity? If so, then, it is a given: the rule of law will not exist in that jurisdiction. Impunity is incompatible with the rule of law; they cannot coexist. If the Legislature fails to act as a check on the Executive and passes laws that violate

the norms of human rights and justice, it contributes to the disappearance of the rule of law. The role of the Executive and the Legislature, in developing the infrastructure of criminal justice institutions, providing logistics and resources, and intervening in their functions, indicate the presence or absence of the rule of law.

Bangladeshis may want to find answers and explore the true state of the rule of law in their country. Human beings have to survive in sub-human conditions in absence of the rule of law. A functional rule of law system does not drop from the sky but from collective efforts of the people and their engagement in public debate and action. If citizens cry when sitting in holy places and curse successive rulers, bureaucrats, and professionals manning criminal justice institutions, such acts make no difference in bringing change to their lives. Bangladeshi sympathisers in the international community cannot do anything to assist common Bangladeshis in establishing a rule of law state if citizens do not act. It is the people of Bangladesh who will determine the fate of the rule of law in Bangladesh in the immediate and distant future.

Contents of this Report

This report contains 47 cases of torture, extrajudicial execution, enforced disappearance, arbitrary detention, fabrication of criminal charge, acid attack, sexual violence, non-investigation and refusal of justice from all parts of Bangladesh. These cases have been documented since 2009, when Bangladesh reportedly began its journey from a military-controlled emergency rule to an elected democracy. The cases substantiate the patterns of violation of people's rights and the inability of criminal justice institutions to provide remedies to victims. They establish the real state of Bangladesh, a country unable to uphold the rule of law.

The remaining sections of the report complement the cases, and include two articles by academic scholars Mr. Maimul Ahsan Khan and Ms. Saira Rahman Khan, and a discussion with Md. Ashrafuzzaman on the realities of Bangladesh in light of the normative standards of the rule of law. The articles discuss the constitutional stature and legal stand of Bangladesh following the Fifteenth Amendment of the Constitution. They examine how the state apparatus behaves with citizens when undermining the rule of law and protecting vested interests at the cost of fundamental rights.

This special report is enriched by the invaluable opinions of a number of reputed professionals of Bangladesh. The ALRC has interviewed: Mr. Nurul Kabir, editor of *New Age*; Mr. Anu Muhammad, Professor of Economics, Jahangirnagar University; Mr. Akmal Hossain, Professor of International Relations, University of Dhaka; Mr. Shahiduzzaman, Professor of International Relations, University of Dhaka; Mr. Nur Khan and Mr. Shahed Kayes, human rights defenders; and Mr. Saiful Haque, General Secretary, Revolutionary Workers' Party of Bangladesh.

Past documentation

Since 2002, the ALRC has observed the alarming deterioration in human rights conditions in Bangladesh. These observations have been reflected in its publications. In recent years, the ALRC has published several materials on Bangladesh, which includes *article 2* publications. In 2006, the ALRC published its first special report in the *article 2*, “Lawless law-enforcement & the parody of judiciary in Bangladesh” (*article 2*, vol. 5, no. 4, August 2006).

The *article 2* has covered special reports on institutions of Asian nations, including Bangladesh. In 2008, an edition “Focuses on prosecutions in Asia” (Vol. 7, No. 1, March 2008) was released that contains an article titled “The Disposable prosecutors of Bangladesh”. In the same year, the *article 2* published another report, “Feature 2008: Five countries in review” (Vol. 7, No. 4, December 2008). Bangladesh found focus again in a chapter titled “Insidious militarization and illegal emergency” and an article on “Democratization and human rights in Bangladesh: An appraisal of the military-controlled Fakhruddin interregnum”.

The *article 2* also published a special edition titled “Use of police powers for profit” (Vol. 8, No. 1, March 2009), which contains article on “Disconnected policing and the justice trade in Bangladesh: The case of Abdur Razzak”. Another edition (“Politics, human rights and the rule of law in South Asia” (Vol. 8, No. 3, September 2009) was released the same year, which includes an article titled “A law to protect only one Bangladeshi family”.

“Corruption and counter-corruption across Asia” (Vol. 9, No. 1, March 2010) is another *article 2* publication, which contains an article titled “Anti-corruption mechanisms in Bangladesh”.

Human rights defender Mr. F. M. A. Razzak was the subject of another edition of the *article 2*. This one, titled “Focus: Defending human rights defenders: Standing up for FMA Razzak” (Vol. 10, No. 2, June 2011) documented his attempted assassination.

In 2013, the ALRC, in collaboration with REDRESS, published a special report in *article 2* on “Torture in Asia: The law and practice” (Vol. 12, No. 3, October 2013). A chapter on Bangladesh was published in this edition. It focuses on: practice and patterns of torture, international law and the Bangladesh legal system; safeguards and complaint mechanisms on limits to and supervision of pre-trial detention, access to lawyers and compulsory medical check-up upon arrest, admissibility of evidence obtained under torture, accountability in complaint, investigation, and in granting amnesty and immunity, protection of victims and witnesses, and reparation.

The aforementioned are some of the *article 2* publications that shed light on human rights realities in Bangladesh. The ALRC and its sister organization, the Asian Human Rights Commission,

have also released other publications related to Bangladesh. In the active engagement of the ALRC and the AHRC in Bangladesh, knowledge about the country has been, and is being acquired, and reflected in such publications.

Acknowledgements

This report has been prepared by the Bangladesh Desk, in collaboration with staff members, of the ALRC and the AHRC, Hong Kong. The authors and the ALRC wish to thank the persons who shared their stories that are published in this report. A number of human rights defenders, academics, and journalists contributed to the process of interviewing the professionals. The ALRC thanks all of them for their effort. They put in considerable effort and have refrained from disclosing their identities due to security risks involved. The ALRC also thanks the authors of the articles for their valued contributions.

Dedication

The Asian Legal Resource Centre dedicates this report to the victims of human rights abuses, the families of the victims, and the human rights defenders who face immense challenges in a painful reality.

Rule of Law in Bangladesh: Normative standards and reality's mirror



Md. Ashrafuzzaman, *Programme Coordinator*
Asian Legal Resource Centre, Hong Kong

The 'rule of law' appears to be one of the most frequently used terms in Bangladesh, without regard to what inherent meanings the phrase poses and what obligations it creates on the State authorities. In academic texts, civil society seminars, and political rhetoric, the term abounds in the form of citing provisions of the Constitution and government pledges to argue that rule of law prevails in Bangladesh. Does the rule of law, however, really govern the lives of the Bangladeshis today? What does it look like when measured on the scale of normative standards of the rule of law? Given more than four decades of political deceitfulness on the part of their politicians, this is expected that the people of Bangladesh now take the benefit of hindsight to avert a more dreadful future. Let us consider the basic question when it comes to the rule of law. Are all persons and authorities bound by the same laws? The Constitution of Bangladesh, in Article 27, for instance reads: "*All citizens are equal before law and are entitled to equal protection of law.*" Reality says an entirely different story.

Gradually Bangladesh has turned into a difficult place for the dissident voices and for those who oppose the successive regimes' unabated embezzlement of public funds. Beyond the crimes, consider how victims of custodial torture are always

“One should also try to understand the existence and functionality of the rule of law by checking the fact.”

denied access to the complaint mechanism once they approach the police stations with a complaint against the police officers. Cases of extrajudicial executions and enforced disappearances face the same impunity. The police do not record complaints against the law-enforcement agencies. Ergo, military officers are above the law and the criminal justice system.

Whatever the law states becomes pointless, when the crimes of high profile politicians of ruling parties are concerned. For instance, the Anti Corruption Commission (ACC) has covered up the scams of the former Railway Minister Suranjeet Sengupta. The World Bank brought the Padma Bridge corruption issue¹ to the notice of the government, providing evidence against high profile ministers, bureaucrats, and relatives of the Prime Minister. But the ACC and the government have pushed the issue under the carpet. The Prime Minister publicly declared the then communications minister Sayed Abul Hossain a ‘true patriot’ when Hossain’s name surfaced as one of key accused in the scam and public criticism was at its peak.

One should also try to understand the existence and functionality of the rule of law by checking whether all persons and authorities are entitled to benefit from all laws. This point deserves that one focus on the reality of the gross abuses of human rights in Bangladesh. The right to protection of law² is guaranteed in the Constitution as an ‘inalienable right of every citizen’. Likewise, the protection of right to life and personal liberty³ and the safeguards related to arrest and detention⁴ are guaranteed in the same document.

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- 1 The Padma Multipurpose Bridge Project for Bangladesh was designed to connect the isolated southwestern region with the rest of the country. The World Bank, which agreed to finance for the project, cancelled the same on January 31, 2013 due to corruption scandals.” Details can be accessed at: <http://documents.worldbank.org/curated/en/2013/08/18127694/bangladesh-padma-multipurpose-bridge-project>
The World Bank’s full report can be accessed at: http://www-wds.worldbank.org/external/default/WDSPContentServer/WDSP/IB/2013/08/21/000442464_20130821100930/Rendered/PDF/NCO27970ICR0Ba000PUBLIC00Box379808B.pdf.
 - 2 Article 31 of the Constitution of Bangladesh: Right to protection of law: “To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen, wherever he may be, and of every other person for the time being within Bangladesh, and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken except in accordance with law.” Accessible at: http://bdlaws.minlaw.gov.bd/sections_detail.php?id=367§ions_id=24579
 - 3 Article 32 of the Constitution of Bangladesh: Protection of right to life and personal liberty: “No person shall be deprived of life or personal liberty save in accordance with law.” Accessible at: http://bdlaws.minlaw.gov.bd/sections_detail.php?id=367§ions_id=24580
 - 4 Article 33 of the Constitution of Bangladesh enshrines safeguards regarding to arrest and detention. Accessible at: http://bdlaws.minlaw.gov.bd/sections_detail.php?id=367§ions_id=24581

Yet, hundreds of people have been extrajudicially murdered while in custody of the police, the Rapid Action Battalion, and other paramilitary and security forces, within the last decade. Numerous people have been and continue to be illegally arrested and arbitrarily detained, mostly in fabricated cases. The law, in general, does not benefit any of the victims.

On the other hand, Bangladesh promulgates considerable legislation that cannot be considered as ‘law’ according to basic legislative norms. For example, a law titled ‘Joint Drive Indemnity Act⁵, 2003’ protects officers of the armed forces and the other paramilitary forces from prosecution if they were to commit a large scale violation of human rights⁶. This so-called legislation has denied thousands of victims the right to seek justice. The judiciary, including the Supreme Court, has maintained silence about this law. Another law titled “Father of the Nation’s Family Members Security Act⁷, 2009”, only benefits the family and the relatives of the incumbent Prime Minister of Bangladesh, Sheikh Hasina. Such laws are anathema in a state that abides by the rule of law.

Considering further whether the rule of law exists in Bangladesh one may check to see whether all laws are made publicly or not. Since independence many laws have been made arbitrarily in Bangladesh, without public knowledge and consent. For example, the Special Powers Act⁸, 1974, was made to arrest people without any Court’s order or a warrant. The government was thus empowered to put citizens under ‘preventive detention’ for so-called ‘prejudicial acts’. And it allowed government officials to determine which act is ‘prejudicial’ and which one isn’t, bypassing and undermining the judiciary.

“Many laws have been made arbitrarily, without public knowledge and consent.”

5 The original Bangla version of the *Joutho Ovijan Daimukti Ain*, 2003, (Joint Drive Indemnity Act, 2003) can be accessed at: http://bdlaws.minlaw.gov.bd/bangla_all_sections.php?id=897

6 Nick Cheesman, “Fighting lawlessness with lawlessness (or) the rise & rise of the Rapid Action Battalion” paragraph 4, “The 86-Day Tragedy a.k.a. Operation Clean Heart”. The article can be viewed at: <http://www.article2.org/mainfile.php/0504/244/>. It was part of article2, Vol. 5, No. 4, published Special Report titled “Lawless Law-enforcement and the Parody of Judiciary in Bangladesh”, 2006. A detailed report can be viewed at: <http://www.article2.org/mainfile.php/0504/>

7 The original Bangla version of the *Jatir Pitar Poribar-Sadoshojoner Nirapatta Ain*, 2009, (Father of the Nation’s Family Members Security Act) can be viewed at: http://bdlaws.minlaw.gov.bd/bangla_all_sections.php?id=1028

8 The Special Powers Act, 1974, enacted on 9 February of that year, without any discussion inside or outside Parliament. This Act empowers the government to arrest citizens for ‘prejudicial acts’ and put the arrestees in ‘preventive detention’, denying them the right to liberty. The Act is accessible at: http://bdlaws.minlaw.gov.bd/pdf_part.php?id=462

“The Constitution of Bangladesh was amended in the National Parliament in less than 15 minutes.”

The Fourth Amendment⁹ to the Constitution of Bangladesh was passed in the National Parliament in less than 15 minutes. There was no discussion in Parliament regarding the Amendment, let alone any public discussion in the country. The Fourth Amendment, thus, is known as a ‘parliamentary coup’ in Bangladesh.

The Fifteenth Amendment¹⁰ to the Constitution of Bangladesh had the same fate as the Fourth Amendment. The Parliament rubber-stamped the Fifteenth Amendment Bill in under 15 minutes. The people of the country were in the dark regarding this Amendment, which introduced the grand provision for punishing persons with the death penalty for criticising the Constitution, labeling such criticism an act of ‘sedition’¹¹. The Amendment has also inserted an Article that prohibits all the

9 The Fourth Amendment to the Bangladesh Constitution was passed on 25 January 1975, bringing radical changes in the governmental and political systems. Multiparty parliamentary democracy was replaced by a one party presidential dictatorship. The Amendment banned all political parties, keeping only the ruling party in the country. The Prime Minister Sheikh Muzibur Rahman declared himself President of the Republic. The tenure of the President and the Parliament was extended for five years from the date of the Amendment, despite Parliament having already been constituted for two years following the 1973 election. Altogether 19 Articles of the Constitution were amended, i.e. 11, 66, 67, 72, 74, 76, 80, 88, 95, 98, 109, 116, 117, 119, 122, 123, 141A, 147, and 148. As a result: articles 44, 70, 102, 115 and 124 were replaced; Part III of the Constitution was repealed; the Third and Fourth Schedules were altered; Part VIA, a new part, was inserted; and the articles 73A and 116A were inserted. The Supreme Court was deprived of its jurisdiction over the protection and enforcement of fundamental rights. The appointments of the judges of the Supreme Court came under the control of the President, while the subordinate judiciary (Sessions and Magistracy) was already under the direct control of governmental ministries. All newspapers were banned and shut down save for four: the government snatched ownership of two private newspapers by an order and retained two previously government-owned newspapers. And, all public employees were automatically made members of the ruling party.

10 The Fifteenth Amendment of Bangladesh Constitution, enacted on 29 June 2011, made great changes to the Constitution by repealing the “non-party caretaker system” for holding general elections. It made provisions of holding general election without dissolving the sitting Parliament. It inserted an Article declaring the country ‘secular’ while keeping Islam as the state religion.

11 Article 7A: “Offence of abrogation, suspension, etc of the Constitution: (1) If any person, by show of force or use of force or by any other un-constitutional means- (a) abrogates, repeals or suspends or attempts or conspires to abrogate, repeal or suspend this Constitution or any of its article; or (b) subverts or attempts or conspires to subvert the confidence, belief or reliance of the citizens to this Constitution or any of its article, his such act shall be sedition and such person shall be guilty of sedition. (2) If any person- (a) abets or instigates any act mentioned in clause (1); or (b) approves, condones, supports or ratifies such act, his such act shall also be the same offence. (3) Any person alleged to have committed the offence mentioned in this article shall be sentenced with the highest punishment prescribed for other offences by the existing laws. Accessible at: http://bdlaws.minlaw.gov.bd/sections_detail.php?id=367§ions_id=41503

future Parliaments of the country to amend the 'Basic Provisions'¹² of the Constitution, making future amendments punishable for sedition. This Amendment also repealed the Fifth Amendment of the Constitution. But, it did not renumber the successive amendments to the Constitution, and also did not clarify how it would justify actions of the State performed under the erstwhile Fifth Amendment.

The Information and Communication Technology Act¹³, 2006, the Anti-Terrorism Act¹⁴, 2009, and the Mobile Court Act¹⁵, 2009, are among other draconian laws created without public knowledge. Furthermore, all the laws made by military and military controlled regimes were imposed as ordinances with immediate or retrospective effect. The people of Bangladesh did not have any knowledge about such laws prior to their promulgation. Therefore, on the whole, Bangladesh fails this rule of law norm as well.

In a rule of law state, citizens should also have knowledge of the existence, the contents, and the full texts, of all laws promulgated and put in force. Everyone should have easy access to the laws as well.

Is this the case in Bangladesh? The law-making process solely depends on the wish of the head of the Bangladesh government. Forget theory, this is the reality. From beginning to end in the law-making process, the people are kept isolated from the discussion about both the necessity and the impact of the potential law. The government drafts a Bill using bureaucrats, who always oblige the regime, ignoring the welfare of citizens. On rare occasions are opinions collected from select members of civil society. Either

“All the laws were made by the military controlled regimes were imposed as ordinances with immediate or retrospective effect.”

12 Bangladesh Constitution's Article 7B: "Basic provisions of the Constitution are not amendable: Notwithstanding anything contained in article 142 of the Constitution, the preamble, all articles of Part I, all articles of Part II, subject to the provisions of Part IXA all articles of Part III, and the provisions of articles relating to the basic structures of the Constitution including article 150 of Part XI shall not be amendable by way of insertion, modification, substitution, repeal or by any other means." Accessible at: http://bdlaws.minlaw.gov.bd/sections_detail.php?id=367§ions_id=41504.

13 The original Bangla version of the *Totho O Jogajog Projukti Ain*, 2006 (Information and Communication Technology Act) http://bdlaws.minlaw.gov.bd/bangla_pdf_part.php?act_name=&vol=%26%232537%3B%26%232541%3B&id=950

14 The original Bangla version of the *Sontrash Birodhi Ain*, 2009, (Anti-Terrorism Act) can be accessed here: http://bdlaws.minlaw.gov.bd/bangla_all_sections.php?id=1025.

15 The original Bangla version of *Mobile Court Ain*, 2009 (Mobile Court Act, 2009) accessible at: http://bdlaws.minlaw.gov.bd/bangla_all_sections.php?id=1025

way, at the time of enactment, the Parliament rejects¹⁶ the views of ‘civil society’.

“Trials of a number of alleged perpetrators were started while the government kept targeting new persons by choice.”

Different regimes, out of the arrogance that comes with absolute authority, and ignorant of existing laws, have ended up duplicating laws. New laws often overlap, or contradict, existing laws and constitutional provisions. Article 2A, which establishes ‘Islam’ as the ‘state religion of the Republic’¹⁷ and Article 12, wherein ‘Secularism’¹⁸ is adopted, as the ‘Fundamental Principles of State Policy’, is case in point. When the Constitution is riddled with such amendments, one can comprehend the state of domestic laws. What is more, the President promulgates ordinances acting upon the wishes of the office of the Prime Minister. Such legislation and its process remain hidden from the public.

What is true for the process is true for the laws promulgated too. Access to the laws is not a reality for the ordinary public; rather, it is the legal practitioners and law-enforcement agencies that mostly deal with the laws, with or without a correct version and interpretation of the law.

The application of all laws prospectively is another significant feature of the rule of law. And, in Bangladesh, constitutional amendments and domestic legislations have been put in effect retrospectively. The Fifth Amendment to the Constitution of Bangladesh was passed by Parliament on 6 April 1979. It was, however, put into effect from 15 August 1975, with retrospective effect. Likewise, the Eleventh Amendment to the Constitution is another example. This Amendment validated the oath and office of Mr. Shahabuddin Ahmed, Chief Justice of Bangladesh, as the Acting President of the Republic from 6 December 1990 to 9 October 1991. During this period Bangladesh’s Chief Justice Shahabuddin Ahmed became the Acting President of the Republic on political consensus, since military dictator Ershad’s downfall. The constitutional amendment justified Justice Ahmed’s desire to return to the Office of the Chief Justice. After Acting Presidency

16 A Parliamentary Committee was formed prior to the introduction of the Fifteenth Amendment Bill of the Constitution. The committee had few discussions with members of NGOs, media, Supreme Court lawyers, and some politicians. As per most everyone’s suggestion, the Committee recommended retaining the ‘non-party caretaker governmental system’ for holding general elections in the country. Prime Minister Sheikh Hasina alone wanted to repeal the ‘non-party caretaker system’ for perpetuating her power. Fifteenth Amendment Act, 2011, satisfied Sheikh Hasina, ignoring 90 percent of the people.

17 Article 2A: The state religion: ‘The state religion of the Republic is Islam, but the State shall ensure equal status and equal right in the practice of the Hindu, Buddhist, Christian and other religions.’ See: http://bdlaws.minlaw.gov.bd/sections_detail.php?id=367§ions_id=24549

18 Article 12: Secularism and freedom of religion: ‘The principle of secularism shall be realised by the elimination of - (a) communalism in all its forms; (b) the granting by the State of political status in favour of any religion; (c) the abuse of religion for political purposes; (d) any discrimination against, or persecution of, persons practicing a particular religion. See: http://bdlaws.minlaw.gov.bd/sections_detail.php?id=367§ions_id=24560

he served as the Chief Justice until the end of 1994 as a result of the Eleventh Amendment to the Constitution of Bangladesh.

Apart from the Constitution, the International Crimes Tribunal Act¹⁹, 1973, has been one of the most debated examples of laws having been applied with retrospective effect. This particular law was made in 1973 for bringing to justice perpetrators of war crimes and crimes against humanity committed during the Bangladesh war of independence. For political reasons, the due trials did not take place for a long time.

“In Bangladesh the powers of the Courts have been curtailed in certain laws.”

In 2009, the Bangladesh Awami League, after assuming office, initiated trials of the alleged perpetrators. The government amended the Act on 14 July 2009, and again in 2012 and 2013. Trials of a number of alleged perpetrators commenced; the government kept targeting new persons by choice, instead of finalising the entire list of perpetrators. In the middle of the trial, the government amended the Act with retrospective effect. Section 21²⁰ of the Act, for instance, was substituted by a provision enabling the State to secure its ‘Right to Appeal.’ This amendment took place after a few judgments had already pronounced by ICT Tribunals. This Amendment was made following protests by a section of the public, who demanded the death penalty²¹ for one of the convicts punished with life imprisonment. This law excludes the applicability of the Evidence Act, 1872, and the Code of Criminal Procedure, 1898. Therefore, the prospective principle has been and continues to be breached in Bangladesh.

In a country where the rule of law exists, another feature must be present: all the laws should be administered in the courts of law. In Bangladesh, the powers of the Courts have been curtailed in certain laws. Consider the example of the Speedy Trial Tribunal Act²², 2002. This law was made with the purported aim of ensuring quick trial for five specific offences: murder, rape, and the possession of illegal firearms, explosives, or narcotics. Initially, it came into force via a Presidential ordinance. Later, the Parliament ratified it. Section 6 of the Act authorises the

19 The official version of the International Crimes Tribunal Act, 1973, can be accessed here: http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=435

20 Section 21 of the International Crimes Tribunal, “Right of Appeal: (1) A person convicted of any crime specified in Section 3 and sentenced by a Tribunal may appeal, as of right, to the Appellate Division of the Supreme Court of Bangladesh against such conviction and sentence. (2) The Government or the complainant or the informant, as the case may be, may appeal, as of right, to the Appellate Division of the Supreme Court of Bangladesh against an order of acquittal or an order of sentence. (3) An appeal under sub-section (1) or (2) shall be preferred within 30 (thirty) days from the date of conviction and sentence, or acquittal or any sentence, and no appeal shall lie after the expiry of the aforesaid period. (4) The appeal shall be disposed of within 60 (sixty) days from the date of its filing. (5) At the time of filing the appeal, the appellant shall submit all documents as may be relied upon by him.”

21 The death penalty was executed on 12 December 2013.

22 The original Bangla version of the *Druto Bichar Tribunal Ain*, 2002 (Speedy Trial Tribunal Act) can be accessed at: http://bdlaws.minlaw.gov.bd/bangla_all_sections.php?id=896

“Torture and corruption are inseparable from the investigation system.”

government to select particular cases involving crimes falling into the five categories and to transfer them, by gazette notification, to the Speedy Trial Tribunal for holding quicker trials. The law has thereby allowed executive authorities to arbitrarily pick and choose cases for trial under this law. The executive authorities rather than the judiciary usually decide the fate of these cases.

The Mobile Court Act, 2009, was first introduced as an ordinance by the military controlled emergency regime²³. This law authorises the government to assign an ‘Executive Magistrate’ or ‘District Magistrate’ to conduct trial of offences²⁴ under this law. At least 85 separate laws were put into the schedule²⁵ of this Act. Sections 6 and 11 empower the ‘Executive Magistrates’ and ‘District Magistrates’ – both being administrative officers of the Executive branch of the state – to punish the so-called accused instantly, with a maximum imprisonment of two years²⁶ and monetary penalties, as per the laws listed in the Schedule of this Act. Such instant punishment is executed without the accused being able to avail legal representation. This Act imposes obligations on law-enforcement agencies and concerned institutions of the government to assist the ‘Mobile Court’ in its operation. This law has mostly been used to punish opposition activists for alleged violence in particular, though all manners of citizens have met with instant ‘justice’ in this way for a variety of alleged crimes. Thus, Bangladeshi executive routinely undermines and jettisons the courts to try certain alleged crimes.

Anyone wishing to gauge the functionality of a rule of law system in a given territory should also ask another critical question: Is the investigative system under the police adequate to enable the courts to administer justice? In the context of Bangladesh, the answer is resounding no. The investigation system maintained by the police is notorious. Torture and corruption are inseparable from the investigation system²⁷ in Bangladesh. The police do not have the required efficiency and commitment to investigate cases with any credibility. Rather, the police maintain a ‘chain

23 On 11 January 2007, the armed forces snatched power from the President, who was forced to impose a state of emergency. The army was in the driving seat, while civilian bureaucrats at the forefront acted as puppets of the army. This regime stayed in office until Sheikh Hasina took over power on 6 January 2009. The military-controlled regime promulgated dozens of ordinances to secure their control over institutions and the people in general.

24 Section 5 of the Mobile Court Act, 2009, accessed here: http://bdlaws.minlaw.gov.bd/bangla_sections_detail.php?id=1025§ions_id=39548

25 Schedule of the Mobile Court Act, 2009, details of which (in Bangla) are accessed here: http://bdlaws.minlaw.gov.bd/pdf/1025__schedule.pdf

26 Section 8 of the Mobile Court Act, 2009, available at: http://bdlaws.minlaw.gov.bd/bangla_sections_detail.php?id=1025§ions_id=39549

27 Asian Legal Resource Centre, Hong Kong, “Bangladesh, a tortured and corrupted nation”, paragraph with sub-title: Torture, the Third Degree Method, can be accessed at: <http://www.article2.org/mainfile.php/0504/242/>, published in Special Report “Lawless Law-enforcement and the Parody of Judiciary in Bangladesh”, article2, Vol. 5, No. 4, August 2006. Available at: <http://www.article2.org/mainfile.php/0504/>

of corruption'²⁸ for building individual fortunes. The forensic medicine examination and medico-legal investigation system is still primitive²⁹. As a result, 'confessional statements' extracted through torturing an accused or a witness is a key technique of criminal investigation³⁰. Corruption is inseparable from every stage of a criminal case³¹.

As far as the rule of law is concerned, it also important to consider whether the prosecution system is adequate, to allow for laws to be administered by the Courts. Bangladesh has never had an independent and competent prosecution system. Rather, the country has a 'disposable'³² prosecution system. Every regime appoints a group of lawyers of their choice to act as prosecutors or state attorneys. These lawyers get this opportunity because of their political loyalty – not professional skills – and often by corrupt means. The prosecutors partake in riotous corruption, the result of which reflects in their subsequent lifestyle. The prosecutors do not delegate their responsibilities or skills to any successors. The transfer of prosecutorial responsibilities does not take place; once a regime assumes office, a new set of prosecutors occupy the office of the prosecutors; predecessors stop coming to the office once they know their own party is not returning to power.

A common feature of Bangladesh, in terms of considering the status of the rule of law, is that the Courts face constant interference by the government, other political pressures, and pressure from powerful lobbies. Direct intervention in the functioning of Courts is a way of life in Bangladesh³³. Since the birth of Bangladesh and up to October 2007, the Magistrate's Court was directly under the Ministry of Home Affairs. Executive officers of the state used to sit in the Courts to adjudicate criminal

“Courts face constant interference by the government or other political pressures or by pressure from powerful lobbies.”

28 Asian Human Rights Commission's Statement on 9 August 2012: "BANGLADESH: People pay more to the police than the government", accessible at: <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-160-2012>

29 Asian Human Rights Commission, Urgent Appeal Case: AHRC-UAC-149-2008, ADDITIONAL COMMENT, Paragraph: 4. Details available at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-149-2008/>

30 Asian Human Rights Commission's Open Letter to UN High Commissioner for Human Rights, 26 June 2013: "BANGLADESH: Torture-friendly & Corrupt Policing Needs Urgent Reform", accessible at: <http://www.humanrights.asia/news/ahrc-news/AHRC-OLT-011-2013/>

31 Chapter III: "Corruption at Investigation/Inquiry Stages", Pg. 23. In Md. Shariful Islam's book, "Politics – Corruption Nexus in Bangladesh: An empirical Study of the Impacts of the Judicial Governance", published by Asian Legal Resource Centre, Hong Kong, 2010. Accessible at: <http://www.humanrights.asia/resources/books/ALRC-PUB-001-2011/ALRC-PUB-001-2010-BN-Politics-Corruption.pdf>

32 Md. Ashrafuzzaman, The Disposable Prosecutors of Bangladesh: <http://www.article2.org/mainfile.php/0701/309/>, published in article2, Vol. 7. No. 1., in 2008: "Focus: prosecution in Asia", accessible at: <http://www.article2.org/mainfile.php/0701/>

33 Asian Human Rights Commission's Statement: "BANGLADESH: A lady parliamentarian obstructs investigation into a rape of a nine year old girl", accessible at: <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-174-2010/>

“Due to large scale politically-chosen appointments and posting of judges those wish to maintain normative principles get demoralized.”

cases. All adjudications used to depend on administrative and political interference. Since November 2007, the ‘separation of judiciary’ has taken place on paper. In reality, although the ‘Judicial Magistrates’ have replaced the ‘administrative officers’ to adjudicate law, the traditional practice of the executive monopolising judicial functions continues. The recruitment, posting, promotion, or elevation of judges controlled by the executive branch of the state. As a result, the judiciary, at all its levels, entertains the instructions of the executive and persons close to the rulers³⁴.

As a result, public confidence in the competence and impartiality of the Courts in administering justice is absent in Bangladesh. The people do not trust the judiciary³⁵. The popular perception is that if any person becomes party to any litigation this involvement has arrived in their life as an unfortunate blow. Being involved in litigation is assumed to be the result of misdeeds or sins committed by someone in the family. The judicial process is itself assumed as a form of punishment in society.

Next, is the procedure for the appointment, promotion, and dismissal of judges made through an objective process that inspires public confidence in a rule of law system? In Bangladesh, the appointment, promotion, and dismissal process has been greatly politicized and subject to corruption. The Ministry of Law, Justice, and Parliamentary Affairs deals with the process of appointment, promotion, and dismissal in a whimsical fashion, prompted by the wishes of the incumbent political regime. This occurs despite the Rules directing that such actions should be conducted through ‘consultation with the Chief Justice’. That said, the Chief Justice also happens to be appointed on political considerations³⁶. And, thus, what is in practice and the procedure in terms of normative standards do not match.

It may be understood that once judges are recruited, promoted, and posted on the basis of their political ideology and loyalty³⁷, the position of judges can never be secure from interferences into

34 Asian Legal Resource Centre’s Statement titled “BANGLADESH: Incommensurable with the rule of law”, accessible at: http://www.alrc.net/doc/mainfile.php/alrc_st2014/789

35 Asian Legal Resource Centre’s Statement titled “ BANGLADESH: Incommensurable with the rule of law”, accessible at: http://www.alrc.net/doc/mainfile.php/alrc_st2014/789

36 Asian Human Rights Commission’s Statement: “BANGLADESH: Culture of supersession in Supreme Court will undermine rule of law”, published 26 May 2010, accessible at: <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-147-2008/>

37 The posting of Md. Jahangir Hossain (Badal) as the District and Sessions Judge of Dhaka in 2010 was decided by the government at a time when he lagged behind 200 judicial officers on the merit list of judges that could vie for the same position. Later, on 20 October 2011, he was elevated as Additional Judge of the High Court Division. On 7 October 2013, the government made him a permanent Judge of the High Court Division of the Supreme Court of Bangladesh. Mr. Jahangir is related to an ex President of Bangladesh, the late Md. Zillur Rahman.

judicial decisions. The notion of impartiality and independence of judges has no place in the actions of such an institution. Due to large-scale politically determined appointments and postings, judges that wish to maintain normative principles get demoralized. Undeserving judges damage any vestige of the rule of law by entertaining matters that are unlawful, unethical, and corrupt³⁸.

“Many decisions of the judges are made in closed doors, particularly when the opposition activists and human rights defenders are the accused.”

There is no means provided for resolving, without prohibitive cost or inordinate delay, bona fide disputes which parties themselves are unable to resolve. Today, disputes cannot be resolved without intervention and support from locally influential persons belonging to the ruling party. In Bangladesh, the litigation cost is prohibitive, and it is not affordable to ordinary litigants. Besides, there is an option of receiving ‘legal aid’, which is almost inaccessible to them. Inordinate delays in disposing the criminal and civil cases contribute to public frustration about the judiciary’s competence in administering justice. In absence of any kind of ‘witness protection’ mechanism the people face multiple challenges. Those who dare contest cases against the law-enforcement personnel, influential persons associated with the ruling parties, and economically powerful persons, face dire threat to their lives, liberty, and property.

The adjudicative processes provided by the state are not fair. Many decisions of the judges are made behind closed doors, particularly when opposition activists and human rights defenders are made accused in fabricated cases. Due to corrupt practices and politicization, decisions are made behind closed doors. There is no functional process of holding the judges accountable. There is perpetual fear of contempt of court proceedings, i.e. vindictive actions by the judiciary³⁹.

Additionally, the role of lawyers, as integral part of the adjudicative process, is negative. By and large, the lawyers have acted to their own personal advantage and not for the preservation of litigation practices complying with norms of the rule of law.

Furthermore, there is no guarantee that the Court’s decisions will be implemented in Bangladesh. Those having the capacity to influence a powerful authority of the state can undermine a

38 Asian Human Rights Commission’s Urgent Appeal Update: “BANGLADESH: Magistrate violates law, while the government’s goons attempt to brand college student as a criminal after the Rapid Action Battalion took his leg away”. The full text can be accessed at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAU-028-2012/>

39 The Daily Amardesh editor Mahmudur Rahman, and journalist Oliullah Noman were imprisoned in a ‘contempt of court’ case initiated by the Supreme Court of Bangladesh. The Court imposed extralegal punishments to these two persons. Details can be found in Asian Human Rights Commission’s “The State of Human Rights in Eleven Asian Nations – 2010”, Pg. 47–50. Accessible at: http://www.humanrights.asia/resources/hrreport/2010/1%20Bangladesh_2010.pdf

“Laws are not accessible to the people. Subsequently, the people have to rely on brokers, who are often representatives of the local government.”

judicial order⁴⁰. The institutions that responsible for upholding the rule of law are constrained. The police, the prosecution and attorney services, the forensic medicine examination system, and the courts are not allocated adequate financial, technical, and human resources⁴¹. This inadequacy guarantees the inefficiency of these institutions and increases corruption. The possibilities of corruption are not prevented within the institutional systems as far as Bangladesh is concerned. Rather, the possibilities of corruption are promoted. The culture of impunity amongst the offenders is thus entrenched. As a result, the police and law-enforcing agents do not care about the quality of service that they are legally obliged to render to the people. The police officers are, in practical terms, not answerable to anyone for distortion of facts, evidence, and for illegal arrests and arbitrary detentions, due to the ‘chain of corruption’ having replaced the ‘chain of command’.⁴² Likewise, corruption has been made inseparable from prosecutorial affairs and adjudication⁴³.

A functioning rule of law system makes all laws accessible to all citizens. In the case of Bangladesh, the laws are not accessible to the people. Subsequently, the people have to rely on brokers, who are often representatives of local government entities, such as the municipality. These people, at the same time, may be police sources or may be working with a particular lawyer hunting for cases or clients for litigation. For registering a complaint, a litigant has to follow what the police dictate or be subject to how a client-hunting lawyer imposes himself and ignores the needs of the client. The police and the lawyers habitually add fictitious stories to the facts relating to a complaint when complainants approach them to register a case. They tempt complainants and argue that exaggerated complaints will help fit the case to stronger provisions of law that may bring harsher punishment to the alleged perpetrators. Due to the complainants’ lack of knowledge about legal provisions and the lack of access to law, the complainants agree with the police and lawyers, who extract

40 Asian Human Rights Commission’s Urgent Appeal Case: “BANGLADESH: Rights activists and inhabitants of Mayadip are under threat by illegal sand-miners in connivance with the police and civil administration”, available at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-033-2012/>

41 Md. Shariful Islam “*Politics – Corruption Nexus in Bangladesh: An Empirical Study of the Impacts on Judicial Governance*”, published by Asian Legal Resource Centre, 2010, Chapter VI: The Plights of the Judges, Pg. 97, and Chapter VII: The Plights of the Police, Pg. 107. Accessible at: <http://www.humanrights.asia/resources/books/ALRC-PUB-001-2011/ALRC-PUB-001-2010-BN-Politics-Corruption.pdf>

42 Asian Human Rights Commission’s Statement: “BANGLADESH: Chains of Corruption Strangle Nation”, available at: <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-085-2014>

43 “*AHRC case study: Accused in Bangladesh forced to pay bribe to the Special Public Prosecutor and Judge*”, Pg. 50. In Asian Legal Resource Centre’s Report of the Fourth Consultation on an Asian Charter on the Rule of Law, 2008, “*The Inability to Prosecute and Failure to Protect Human Rights in Asia*”, accessible at: <http://www.humanrights.asia/resources/books/AHRC-PUB-003-2009/InabilityToProsecuteAndFailureToProtectHR.pdf>

extra money from complainants for such ‘service’. Challenging the police, or the lawyer, may only increase the insecurity of the person already struggling to get legal remedy⁴⁴.

All laws are not clearly intelligible and predictable in Bangladesh. For example, in Section 7, the Medical Practice and Private Clinics and Laboratories (Regulation) Ordinance, 1982, states that doctors have to publicly display their charges and fees⁴⁵. The same ordinance, in Section 14, makes the entire law useless by barring the courts’ authority to take cognizance of a case unless there is ‘a complaint in writing from the Director General of Health’⁴⁶. Take the example of the Motor Vehicles Ordinance, 1983. In Section 189, the law authorizes police officers to punish the ‘offenders’ with monetary fine⁴⁷. In fact, the amount is not mentioned in the law. As a result, the police do business of extortion, and charge fine arbitrarily, by using this law. Also, the Information and Communication Technology Act, 2006, with its vague definition⁴⁸ of offences, gifts immense power to the police to arrest and harass any citizen the state. In addition, the Police Act, 1861, is made non-applicable in metropolitan areas, according to Section 3 of the Dhaka Metropolitan Police Ordinance⁴⁹, 1976; this causes chaos in the policing system itself, not to mention citizens caught up in its legal web.

“When we talk about the rule of law, it is important to consider how the question of legal rights and liabilities are resolved.”

When one talks about the rule of law, it is important to consider how the question of legal rights and liabilities is resolved – by ordinary application of the law or by discretion of any authority? The closure of the Daily *Amar Desh*, a vernacular pro-opposition daily newspaper, and detaining its Editor, Mr. Mahmudur Rahman, is a glaring example that exposes the truth about abuse of discretionary power. On 11 April 2013, the police arrested Mahmudur from his office. He was shown arrested as an accused in two cases of car vandalism, despite him not having stepped out

44 Asian Human Rights Commission’s Urgent Appeal: “BANGLADESH: Police pressure the victim of an acid attack to withdraw her case and marry her attacker”, accessible at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-144-2009>

45 The Medical Practice and Private Clinics and Laboratories (Regulation) Ordinance, 1982, Section 7: Display of charges and fees: Every registered medical practitioner carrying on private medical practice and every private clinic and private laboratory shall prominently display in the chamber, clinic or laboratory, as the case may be, a list of charges and fees that may be [demanded by him or it.]. The full text of the Ordinance is available at: http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=620

46 The Medical Practice and Private Clinics and Laboratories (Regulation) Ordinance, 1982, Section 14: “No Court shall take cognizance of an offence under this Ordinance except on a complaint in writing made by the Director-General or an officer authorised by him in this behalf.”

47 Motor Vehicles Ordinance, 1983, Section 159, accessible at: http://bdlaws.minlaw.gov.bd/sections_detail.php?id=654§ions_id=22552

48 The original Bangla version of *Tottho O Jogajog Projukti Ain*, 2006 (Information and Communication Technology Act, 2006) is available at: http://bdlaws.minlaw.gov.bd/bangla_all_sections.php?id=950

49 Dhaka Metropolitan Police Ordinance, 1976, accessible at: http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=511

“The laws of the land, in fact, apply on the basis of political identities and socio-economic status.”

of his office for several months in order to avoid state repression. The newspaper was shut down forcibly and the printing press sealed by the police the same evening without lawful reason⁵⁰. The action was challenged in the High Court Division of the Supreme Court of Bangladesh. The High Court gave a partial hearing to the newspaper's writ. To delay the process, or to deny normal legal redress, the state attorneys made a request for further hearings in the presence of the Attorney General. Subsequently, the hearing has been pending for nearly a year. The writ has still not been included in the cause list of the Court at the time of writing. The editor remains in detention without trial. The case shows how the laws of the land apply on the basis of political identities and socio-economic status⁵¹.

There is no scarcity of law in Bangladesh. But, when the question of protection under law arises – either in the cases of ordinary crimes or gross human rights violations - a diabolical picture takes shape. Take the example of enforced disappearance and extrajudicial killings by the RAB and the police. Not a single incident involving such crimes has led to prosecution since the RAB was created in 2004. The denial of access to the complaint mechanism closes all doors for seeking justice; forget about credible investigation or prosecution regarding the matter⁵². The government covers up cases of fundamental human rights violations through so-called inquiries by Executive Magistrates (administrative officers), delay, and intimidation of victims. The laws, not to mention implementation, are inadequate for preventing discriminations.

The people of Bangladesh have struggled for many years for a legislation that criminalizes torture. In October 2013 such a law⁵³ was enacted. ‘Custodial death’ is a punishable crime under this law. In reality, however, the law is not being put into practice for registering cases of torture and custodial deaths. For the cases of disappearance, the government argues that ‘disappearance’ is not criminalized in penal law; thus, the crime does not take place

50 Asian Human Rights Commission's Statement: “ BANGLADESH: Intervene immediately to save the life of detained journalist Mr. Mahmudur Rahman”, accessible at: <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-076-2013/>

51 Asian Legal Resource Centre's Report of the Fourth Consultation on an Asian Charter on the Rule of Law, 2008, “*The Inability to Prosecute and Failure to Protect Human Rights in Asia*”, page 24, paragraph 3 & Bangladesh Desk of Asian Legal Resource Centre, “*Bangladesh, a corrupted & tortured nation*”, article2, 2006, Vol. 5. No. 4, accessible at: <http://www.article2.org/mainfile.php/0504/242/>

52 Asian Human Rights Commission's Asia Report 2013: “BANGLADESH: Lust for Power, Death of Dignity” accessible at: <http://www.humanrights.asia/resources/hrreport/2013/AHRC-SPR-008-2013.pdf/>

53 Torture and Custodial Death (Prohibition) Act, 2013, was drafted by Asian Human Rights Commission in 2009. After nearly five years' continued campaign, the Bill was enacted on 24 October 2013. The full text can be accessed at: <http://www.humanrights.asia/countries/bangladesh/laws/legislation/Torture-CustodialDeath-ActNo50of2013-English.pdf/>

and is not considerable as well⁵⁴. Such a position contradicts the fundamental rights enshrined in the Constitution of Bangladesh⁵⁵. The excuse of not having a legal provision on any particular issue, in fact, does not matter at all. The Constitution clearly prohibits ‘torture’, and a new legislation criminalizes ‘torture’ and ‘custodial death’. Yet, torture is endemic and custodial death flourishes unabated in Bangladesh. This is so for cases of illegal arrest and arbitrary detention too. Prohibition in the Constitution or in law does not prevent the law-enforcing agencies from committing these crimes. Illegal arrests and arbitrary detentions are the normal way of law-enforcement in Bangladesh.

“The mainstream media professionals have, largely, made themselves slaves to these political camps.”

Such a system is, in fact, incapable of guaranteeing the right to fair trial. Incompetence of judicial officers, prosecutors, and defence lawyers, and the absence of judicial mindset amongst legal professionals, is sufficient to deny the right to fair trial. Besides, politicization in all institutions including the police and judiciary contribute to worsen the situation. Also, delays force many persons not to pursue cases and to enter into compromises. The absence of witness protection puts many lives at risk if they pursue cases. Unprincipled practices of settlement, and granting of suspended sentences by presidential clemency⁵⁶ to the ruling party cadres, also undermine the concept of fair trial.

In a functioning rule of law system, the people’s freedom of expression is guaranteed. In Bangladesh, the freedom of expression guarantee is the other way around: the middle-class population is apparently politically polarized in favour of, or against, two major political camps. The mainstream media professionals have, by and large, made themselves slaves to one political camp or the other. The freedom of propaganda against the critics of the government is guaranteed at the cost of the ordinary people’s aspiration. For example, a person who criticized the Prime Minister, Sheikh Hasina, and her family members, for enjoying undeserving advantages from the state, have been harassed by the

54 Asian Legal Resource Centre and *Odhikar’s* Joint Statement: “BANGLADESH: Government suppressed truth to the UPR Session”, accessible at: <http://www.humanrights.asia/news/alrc-news/ALRC-STM-002-2013>

55 Constitution of Bangladesh, Article 32: Protection of right to life and personal liberty: “*No person shall be deprived of life or personal liberty save in accordance with law.*”

56 Asian Human Rights Commission’s Statement: “BANGLADESH: Clemency must not be a political game”, accessible at: <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-037-2012/>

“There are severe restrictions on the NGOs – those who documents and expose the misdeeds; they are often portrayed as traitors.”

government⁵⁷. A university student⁵⁸ was detained for expressing disgust about the disappearance of opposition leader Ilias Ali. A university teacher was convicted with 7 years imprisonment in June 2013 for updating a Facebook status⁵⁹ that was ‘threatening the Prime Minister with death’. Another university teacher, who was studying abroad, was given six months imprisonment by a High Court Bench for ‘disregarding’ the Court’s summon’ regarding a facebook post expecting ‘death’ of Prime Minister⁶⁰. The closure of the Daily *Amaradesh* and the imprisonment and detention of its editor and journalists transmits the message that publishing corruption scandals involving the Prime Minister’s family will lead to repression. The use of the intelligence services against dissident voices – intimidating the critics by visiting their houses late in the night – has created tremendous fear in the country. Telephone conversations are taped, ‘legally’, in Bangladesh⁶¹. The same law

57 Mr. A. K. M. Waheduzzaman, a lecturer at the National University of Bangladesh, was arrested for his Facebook status in August 2013. He allegedly made sarcastic comments about the education of the son and daughter of Prime Minister Sheikh Hasina. The Prime Minister’s son is officially introduced as an Information Technology expert, while the daughter is introduced as an expert regarding persons with physical disability. Both of them do not have any educational or professional background to support the government’s description. In October 2013, a pro-government man filed a complaint with the Magistrate’s Court in Dhaka. An arrest warrant was issued against Waheduzzaman, who later surrendered before the Court following anticipatory bail from a High Court Bench. The Magistrate’s Court ordered that Waheduzzaman be detained in prison. He was detained for more than six weeks, i.e. until he could secure another bail from a High Court Bench.

58 Mr. Sohel Raj Mollah, also known as Sohel Rana, updated his facebook status as, “The Premier cannot digest Ilias Ali; and people will attack her for abducting the BNP leader. Vomit Ilias Ali.” As a result, he was detained in prison. *The New Age*, 4 June 2012, “Molla to face sedition charge over facebook post”, available at: <http://newagebd.com/detail.php?date=2012-06-04&nid=12619#U3tClnbzcQo>. Last accessed, 20 May 2014.

59 Mr. Hafizur Rahman, lecturer in the Mechanical Engineering Department of Bangladesh University of Engineering and Technology (BUET), updated his facebook status by typing, “Hey Hyena, you have destroyed the country, now you are trying to destroy our BUET... We the general students are the hunters. We will shoot in your head...and hang your head at the gate of BUET to avoid further aggression of hyenas.” A pro-ruling party man filed a General Dairy Entry with the Shahbagh police in Dhaka. Hafizur was charged under Section 57 of the Information and Communication Technology Act, 2006, and Section 506 of the Penal Code, 1860. A Sessions Court of Dhaka convicted him with 7 years imprisonment. The media published reports on his conviction. See *The Daily Star*, 27 June 2013. Report last accessed on 20 May 2014 at: <http://archive.thedailystar.net/beta2/news/buet-teacher-gets-7yrs/>.

60 Mr. Muhammd Ruhul Amin Khandaker, a teacher of the Institute of Information Technology of Jahangirnagar University, wrote a facebook post while studying in Australia. He wrote, “The death of the five including Tareque and Mishuk Munier is a result of issuing driving licences without test. Everyone dies, why not Hasina?” This post was published after the death of five persons in a road traffic accident in 2011; the deceased included a celebrity filmmaker and a journalist. A High Court Bench issued ‘suo motu’ Rule against Khandaker, asking him to appear before the Bench. Being in Australia for study leave, Khandaker did not appear before the Court, which imprisoned him for ‘disregarding the Court’s order’.

61 Section 97A of Telecommunications Regulatory Act, 2001 (Amended in 2006 & 2010)

allows authorities to use such taped information in Courts⁶².

There is restriction on the freedom of movement of member of the primary opposition parties, and other perceived opponents of the government. There are official and unofficial bans on persons and organizations. Members of the opposition have particularly been persecuted in attempts to render them incapable of effectively contesting elections against the government. A one party concept prevails. There are severe restrictions on NGOs that document and expose the misdeeds of the government; they are often portrayed as traitors through the pro-government media. The government blocks the fund disbursement of such organizations. The Anti-Corruption Commission and the NGO Affairs Bureau are used to harass NGOs⁶³. Freedom of association for the civil society organizations, including NGOs, schoolteachers, and members of the opposition are denied; rallies face crackdowns by the police and security forces⁶⁴.

“The main opposition political parties are perceived opponents of the government.”

What is more, the peoples' right to elect a government has been severely restricted with the passing of a constitutional amendment. A fake election has been subsequently staged in order to renew dictatorial power⁶⁵. There have been no measures taken to prevent absolute power⁶⁶.

Those who occupy high profile portfolios in government, and public officials in general, do not exercise official powers reasonably, in good faith, in a normal situation, due to the lack of checks and balances. Abuse of power reigns supreme. In an abnormal condition, having created a government through a fake election, no Bangladeshi expects that ministers or public officers will perform honestly for the purpose of which the powers have been conferred. The people also do not believe that the ministers and public officers are exercising their powers reasonably and in good faith due to extreme form of politicization. Often, ministers

62 Section 97B of Telecommunications Regulatory Act, 2001 (Amended in 2006 & 2010): accessible here: http://bdlaws.minlaw.gov.bd/bangla_pdf_part.php?act_name=&vol=%E0%A7%A9%E0%A7%A9&id=857

63 The NGO Affairs Bureau, a department under the Office of the Prime Minister of Bangladesh, cancelled *Odhikar's* projects on torture and blocked the disbursement of project funds granted by a Danish organization and the European Union. The NGO Affairs Bureau and the Anti-Corruption Commission have been harassing *Odhikar* in the name of investigating financial embezzlement, secretly filing a case of money laundering against *Odhikar*.

64 On International Women's Day, 8 March 2014, the government did not allow women rights organizations to hold a street rally in Dhaka. Schoolteachers were brutally beaten by the police, who used pepper spray and water cannons. One schoolteacher, amongst numerous injured, died. *The New Age* published a related report on 17 May 2012, accessible at: <http://www.newagebd.com/detail.php?date=2012-05-17&nid=10569#.U3wrynbzcQo>.

65 Asian Human Rights Commission's Statement: "BANGLADESH: Fake election will cause further bloodshed", accessible at: <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-004-2014>.

66 Asian Human Rights Commission's Statement: "BANGLADESH: Authoritarian obstinacy wins, democracy loses", available at: <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-008-2014>

and public officers exceed limits of their power, by, and for, taking political advantage.

“Abuse of power
reigns supreme.”

The irony is that a State system in such a mess is expected to comply with international obligations. There is nothing wrong in being hopeful and expecting good. What is wrong is that such expectations exist without a basis in the realities of the people's everyday life, and the reality that not even the vestige of rule of law exists in Bangladesh. What exists, thinly disguised under the façade, is an extremely repressive system, devoid of any potential of redress for the average citizen. A state that by default denies the basic human dignity of its citizens cannot be generous enough to comply with international obligations⁶⁷.

⁶⁷ The Bangladesh Government has not submitted its national reports to the Special Procedures and Committees of the UN Human Rights Council or the formerly Commission of Human Rights. They only took opportunity to lie before the international community while the Universal Periodic Review process was ritualized at the UN in 2009 and 2013.

Vested Interest: The ‘Human Rights’ practices of political parties



Saira Rahman Khan¹

Introduction

There is no denying that Bangladeshi politics is rife with conflict, violent confrontations, and vitriolic verbal battles. This has become only too evident in the last five years, with the media relaying not only to the people of Bangladesh, but to the whole world, pictures and events showing a political culture gone mutant².

There is no doubt that the brunt of all this violence is borne by the long suffering people of Bangladesh, who have never been totally satisfied with the leadership they vote for and who have never had a say in the laws and policies created for ‘the country’s benefit’.

Freedom of speech has been gagged; newspapers and television channels have been shut down; human rights defenders have been hounded and persecuted; and law enforcement has continued to act in ever-increasing levels of impunity. Non government organisations, and print and electronic media that are still up and running, are either loyal to the government or have, for their own survival, become very ‘selective’ in their activities.

¹ The writer teaches Law at a private university in Bangladesh.

² See <http://www.hrw.org/node/117675/section/5> for a small example of this.

“The Constitution did not reflect the will of the people who fought for liberation.”

In this paper, I will attempt to show how political parties in Bangladesh have systematically gnawed away the barriers that protect the human rights of the people of Bangladesh, eroding the very notion of the rule of law and judicial independence, and gagging freedom of speech.

Background

In order to proceed, we need to go back in time, back to 1970, for a brief history lesson.

In December 1970, national and provincial elections were held in Pakistan under Yahya Khan. In East Pakistan, the Awami League won a majority of the seats, a result that greatly displeased Yahya Khan. The National Assembly was set to be convened on 3 March 1971; but, shortly before that, Yahya Khan postponed the session indefinitely.

The Awami League reacted strongly to this decision. To counter this reaction, beginning 25 March 1971 the Pakistan Army unleashed terror in East Pakistan.

On 10 April, the Proclamation of Independence was penned at Mujibnagar, containing the phrase:

*‘Whereas the people of Bangladesh by the heroism, bravery and revolutionary fervor have established effective control over the territories of Bangladesh, we the elected representatives of the people of Bangladesh, as honour bound by the mandate given to us by the people of Bangladesh whose will is supreme, duly constituted ourselves into a Constituent Assembly and, having held mutual consultation and in order to ensure for the people of Bangladesh equality, human dignity and social justice, declare and constitute Bangladesh to be sovereign Peoples’ Republic’.*³

Thus, the basis on which the independence of Bangladesh was proclaimed was, in part, to provide the people of Bangladesh with basic human rights of equality, human dignity, and social justice – which they failed to receive as citizens of East Pakistan.

Bangladesh was liberated on 16 December 1971. The Constituent Assembly that was to be formed with the people’s involvement was actually declared through the Constituent Assembly Order 1972 on March 22, 1972. It consisted of elected representatives, elected in the National Assembly and the Provincial elections held in erstwhile Pakistan, in December 1970 and January 1971, respectively.

3 The Proclamation of Independence, 10 April 1971 (www.banglapedia.org/HT/P_0309.htm).

Thus, the Constituent Assembly was not a newly elected body; the citizens of a new country called Bangladesh did not elect it. This Assembly rapidly drafted the country's Constitution, which was ready by November 1972. There was no involvement of the people in this exercise either and the Constitution did not reflect the will of the people who fought for liberation. This was the first blow to the principles of equality, human dignity, and social justice mentioned in the Proclamation of Independence. It sparked protests.

Those who protested against this fact and fought to establish the rights of the people were brutally repressed, tortured, and even disappeared. This occurred between 1972 and 1975, a period when the Constitution was undergoing stringent Amendments.

The second Amendment to the Constitution was introduced in September 1973, soon after the first Amendment in July 1973. It allowed for the declaration of a state of emergency, which also empowered the President to suspend all fundamental rights in such a state.

Shortly thereafter, a State of Emergency was declared in December 1974 on the advice of the Prime Minister, Sheikh Mujibur Rahman, and fundamental rights were suspended. During this period, in order to further quell opposition, the Special Powers Act of 1974 was promulgated. This is the first of the repressive laws passed in independent Bangladesh. It allows many crimes, from adulteration of food to smuggling, to be punished with the death sentence.

It has been used by successive governments to silence the voice of opposition, and has ushered in innumerable cases of illegal detention. Political parties, in election speeches, promise to repeal the Special Powers Act, 1974; but they have all used it, for their own gains.

In February 1972, a 'national militia force', the Jatiya Rakkhi Bahini was formed, to quell and control all opposition. This force has been accused of disappearances, deaths in 'crossfire', torture, and other cruel and degrading treatment. According to Anthony Mascarenhas, the Rakkhi Bahini was 'an elite paramilitary force whose members had to take oaths of loyalty to Sheikh Mujibur. Despite its high-sounding name, it was a sort of private army of bullies not far removed from the Nazi Brown Shirts'.⁴ The Bahini was later absorbed into the Bangladesh Army through the Jatiya Rakkhi Bahini Absorption Act, 1975. And, its legacy continues.

In 2004, the government of Khaleda Zia created a similar force, called the Rapid Action Battalion, to assist the police force

“Governments silence the voice of opposition, and has ushered in innumerable cases of illegal detention.”

⁴ Mascarenhas, Anthony. 'Legacy of Blood'. Hodder and Stoughton (1986), page 37.

in combating crime. RAB, as it is commonly called, is made up of members of the police and the Joint Forces; and has become notorious for its acts of torture, corruption, and other crimes⁵.

“Constitutional changes and amendments have usually been made to favour the government or regime in power.”

Possibly the cruelest blow, during that period in time, to the provisions of ‘human dignity and social justice’ was the Fourth Amendment to the Constitution, introduced, in January 1975, by a government facing strong protests and demonstrations by radical left parties and by chaos in the wake of a horrific famine. Under this Amendment, several repressive changes were made: the presidential form of government was introduced in place of the parliamentary system; a multi-party system was replaced by a single party – the Bangladesh Krishok Sromik Awami League (BAKSAL); the powers of the National Assembly were curtailed; and the Judiciary lost much of its independence, as the amendment allowed the Executive to control the lower judiciary⁶.

The Fourth Amendment also *‘forced elected members of the first parliament to join the only national party within a time specified by the President, to save their memberships. One could not even contest in the presidential or parliamentary elections if he or she was not nominated by the national party... the Fourth Amendment also issued an order to dissolve all political parties in the country and take necessary steps to form the national party.’*⁷ Furthermore, another blow was dealt to freedom of speech, when all newspapers, save four, were banned.

In 1975, there were coups and counter coups. In the first coup, on 15th August 1975, the President Sheikh Mujibur Rahman and most of his family were assassinated. After the assassination of Sheikh Mujibur Rahman, Khandakar Mushtaq Ahmed, a former minister, placed Bangladesh under martial law⁸. The Constitution

5 For case studies and data on human rights violation perpetrated by RAB, visit www.odhikar.org.

6 The Fourth Amendment amended Constitution Articles 11, 66, 67, 72, 74, 76, 80, 88, 95, 98, 109, 116, 117, 119, 122, 123, 141A, 147 and 148. It substituted Articles 44, 70, 102, 115, and 124 of the Constitution; it amended part III of the Constitution; it altered the Third and Fourth Schedule; it extended the term of the first Jatiya Sangsad. The Fourth Amendment created special provisions relating to the office of the president and its incumbent; it inserted a new part, i.e. part VIA in the Constitution. And, it inserted articles 73A and 116A in the Constitution.

7 Liton. Shakhawat, *Of Chaos, Confusion and our Constitution*. Forum, Vol.3, Issue 11, November 2010. Published by The Daily Star.

8 The Indemnity Ordinance, 1975, was promulgated by Khondkar Mostaq Ahmed, to provide immunity from legal action to the persons involved in the assassination of President Sheikh Mujibur Rahman. Later, it was ratified and enacted by the Bangladesh Parliament, constituted in 1979, under the leadership of Ziaur Rahman; and, it became an Act. Through the 5th Amendment to the Constitution, brought about on 9 July 1979, the Indemnity Act became enshrined in the Constitution of Bangladesh. After the Awami League formed a government, with Sheikh Hasina Wazed, the daughter of Sheikh Mujibur, as Prime Minister of Bangladesh, the Parliament scrapped the Indemnity Act on 12 November 1996. This paved the way for the trial of the killers Sheikh Mujib. However in February, 2010 the 5th Amendment to the Constitution was declared illegal by the High Court of Bangladesh.

remained in force, but was made subject to martial law regulations and proclamations.

It must be noted here that constitutional changes and amendments have usually been made to favour the government or regime in power. *'Changes made to the Constitution in around four years after the 15 August 1975 changeover altered the fundamental principles of state policy, destroyed the secular character of the Constitution and allowed politics based on religion and replaced Bangalee nationalism with Bangladeshi nationalism. Article 8 of the original Constitution, which speaks of the four fundamental principles of state policy – nationalism, socialism, democracy and secularism – was amended with the omission of secularism and insertion of the words "absolute trust and faith in Almighty Allah". The amendments omitted Article 12 which contained secularism and freedom of religion.'*⁹ The Constitutional bar on war criminals convicted under the Bangladesh Collaborators (Special Tribunal) Order 1972, from contesting in elections and becoming voters was also lifted.

“ This handing over of the responsibility of an entire country, based on martial law regulations, deprived the people of Bangladesh the right to elect the leader. ”

On 29 November 1976, Major General Ziaur Rahman, a decorated freedom fighter and confidante of Sheikh Mujibur Rahman, was handed the responsibilities of Chief Martial Law Administrator. And, on 7 April 1977, he became President of Bangladesh. This handing over of the responsibility of an entire country, based on martial law regulations, and in total disregard to constitutional provisions – deprived the people of Bangladesh the right to elect the leader of their choice, a right that they had yet to exercise.

Finally, in 1979, general elections were held in Bangladesh, and the Bangladesh Nationalist Party (BNP), founded by Ziaur Rahman, entered the second Parliament with over a two-third majority. This government passed the Fifth Amendment to the Constitution – which ratified all actions made and decisions taken under Martial Law Proclamations and Orders up to April 1979.

Subsequently, on 30 May 1981, Ziaur Rahman was assassinated in another coup. In 1982, a military dictatorship began its rule of Bangladesh, led by General Hussain Mohammad Ershad. As Chief Martial Law Administrator, he vested all executive powers in himself, and assumed the office of President in December 1983; ousting the President he had himself selected in March 1982. Ershad suspended the Constitution and dissolved Parliament prior to crowning himself. It was not until December 1990 that his reign of terror and repression was brought down by a people's movement.

In 1991, under an interim government, elections were held. The BNP formed a majority in Parliament, led by Begum Khaleda Zia, Ziaur Rahman's widow. In 1996, on the demand of Opposition parties, namely the Awami League, the Jatiya Party and the

⁹ Supra note 6.

Jamaat-e-Islami, the Constitution was amended for the 13th time to introduce a caretaker government system.

“Bangladeshi citizens have been overshadowed by the immediate needs of political parties and vested interest groups.”

This caretaker government, manned by Advisers and headed by a Chief Adviser, was set up to organise the forthcoming national elections within a 90 day period. The concept behind the caretaker government was that it would be able to ensure free, fair, and neutral elections.

There have been several elections since, under the caretaker government system. The Awami League won the next round of elections; and the people were led to believe that democracy had been established because martial law and dictatorships had ended, and their right to vote had been affirmed.

As is evident from this history, the rights of Bangladeshi citizens have been overshadowed by the immediate needs of political parties and vested interest groups that have constantly moulded the Constitution like a piece of putty. The Bangladesh Constitution contains a powerful chapter on fundamental rights – patterned on the Universal Declaration of Human Rights. But, this has been all but forgotten. The rights of the people of Bangladesh have been limited to voting every five years and suffering especially violent confrontational politics at the end of each tenure. The people of Bangladesh have learnt the bitter way that if human rights are not the constitutive foundation of the state, electing a government ends up being an exercise in suffering the brutalities and atrocities of the regime.

Present times, present issues

The BNP regime that ruled from 2001 to 2006 was notorious for ‘Operation Clean Heart’ and for giving birth to the Rapid Action Battalion (RAB) in 2004 by amending the Armed Police Battalion Ordinance, 1979. Operation Clean Heart commenced on 17 October 2002, as a drive to combat escalating crimes such as murder, crimes against women, such as rape and acid violence, and to combat deteriorating law and order. It became notorious; the press began calling it ‘operation heart attack’, as citizens in custody were constantly dying of – what the law enforcement claimed were – heart attacks¹⁰. A statement by the Amnesty

¹⁰ ‘Soon after the BNP-Jamaat coalition government took office, the military ran ‘Operation Clean Heart’ from Oct 16, 2002 to Jan 9, 2003 to ‘restore’ law and order. Many people died during the operation slated by rights groups but the authorities claimed the deaths were due to ‘heart attacks’. Then the BNP-led coalition government claimed the operation was conducted to check terrorism, while chief opposition Awami League alleged it was to annihilate the opposition leaders and supporters. According to New York-based Human Rights Watch, 60 people were killed during the operation. Then government admitted that 12 of the detained people died of ‘heart attack’. On Feb 24, 2003, the BNP-Jamaat government passed a law, providing indemnity to the military officials who took part in the special operation’. *Operation Clean Heart Indemnity Questioned*. <http://bdnews24.com/bangladesh/2012/07/29/operation-clean-heart-indemnity-questioned>



Rapid Action Battalion

International highlights the extent of the violations: ‘Over 2000 people have been arrested and at least five people have died in custody since the government called in the army to ‘assist’ in ‘Operation Clean Heart’. More than a dozen detainees have been sent to hospital with severe injuries reportedly caused by beatings while in army custody. They include both members of the ruling Bangladesh Nationalist Party and the opposition Awami League’¹¹.

After Operation Clean Heart, the government justified the creation of the Rapid Action Battalion by again pointing out the increasing number of crimes and ‘acts of terrorism’ occurring in Bangladesh that the police were, apparently, not able to combat alone. According to the laws governing RAB, the Armed Police Battalion (Amendment) Act, 2003, its functions include: internal security duties; intelligence in respect of crime and criminal activities; recovery of unauthorised arms, ammunition, explosives and such other articles as the government may, from time to time, direct; investigation of any offence on the direction of the government; apprehension of armed gangs of criminals; and assistance to other law enforcing agencies, including the police, for maintaining law and order.

However, since its creation, the RAB has gained notoriety for corruption and extortion and for committing human rights

“Since its creation, the RAB has gained notoriety for corruption and extortion and for committing human rights violations such as extrajudicial killings, disappearances, and killings in so-called crossfire.”

¹¹ Amnesty International. Bangladesh: Accountability needed in Operation Clean Heart. 24 October 2002. <http://www.amnesty.org.uk/press-releases/bangladesh-accountability-needed-operation-clean-heart>

“By drastically amending the Constitution; unprecedented record of political repression, extrajudicial killings, and enforced disappearances occurs.”

violations such as extrajudicial killings, disappearances, and killings in so-called crossfire. Like the Jatiya Rakhkhi Bahini that preceded it, the RAB has been used to combat opposition and dissent.

In the early 1970's, the Committee on Civil Liberties and Legal Aid was formed to counter the excesses and human rights violations perpetrated by the Jatiya Rakhkhi Bahini, and to end the impunity enjoyed by them. Unfortunately, through the creation of RAB, another wave of violations has been introduced. As Mr. C.A. Abrar has noted:

‘The first Awami League government created this bahini. Since then Bangladesh’s human rights landscape has continued to be stained by the practice of torture and liquidation of political opponents through extrajudicial killings and disappearances under successive governments — civil, military and quasi-military. Impunity has thus become well-entrenched and is reflected in the total disregard of the rule of law. It is also manifested in the framing of repressive laws such as the Joint Drive Indemnity Act that provided impunity for human rights violations committed in the course of Operation Clean Heart instituted by the Bangladesh Nationalist Party government. The issue of making the law enforcement agencies accountable has figured high on the agenda of the rights activists for more than four decades.’¹²

Due to political violence between the Awami League and the Bangladesh Nationalist Party over the selection of a caretaker government and its Chief Adviser; at the end of the 2001–2006 tenure of the BNP-led regime, Bangladesh found itself in a State of Emergency. This Emergency was declared by a military-backed regime, and lasted from 11 January 2007 to 16 December 2008.

The transition to an elected government in January 2009, through the 29 December 2008 elections, was positive; it signaled the end of the State of Emergency. The least the people expected from the elected government was a strengthening of the regained liberal sphere of politics from the clutches of a military backed system. However, the Awami League-led elected regime that came to power through the 29 December 2008 elections, was no different from its predecessors. It amputated people's rights by enacting repressive laws, such as the Anti Terrorism Act 2009 and by drastically amending the Constitution; and set an unprecedented record of political repression, extrajudicial killings, and enforced disappearances. It did not do away with the Rapid Action Battalion, using the rabid agency to its advantage as well. Freedom of expression and the right to assemble peacefully were – and still are – denied, creating conditions for violent protest that

¹² Abrar CA. *Towards Curbing Impunity*. The daily New Age. Wednesday November 6 2013. See <http://www.newagebd.com/detail.php?date=2013-11-06&nid=71903#.U1UHnHYxgic>

were silenced by the use of brute force. Partisan violence between and within major political parties has not ceased¹³.

In order to continue its regime beyond its five-year tenure, this government, like its predecessors, with no referendum¹⁴, or public opinion, passed the 15th Amendment to the Constitution, possibly the most controversial and frustrating amendment yet. The Amendment reinstated the four fundamental principles of state policy (nationalism, socialism, democracy, and secularism) and recognized the need for protection of environment, biodiversity and cultural identity of ethnic minorities. However, its negatives far outweigh its positives in terms of human rights.

The 15th Amendment has retained a number of provisions of the martial law regimes with regard to tenure, mode of removal, and post-retirement opportunities of judges of the superior court. It has repealed the provisions for a caretaker government, thus barring all possibilities for ensuring free, fair, and transparent elections – the only actual manifestation of ‘participatory democracy’ practiced in Bangladesh. The introduction of a new Article, 7A, has declared abrogation, repeal, or suspension of the Constitution by any unconstitutional means an offence of sedition. This may be good for protecting the Constitution and preventing undemocratic transitions of power, but, according to Law professor and journalist, Dr. Asif Nazrul, it *‘also makes illegal the power and authority of future Parliaments in amending nearly one third of the Articles of the Constitution by providing that the preamble, fundamental principles, fundamental rights and the provisions relating to the basic structures of the Constitution shall not be amendable by way of insertion, modification, substitution, repeal or by any other means’*.¹⁵ A contradiction in relation to ‘secularism’ and religion has also been introduced as a result. The amendment has replaced ‘Absolute Trust and Faith in Almighty Allah’ with ‘Secularism’ and revived Article 12 of the 1972 Constitution, which prohibits ‘granting by the State of political status in favour of any religion’. However, Article 2A provides a special status to Islam by declaring it as a State religion.

On 5th January, violent and controversial elections, riddled with accusations of rigging, were held in the wake of the 15th Amendment to the Constitution, in the absence of a caretaker government and with the main opposition and its alliance staging

“The Daily New Age reported that in most of the polling centres, the turnout was in the range of 10-12 percent.”

13 See www.odhikar.org annual reports from 2009 to 2013 for information and statistics. Also visit the website of Amnesty International and Human Rights Watch for information on human rights violations in Bangladesh during this period.

14 Incidentally, the 15th Amendment denies the rights of the citizen’s to constitution-making by deleting the provisions of referendum on constitutional amendment.

15 Nazrul, Asif. *15th Amendment Transition of Power*. The Daily Star, March 17, 2013. At <http://archive.thedailystar.net/beta2/news/transition-of-power/>

“ Political parties are known to shield those who perpetrated gross offences. ”

a boycott¹⁶. The Awami League was declared a winner in several constituencies where there was no opposition. As a result of this boycott, 153 candidates from the ruling Awami League and its alliance were elected uncontested out of the 300 parliamentary seats/constituencies, even before the elections were held – unprecedented in a democratic electoral system¹⁷. In this fashion, citizens were denied their right to vote.

‘According to the Election Commission, the voter turnout was 40.56 percent. However, various media and election observers reported much lower turnout. The Fair Elections Monitoring Alliance (FEMA) reported the voter turnout as 10 percent until 2 p.m. on Election Day, and after the polling ended, it stated that the voter turnout was 14 percent. The daily New Age reported that in most of the polling centres, the turnout was in the range of 10-12 percent, while the Daily Star reported a generous estimate of a 20 percent turnout.’¹⁸

Even after the January elections, there were incidents of gross violations of human rights perpetrated by both the supporters of the newly elected Government and that of the opposition. Such violations included deaths, acts of vandalism, repression against religious minority groups, and arson, perpetrated in retaliation for voters either going to the polling booths or for refraining from voting.¹⁹

Rule of Law

For the UN, the Secretary-General defines the rule of law as “a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with

16 The opposition, led by the Bangladesh Nationalist Party demanded the reinstatement of the caretaker government and refused to contest the polls without a caretaker government.

17 Odhikar monthly report, January 2014.

18 <http://newsworld365.com/2014/02/02/odhikar-reports-gross-violation-of-human-rights-in-bd-in-january-2014/>. According to the National Democratic Institute (NDI) ‘With the credibility of the elections in question, the United States declared on Dec. 22 that it would not deploy observers for the elections. International observer missions from the European Union, the International Republican Institute and the Commonwealth similarly cancelled their international monitoring activities. Rising tensions between the ruling AL government and the BNP-led opposition, and the resulting deterioration in the security situation, also proved to be a complicating factor for Bangladeshi citizen election monitoring organizations. Due to the constricted political space, many of these groups were hesitant to comment openly on the electoral environment, fearing reprisals. Voter turnout on election day was low by Bangladeshi standards, and many of Bangladesh’s citizens have lost confidence in the ability of country’s political process to deliver credible, participatory and democratic elections’ See <https://www.ndi.org/bangladesh>

19 See Odhikar’s statement at odhikar.org/statement-of-odhikar-10th-parliamentary-elections-unilateral..and newsworld365.com/2014/02/02/odhikar-reports-gross-violation-of-human-rights-in-bd-in-january-2014/

international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.”²⁰

Does Bangladesh maintain the rule of law? Are all ‘persons’, ‘entities’ and the ‘State’ accountable to laws? Are the laws equally enforced and independently adjudicated? On paper, yes. In practice, justice and rule of law are items reserved for mainly the rich and influential, having the power and/or wealth to manipulate the justice system. For the poor, just going to the police station to file a First Information Report is a fearful thought. The law enforcement is feared and is not seen in positive light. Their reputation for torture, corruption, and intimidation precedes them. Perhaps not all police fall into the ‘bad-cop’ category; but increasing reports of torture, ill-treatment, rape and extrajudicial deaths perpetrated by police and the fact that they are silent bystanders when opposing political activists clash, is not good for gaining the trust of the community. Lack of trust in the police has also given space to the practice of public lynching, where people take the law into their own hands.

Political parties are known to shield their activists who have perpetrated gross offences. A large number of the perpetrators belong to the youth and student wings of political parties. According to journalist Zahir Hassan Nabil,

‘Student politics, under the two major political parties, has gradually become synonymous with thuggery in the last 20 years. Most of the criminal activities on the campus, proven and alleged, have been invariably attributed to the Bangladesh Chhatra League (BCL) and Jatiyatabadi Chhatra Dal (JCD) with Jamaat-Shibir activists covering the rest. Killing; mutilation; rape; wielding weaponry; vandalism and mugging; establishing armed supremacy at public universities; invasion of dormitories; inter and intraparty feuds over tenders; government contracts and other means of making money - extortion, illegal trades including drugs; making a fortune and ending up in a lavish future – have all become parts of the development’²¹.

When the political party in power looks the other way as its activists perpetrate crimes, when the government machinery is told to ignore or not interfere, the issue becomes not only a criminal one, but also a human rights violation. Much of the violence takes place on the campuses of public universities and some colleges,

“Much of the violence takes place in the campuses of public universities and some colleges, and on the streets in times of uprisings.”

20 Report of the Secretary-General: The rule of law and transitional justice in conflict and post-conflict societies²³ August 2004.

21 Nabil, Zahir Hassan. *Boys with Guns*. The Star. Vol 12, Issue 5, February 01, 2013. See <http://archive.thedailystar.net/magazine/2013/02/01/politics.htm>

and on the streets in times of uprisings and political protests. The general student body and population are often caught in the midst of the conflict.

“The Supreme Court does not have full control over the posting, transfer, and promotion of lower court judges.”

There have been reports involving acts of violence against women, where the rape victims have not been able to seek justice, with their attackers being sheltered by local political bigwigs. This happens particularly when the perpetrator is a party activist. The victim families are either too scared or threatened into taking no action. A glaring example of this occurred in 1998 when a series of rapes and incidents of sexual harassment took place at Jahangirnagar University, in Savar, just outside Dhaka. The perpetrators were a group of students with political backing. The administration showed reluctance in taking action against the known rapists. On August 17, the Daily Manabzamin reported that student activists of the Bangladesh Chhatra League²² had raped three female students of the University. Students of Jahangirnagar University demonstrated against rape and sexual harassment. A fact-finding committee later reported that a total of 20 JU students were raped in different locations on campus and members of this group sexually assaulted as many as 300. The Jahangirnagar University General Students Unity waged a continuous struggle against the rapists for months, while the then Vice Chancellor of the University claimed he could do nothing, as “under the law of the land, the victim has to lodge a complaint herself.”²³

In April 2013, an eight-story building called ‘Rana Plaza’ collapsed, killing over one thousand people – most of whom were workers in the garment manufacturing factories housed there. Hundreds were retrieved alive from the rubble, maimed for life. It was later found that the building was constructed in disregard to planning laws. The owner, Sohel Rana, was known to be an active member of the ruling political party and was helped out of the collapsed building, unhurt, by the local (Awami League) Member of Parliament, who also helped him flee. He was later arrested while trying to cross the Benapole Border into India²⁴. Even after one year, workers and victim families are yet to be properly or adequately compensated²⁵.

The Bangladesh police is one of the most corrupt institutions in Bangladesh.²⁶ Investigations and punishment against misconduct by a member of the police force are often biased. There is also a prevailing culture of impunity in the police and law enforcement agencies in Bangladesh. It is common knowledge that police will not accept information reports of offences where the perpetrator is

22 The student wing of the Awami League

23 See archive.thedailystar.net/magazine/2008/08/01/cover.htm

24 See <http://www.bbc.com/news/world-asia-22366454>

25 Sohel Rana is currently being tried for several crimes committed as a result of the collapse of his building.

26 http://www.transparency.org/files/content/corruptionqas/316_Judiciary_and_law_enforcement_Bangladesh.pdf

a supporter of the ruling political party, i.e. unless the officer has been told to do so 'from higher up'. All governments in Bangladesh have used the police force to maintain control of the political sphere. Police are used as a political tool, compelled to carry out illegal commands, harassing members of the opposition, political activists, journalists, and human rights defenders.

And what about the Judiciary? The Constitution of Bangladesh says, "The state shall ensure the separation of the Judiciary from the Executive organ of the state."²⁷ The Supreme Court, in a judgment delivered on 2 December 1999, detailed 12 directives on the Government on how the lower judiciary should be separated from the executive, from day-to-day working to financial matters, and ordered placing the lower judiciary under the supervision of the Supreme Court. The governments of the Awami League and the Bangladesh Nationalist Party-led alliances dragged their feet on implementation, repeatedly seeking extensions on deadlines. Finally, the military-backed caretaker government implemented the directives on 1 November 2007, amending the Code of Criminal Procedure and four sets of Rules on the service and salaries and financial benefits of the lower court judges.

Unfortunately, the Supreme Court does not have full control over the posting, transfer, and promotion of lower court judges and the Judiciary does not have a separate secretariat, although the Judiciary was supposed to have been legally separated from the executive branch of the state. The Law Ministry still carries out the posting, transfer, and promotion of judges in subordinate courts, albeit in consultation with the Supreme Court. Moreover, the Prime Minister's Office has not yet responded to a letter issued by the Supreme Court in November 2012 for the inauguration of a separate secretariat for the judiciary. Yet, the Law Minister

apparently sought to blame it on the higher judiciary, saying 'the initiative is supposed to be taken by the Supreme Court.'²⁸

Moreover, the lack of resources, the low salaries of judges and the poor working conditions are weakening the administration of justice in Bangladesh and remain the main reasons for corruption in the lower Judiciary. Transparency International, in its 2012 report, stated that these conditions "contribute towards eroding the moral and ethical standards of members of the Judiciary and create incentives for corruption."²⁹ In Transparency International's Global Corruption Barometer 2012, released on July 9, 2013, the Bangladesh judiciary was found to be one of the most corrupt sectors in public administration.³⁰ The practice of

“ Successive governments/ political parties in power have, since the independence of Bangladesh, manipulated the law enforcement and judicial mechanisms. ”

27 Article 22, the Constitution of the People's Republic of Bangladesh

28 The daily New Age, 01/11/2013, <http://www.newagebd.com/detail.php?date=2013-11-01&nid=71305#.Ut4QKvtXtXIU>

29 See http://www.transparency.org/files/content/corruptionqas/316_Judiciary_and_law_enforcement_Bangladesh.pdf

30 The daily New Age, 10/07/2013, http://www.newagebd.com/detail.php?date=2013-07-10&nid=56453#.Ut4WS_txXIU

“Successive regimes in Bangladesh, over the last 43 years, have only thought of their own survival and their own ‘right to rule’”

handing out bribes is widespread, and along with links with the Executive, stand for the main obstacles for free and independent administration of justice by the lower judiciary. In this context, citizens of Bangladesh are losing faith in the judicial system.

The higher judiciary is also suffering from indirect government supervision, in particular through the biased appointment of judges and state attorneys. While the politicisation of these appointments has been pointed out for several years, no government has enacted a law detailing the procedure, qualifications, and way of appointment of judges of the higher judiciary.

In the matter of Raghieb Rauf Chowdhury vs. Bangladesh and Others (*Writ Petition 4403 of 2010*), the Honourable Justice Md. Imman Ali issued a Rule Nisi, calling upon the government (respondents) as to ‘why guidelines should not be framed in respect of the process of the selection of persons for being appointed as Judges of the Supreme Court of Bangladesh and to publish the same in Bangladesh Gazette Extraordinary in order to bring transparency and competitiveness in such a process under the Constitution by causing a wider pool of applicants to be considered through public notifications inviting application as mandated by the settled principles of Separation and Independence of Judiciary being the basis [*sic*] structure of the Constitution...’³¹

Successive governments/political parties in power have, since the independence of Bangladesh, manipulated the law enforcement and judicial mechanisms to serve their own purpose. They have created bad laws to control opposition and silence dissenters. The trend continues, and the general population has very little effective recourse to justice mechanisms. One must not forget that a very large percentage of the population in Bangladesh live in rural areas, where justice delivery, law and order, and development initiatives by the government are mostly still dreams.

How this affects human rights

In the opinion of human rights activists of the organisation, Odhikar:

*‘The political culture of the mainstream political parties is relentlessly violent. Civil society could play a better role, but it lacks unity due to partisan sentiments. Surprisingly there was ambivalence with regard to human rights. To some, human rights are privileges only for those who are acceptable to them ideologically and politically. To them, protecting victims is also conditional to ideological acceptance and not free from personal bias. Failure of the human rights organisations to speak unitedly [*sic*] has further jeopardised the fate of victims. Unity could at least stall*

³¹ Raghieb Rauf Chowdhury vs. Bangladesh and Others (*Writ Petition 4403 of 2010*)

the appalling increase of vulnerability of victims by translating the human rights' needs into a social network of protection' ³².

As can be seen from the above discussions, the people of Bangladesh have fought for their right to live in an independent, sovereign country, but have not been able to enjoy 'equality, human dignity and social justice', the Proclamation of Independence promised to them. In fact, successive regimes in Bangladesh, over the last 43 years, have only thought of their own survival and their own 'right to rule' and concocted ways and means to do so by coups, takeovers, constitutional amendments and the creation of repressive laws. Even when people are allowed the right to vote, it is given with strings attached – the latest 'string' being contained in the 15th Amendment to the Constitution. The singular focus on an electoral process as the only means to march towards democracy has miserably failed in Bangladesh. The violence and abuse of human rights in the near past, which culminated in a controversial election on 5th January 2014, with hardly any participation of voters, is a clear indicator of this failure.

In order to maintain the upper hand, the present government did away with the caretaker government system through the 15th Amendment to the Constitution and, by paving its way for another five years, declared that elections would be held under the present Constitution. The Election Commission was extremely cooperative and unilaterally declared the election schedule in November 2013, without the government and the opposition coming to a political solution and amidst widespread political violence and human rights violations. The right to life, livelihood, health, and education were hampered. Normal citizens were caught up in the wave of violence and conflict as the two opposing political parties and their alliances waged war on the streets.

Even before the January 2014 elections, the government was walking down the path of repression. Opposition-owned and supported newspapers were gagged; freedom of speech was curtailed. Private television channels owned or supported by pro-opposition entities were also shut down between 2009 and 2013. Needless to say, new television channels have been given permission to air; they are owned by supporters of the party in power and are carefully crafted to glorify the present regime and denounce detractors and dissenters. Cases are launched against dissenters, mainly under the Information and Communication Technology (ICT) Act, 2006, (amended in 2009 and 2013), for criticising the Prime Minister or her family members in print and electronic form. Interestingly, when the leader of the opposition is criticised, the government and its law enforcement agencies

“Due to the fight to maintain power, blame-games have become common among political parties.”

32 Odhikar Human Rights Report, 2013 at http://www.fidh.org/IMG/pdf/odhikar_ahrr_2013.pdf

“Not only human rights are at risk from political parties warring for power and control, human rights defenders are not spared either.”

remain silent. This shows that defamation laws and the provisions of the ICT Act are being used selectively. The ICT Act has become the primary repressive instrument in the hands of the government, to silence opponents and dissenters. First amended in 2009, the law was originally introduced in 2006 during the BNP led four-party alliance government. On 19 August 2013, the Cabinet approved a draft to the amendment of the ICT Act, strengthening its repressive purpose by amending sections 54, 56, 57 and 61, increasing the length of punishment and taking into cognizance new offences. This law is contrary to the freedom of speech and expression enshrined in the Constitution of Bangladesh.

Due to the fight to maintain power, blame-games have become common among political parties. Bangladesh, in the last several years, has metamorphosed into a society polarised along ‘secularists’ vs. ‘religious’ and ‘pro government’ vs. ‘anti government’ divides. This has become evident in the last five years, aggravated by government propaganda. Another method employed to cling to power is to shut down all opposition and maintain an atmosphere of fear. In the last 5 years, the numbers of extrajudicial killings, reports of torture, enforced disappearances, and abductions have reached levels of grave concern. The police and RAB reportedly perpetrated these acts. From 18 reported victims in 2012, the rate of extrajudicial killings by the police jumped to 175 victims in 2013. There were no incidents of BGB³³ being involved in extrajudicial killings jointly with police from 2009 to 2012, but in 2013 the BGB and the police banded together to kill 32 people extrajudicially. BGB alone killed 11 people in 2013, compared to 8 during the 2009–2012 period. Similarly, between 2009 and 2012, there were no incidents of killings by joint operations involving the police, Armed Police Battalion, RAB, and BGB. However, in 2013, such joint operations killed 64 people³⁴.

Next to the rule of terror, another tactic used by the government to suppress dissenting voices and repress opposition is the use and abuse of the judicial process. Judicial magistrates maintain the practice of sending detainees to remand, whenever police seek remand. This generally implies torture of the accused, often brutal torture. The purpose is mainly to terrorise the subject. Detainees are forced to admit a crime that they may or may not have committed; this releases the police from carrying out thorough investigation. Remand is also needed for extracting information to deliver to the media, something that adds to the propaganda strategy of the regime. The common practice is to manipulate the judiciary by appointing judges based on political considerations.

It is not only human rights that are at risk from political parties warring for power and control. Human rights defenders are not spared either. There have been several instances where defenders,

33 Formerly Bangladesh Rifles (BDR)

34 Odhikar Annual Human Rights Report, 2013. http://www.fidh.org/IMG/pdf/odhikar_ahrr_2013.pdf

including journalists and NGO workers, have been harassed and physically assaulted.

Mahmudur Rahman, the Acting Editor of the Bangla newspaper, Amar Desh, has been languishing in jail for over a year. He was arrested in April 2013 and physically and mentally tortured for writing against the government and judiciary. His newspaper has been shut down. Local journalists have also faced assault and threats for reporting criminal activities in their areas. On January 5, 2013, Chhatra League activists beat and illegally detained Reuter's reporter Andrew Biraz; New Age reporter Sony Ramani; Bangla News photojournalist Harun-ar-Rashid Rubel; and Prothom Alo correspondent Hassan Raja, when they were taking photos of crude bomb blasts at the Dhaka University campus. Chhatra League activists held the journalists captive after beating them and deleted the photographs after snatching away their cameras.³⁵

“ The people are deprived of their constitutional rights through political manipulation and corruption.”

However, the most glaring example is the abduction of Supreme Court lawyer and Secretary of the human rights organisation, Odhikar, Adilur Rahman Khan. Adilur Rahman Khan was picked up late in the evening of 10 August 2013 from in front of his residence. He was returning home with his family after visiting relatives. Men who showed no arrest warrant or any form of identification took him away. His family was unable to confirm where he had been taken. His family and Odhikar staff searched for him in police stations and the headquarters of the Detective Branch of police; they were met with denials, despite television channels reporting that he had been arrested and taken to the Detective Branch Office.

He was produced before the Magistrate's Court the next afternoon, from the Detective Branch Headquarters (much to the relief of his family), and charged for crimes committed under the ICT Act for fabricating information and pictures concerning violence at a Hefazate Islam gathering in Shapla Chottor, Dhaka, in May 2013.³⁶ The government initially denied any deaths, violence and atrocities committed against the Hefazate Islam assembly.³⁷ Odhikar verified 61 deaths during the time period and demanded the government set up an Inquiry Committee. The arrest and framing of charges against Odhikar is simply a repressive measure to stop any further investigation into claims of deaths and injuries during the incidents of May 5 and 6, 2013.

On September 4, 2013 Odhikar's Secretary Adilur Rahman Khan and its Director ASM Nasiruddin Elan were formally

35 The daily Manabzamin, 06/01/2013, http://mzamin.com/old_archive/oldarchive_details.php?nid=MzczMjI=&ty=MA==&s=MTg=&c=MQ==&seco=MjAxM3wxfDZ8MA

36 More on this issue will be found later in this report.

37 They later stated that 11 persons had died of which one was a policeman and three pedestrian. The government also shut down two television channels, Islamic TV and Diganta TV, which were covering the events of 5 – 6 May live.

“Merely giving the people the right to vote is not a sign of democracy. Democracy is a form of State and not merely an electoral practice.”

charged under section 57 of the ICT Act. They were both granted interim bail by the High Court Division of the Supreme Court of Bangladesh in October and December 2013 respectively. Human rights defenders at the grass roots level associated with Odhikar have also been threatened and intimidated by law enforcement agencies.

The trial of Adilur Rahman Khan and the persecution of Odhikar have sent a warning signal to all human rights organisations working in Bangladesh.

Conclusion

Unless political parties can steer away from their blinkered view of elections as merely a means to stay in power and misuse and manhandle the rights given to them by virtue of their victory there is no way human rights conditions in Bangladesh will take on a rosy hue. The people are deprived of their constitutional rights, their right to fair trial and justice, and other civil, political, social, and economic rights, through political manipulation and corruption. Merely giving the people the right to vote is not a sign of a democracy. Democracy is a form of state and not merely the electoral practice to select a ruler every five years. So, in a community where people are yet to constitute themselves as a democracy, with effective and strong institutions to defend their dignity and rights, human rights violations will continue unchecked.

Finding an effective method or process to elect a government in a free, fair, and transparent manner is of course important, but if the state itself is constructed by a Constitution that has little to do with a democratic polity, and run by political parties who have no regard for the human rights of the general population, electoral rituals end up a reproduction of powers inimical to citizens and human rights.

Constitutional disaster & ‘legal’ impunity: Constitutional amendments in perspective



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Introduction

A State's constitution is the fundamental law of the concerned Statehood. The concept of the Law of the Land may sound similar to that of a whole body of State endorsed rules and regulations based on basic principles upon which a state functions through government agencies. A State's constitution is not merely a bunch of principles, provisions, and legal norms or rules and regulations. It is a fundamental legal text, based on which national institutions can be established and developed. It is the most important Basic Law that establishes a legal framework for all other branches of law. In other words, it is the legal foundation for any Statehood to start with. However, to be regarded as a matured and documented constitutional text, it must go through some crucial tests. The Basic Law in a State may suffer serious setbacks in its journey if it does not have the right kind of political, economic, and ethical orientation. Moreover, main aims and objectives of the Basic Law of a State cannot be articulated with ambiguity.

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“For masses and voters, constitutional issues and amendments have been a distant reality – nothing to do with real life.”

Constitutional law, as a whole, is also valued for its rhetorical excellence and the ornamental beauty in its expression that need to be admired by all concerned parties, including the conflicting political forces. In a black letter view, constitutional law is a legal text, either compiled in one legal text or scattered in a number of documents and conventions. Whatever way one writes or compiles a State's constitution, it will require some changes from time to time, to meet necessities of change and to fulfill the demands of its constituents.

A constituent assembly may write or rewrite a constitution for a concerned State many times; this makes no difference until the highest legislative body of the State adopts it. Once the lawmakers adopt the text of the constitution, through acceptable political and legal procedures, then as a fundamental law it has binding force for all citizens and foreigners living within its jurisdiction, except those with diplomatic immunity. Irrespective of rigid or flexible character, any constitutional amendment requires political maturity, economic farsightedness, and legal acumen. The 1972 constitution of Bangladesh has been acclaimed as a remarkable achievement for the nation, which paid a high price for its political independence, in terms of human lives and the destruction of the country. The frequent changes Bangladeshis brought to their rigid constitution were either unsustainable or marred by vindictive partisan politics. In October 2011, Bangladesh got a renewed version of the constitution, with the 15th amendment having been added, which claimed to be a fulfillment of the political promise of returning to the original 1972 constitution.

In this article, the latest constitutional changes will be put to the test; the Basic Law and its characteristics, in terms of empowering people, *vis-à-vis* providing an upper hand to the vested interests of strong political and business lobbies will be tested. The major way of looking at our constitutional changes would be comparison them with similar constitutional changes in other countries. Why has the 15th constitutional amendment provoked so much political and religious controversy? This is one of the main questions we will address in this article. An analytical approach and a jurisprudential prism will be used to find out how successful Bangladesh has been in bringing about desired and necessary constitutional changes, textually, and in real dynamics of the polity and expected economic betterment of the nation. The secular, nationalistic, and socialist character of the constitution has never been above political and cultural controversy. The issues of constitutional continuity, inconsistency, and absurdity have been hunting Bangladesh for four decades of its history. Finally, how relevant are these controversies for building a prosperous and forward-looking nation is another key question this research article would like to bring to jurisprudential scrutiny.

Constitutional Past in Futuristic Perspective

Bangladesh has, since independence, been viewed as a country of natural calamities. In 1974, it was called a “bottomless basket”. It made others look good, literally so, when Bangladeshis subsequently took to dressing everyone up across the globe in quality garments. Infamy greeted the moderate Muslim country as a result of the brutal killing of its most celebrated leaders, in 1975 and 1981. The autocratic tenure of Ershad, a reincarnation of Pakistan’s Ayub Khan, followed. And, since 1990, Bangladesh has been witnessing the golden era of female premiership, a period that has made both friends and foes wonder how colorful, progressive, and tolerant Bangladesh is as a nation.

For masses and voters, constitutional issues and amendments have been a distant reality – nothing to do with real life in terms of practical social, political, and economic predicament. Voters have been rather happy to see two of the most powerful ladies of the country alternate for the chair of premiership. In terms of trade and business, apparently, Bangladesh is doing fine. In agricultural sectors, production and distribution methodologies have started to work inclusively. Industrial sectors have been growing steadily. Wild capitalistic mode of production and distribution has hardly allowed time for issues of constitutional development, the rule of law, and human rights.

The innocent people and naïve voters have not thought much about the consequence of a brute majority in parliament. Any overwhelming brute majority in the highest legislative body can go wild at any time, especially in an immature democracy. This is exactly what has happened with constitutional legacy, political culture, and constitutional amendments in Bangladesh.

The Bangladesh Constitution is rigid; it was not supposed to be changed so quickly and easily. It does matter how many times Bangladesh changes its constitution so dramatically, diminishing characteristics of the supreme law of the land. What is the content or substance of any constitutional amendment and what is the purpose of a particular amendment? The ways adopted and the means resorted to make sweeping changes to the written and rigid constitution is what really counts, to understand the mentality and pattern of behavior of political parties in power and the puppeteers behind the curtain.

In this article, the Fifteenth Amendment to the Constitution¹ will be analyzed, an amendment that promised to restore the spirit of the original 1972 Constitution. Even a superficial reading of the Fifteenth Amendment will show that the present-day Constitution is in no way close to the original one. A deeper reading will show how the Fifteenth Amendment has frustrated the spirit of the

“ The entire fabric of constitutionalism may be directly affected by such amendments to the Constitution by pushing its “overall operational scheme” down the wrong path.”

1 The Constitution (Fifteenth Amendment) Act, 2011 (Act XIV of 2011)

original 1972 Constitution, which had claimed to reflect the hopes and aspirations of the Bengali nation.

“With the help of a brute majority in parliament, no ruling party can make constitutional provisions that cannot be changed.”

Constitutional amendment may sometimes bring a supposedly serious impact on the ongoing legal, political, and economic narratives of the time, touching the very core of the fundamental principles of the governance and system of the concerned nation. More importantly, the entire fabric of constitutionalism may be directly affected by such amendments to the constitution by pushing its “overall operational scheme” down the wrong path.

For example, the British and Pakistani constitutional laws were standing in the way of freedom for the Bengali nation. After Bangladeshis achieved their hard earned political independence, they were keen to achieve economic prosperity and overall emancipation with the help of a legally sound constitutional framework, to be implemented and followed by the ruling elite first. However, often politicians and business lobbies have failed Bangladeshis miserably. At the outset of almost every constitutional amendment, Bangladeshis were promised to be better served by our politicians and by the representation of the ruling class. Constitutionally, lawmakers are the people’s representative in parliament, empowered with the legal authority to change the constitutional system or any of its provisions.

However, why the apex court was so intimately involved in bringing about some of the latest constitutional amendments made conscientious circles of the country wonder. It appears that we have been much involved in circular logic of changing constitutional principles back and forth without giving deeper thought to the hopes and aspiration of the masses, who should have gotten the first priority for modern amenities of life such as safe food, drinking water, decent shelter, enlightened education, and proper health care, and first and foremost a constitutional guarantee to life, liberty, and happiness.

How, did Bangladesh end up here, with one constitutional disaster after another?

Historical Look at the 15th Constitutional Amendment: Reminiscing BAKSAL

The Fifteenth Constitutional Amendment is indeed a disaster for the constitutional mechanism in Bangladesh, as well as the rule of law based on the will of the people, without which no government can be legitimate. With the help of a brute majority in parliament, no ruling party can make constitutional provisions that cannot be changed even by referendum or by any successive legitimate government. In fact, the present constitution is a footnote-based constitution;² there is no other such example of

2 After Fifteenth Amendment, the Constitution now contains 114 footnotes for its 153 Articles.

its kind in the world. By incorporating the Fifteenth Amendment, the ruling party lawmakers at the helm in parliament have made about one-third of the constitution a “holy text” that can never be changed or amended. The argument advanced is that the apex court of the country ordered Parliament to change the Constitution based on a controversial verdict.

The way the then Chief Justice passed the Short Order and wrote this verdict, after fourteen long months of retirement, is by itself a mockery of the supreme law of the republic.³ Moreover, the Awami League government adopted the Fifteenth Amendment even before the nation could see what the judges had to say about Thirteenth Amendment in a divided verdict that contained diverse opinion about the system of Non-Party Caretaker Government (CTG).

Traditionally, in Bangladesh, judges are mostly appointed on the basis of their commitment to political leaders and ideologies. A report by Asian Human Rights Commission has meticulously proved this reality.⁴

In the following timeline, consider a glimpse about how this controversial Fifteenth Amendment was adopted:

Critical Timeline of 15th Amendment

On **July 21, 2010**, the Prime Minister formed of a 15-member special parliamentary committee to push for another constitutional amendment. In the **next 11 months** this committee orchestrated 27 sessions to demonstrate that it was holding various types of consultations with so-called experts. However, it had failed to justify why Bangladesh needed a sweeping constitutional amendment that would practically change one-third of the constitution.

On **March 29, 2011**, in its 14th meeting, the committee arrived at a consensus that CTG should not be abolished from the Bangladesh constitution.

On **April 27, 2011**, the Prime Minister suggested that the committee should not abolish the CTG, but amended its provisions.

On **May 10, 2011**, a 4-3 split judgment of the Appellate Division of the Bangladesh Supreme Court was delivered. It stated that CTG is unconstitutional, and it has been declared void prospectively. Chief Justice Khairul Haque observed that the Parliament may keep a renovated form of CTG for tenth and

“In Bangladesh, judges are appointed on the basis of their commitment to political leaders and ideologies.”

³ See article 7 (2) of the Constitution of the People’s Republic of Bangladesh, available at http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=367, last visited on April 17, 2014.

⁴ <http://www.humanrights.asia/resources/hrreport/2013>

eleventh parliament elections, and that the Parliament needed to be abolished before 42 days of the next parliamentary elections.⁵

“The Fifteenth Amendment to the Constitution, has virtually made one-third of the Constitution unamendable by any successive Parliament.”

On **May 16, 2011**, the parliamentary committee discussed the issue of CTG again.

On **May 29, 2011**, the committee decided to keep CTG as a constitutional system of holding election and transfer of power from one government to another. Two changes were proposed: 1) CTG must hold parliamentary elections within 90 days; 2) if CTG signs any treaties with any foreign states or governments during its tenure, then those treaties will need to be ratified by the forthcoming Parliament.

On **May 30, 2011**, the committee met with the Prime Minister Sheikh Hasina. Despite her earlier position against the removal of CTG system, in that meeting everything had changed overnight and abolishment of CTG was recommended.

On **June 20, 2011**, the Fifteenth Constitutional Amendment Bill was approved by the cabinet, which abolished the CTG, before the final judgment of the Supreme Court was written or pronounced, with the ill motives of the then CJ of the Bangladesh Supreme Court.

On **June 25, 2011**, the 15th Constitutional Amendment Bill was introduced in Parliament and, on the same day, was passed in fashion similar to that witnessed by Bangladesh with regard to the 4th Amendment, i.e. the one party rule of BAKSAL. Lawrence Ziring considers the Fourth Amendment as the biggest tragedy of Bangabandhu's fate.⁶

The Fifteenth Amendment to the Constitution, as it stands, has virtually made one-third of the Constitution unamendable by any successive parliament⁷. Such a constitutional amendment is unheard of across the world in recent centuries. Moreover, the Amendment introduced apparent self-contradictory provisions in Article 7B and Article 142 of the Constitution. Article 7B begins with the words, “notwithstanding anything contained in article 142” and Article 142 starts with “notwithstanding anything contained in this Constitution”. Use of the notwithstanding phrase in both the articles makes it ambiguous which article will

5 This judgment is itself dubious and unconstitutional. It violates jurisprudential norms for making and amending the constitution of a modern sovereign state and the concept of separation of powers, based on which the judiciary operates.

6 Ziring, Lawrence, *Bangladesh, From Mujib to Ershad: An Interpretative Study*, Oxford University Press (republished by UPL), 1992, pp.100-101

7 Article 7B has been inserted by the 15th Amendment, which makes the preamble, all articles of Part I, all articles of Part II, all articles of Part III (subject to the provisions of Emergency) and the provisions of articles relating to the basic structure of the Constitution, including article 150 of Part XI, not amendable by way of insertion, modification, substitution, repeal, or by any other means.

prevail over the other. It is a jurisprudential fallacy of an extreme kind. It would be unimaginable for any sound person to think of such a constitutional amendment that prohibits lawmakers from amending any existing constitutional provision adopted unilaterally by a ruling party. Prior to gaining a brute majority in Parliament, Awami League never expressed its intention to abolish CTG.

From BAKSAL to Rampal⁸, we have been witnessing the same political trend amongst a section of Awami stalwarts, many of whom find it easy to sacrifice national interest for personal or group financial gains. In more than four decades of Bangladesh history, as a ruling party, the Awami League has never demonstrated any deep respect for public opinion or commitment to national security, which should never be compromised under any circumstances. The history of constitutional changes during the Awami League regime is full of incidents of betrayal of the true spirit of constitutionalism. One may consider Omar Khasru's take on this for further details.⁹

It is unfortunate that General Ziaur Rahman was falsely named as one of the perpetrators of the tragic events of 1975. History has demonstrated that General Zia wanted to pull out the country from Awami misrule, and the Bangladeshi people from the tragic aftermath of aborted military coups, directly related to BAKSAL politics that banned all political parties. Zia had to deal with these tragic consequences of Bangladesh national politics. After the demise of Zia, the democratic process was interrupted for about a decade and an autocratic dictatorial rule shrouded the nation. Both Awami League and BNP had to deal with the unfortunate reality of autocratic rule led by General Ershad, who, on his part, has continued playing a nasty game of power politics in the country.

The year 1986 witnessed orchestrated national parliamentary elections. Awami League was the main collaborator of General Ershad in the third parliamentary assembly election. Sheikh Hasina was the main opposition party in the Parliament and could capture only 67 seats. Awami League leaders were convinced that they should not be the main collaborator of the Ershad regime for a longer period of time and, along with Jamaat-e-Islami, Sheikh Hasina demanded another fresh parliamentary elections.

“The history of constitutional changes is full of incidents of betrayal of the true spirit of constitutionalism.”

8 The Rampal Power Station is a proposed 1320 megawatt coal-fired power station in southwest Bangladesh. The project is widely considered to be the symbol of present Awami League government's megalomania, corruption, and lust for illegally made wealth. Popular belief considers it as a bribe by the Awami League to the former Congress government of India, which is also accused of massive corruption and malgovernance, to attain Indian support for arranging a virtually one-party election.

9 Khasru, Omar, "From 4th to 15th Amendment: BAKSAL to Abolition of Caretaker Government", *The New Age*, Nov. 4, 2013, p. 8

“One party misrule
still haunts every
fair-minded
Bangladeshi citizen.”

The Fourth National Parliamentary Elections held on March 3, 1988, were boycotted by BNP. As a result, along with Jamaat leaders, Awami League had to follow the suit to save face. The Jamaati leaders had been working closely with Awami League to make its efforts successful to be the main opposition party in the third parliamentary assembly. In fact, it was the collaboration between Awami League and Jamaat that ultimately prompted these two political parties to fight for CTG during early years of 1990s.

The Fifth National Parliamentary Elections were held on February 27, 1991, and, this time again, the Awami League failed to capture power, winning only 88 seats in the National Assembly. This is the short historical background that helped Awami League return to the helm. Despite the Awami League having a history of collaboration with General Ershad and Jamaat leaders for a longer period of time, it did not share governmental powers with them. Awami League appears to love sharing governmental politics with so-called left-leaning politicians, who were the main collaborators in the process of establishing BAKSAL, the one party misrule that still haunts every fair-minded Bangladeshi citizen.¹⁰

Failing to capture state power in 1991, the Awami League became paranoid; this prompted its leaders to adopt strategies to collaborate with Jamaati leaders openly, so they could destroy the politics of BNP. Failing to capture the majority seats in Parliament in the national elections of 1991, along with Jamaati leaders, Sheikh Hasina launched vicious attacks on the BNP government and held 173 days of *hartal* (complete standstill) in the country.¹¹

Tenth Parliamentary Elections: Reminiscence of 1996 & 1973 Elections?

Many analysts think that the tenth parliamentary elections held on January 5, 2014 is a reminder of the 1973 and 1996 parliamentary elections. Such an observation lacks in objectivity and credibility in a number of ways.

Firstly, 1973 elections were held under the pressure of unruly leaders and activists of Jatio Samajtantric Dal, which had served foreign interests to discredit the leadership of Bangabandhu.

10 “President of Bikalpadhara Bangladesh Prof. AQM Badruddoza Chowdhury on Friday called upon the Prime Minister to refrain from a BAKSAL style poll and urged her to take measures to hold the forthcoming elections under a caretaker government. B. Chowdhury, a former President of the country, alleged that the Prime Minister brought amendment to the Constitution by killing the democracy for her own interest.” (“Refrain from BAKSAL style poll: B Chy”, *The Independent*, November 9, 2013).

11 “Pointing at Prime Minister Sheikh Hasina, the BNP Chairperson said, “You had enforced hartal for 173 days. Now we’ll enforce non-stop hartal and blockade after our current programmes if you don’t restore non-party or caretaker government provision.” See: www.daily-sun.com/details_yes_08-09-2013_Khaleda-threatens-non-stop-hartal,-blockade_609_1_0_3_0.html#sthash.SP4mQyMC.dpuf

The first parliament was in serious dilemma with its Pakistani origin, supposed to work for the Pakistani legislative body. The Constituent Assembly created by the lawmakers of the Pakistani election was suffering from a serious lack of legitimacy.

Secondly, Bangabandhu had resigned from the post of Premiership to make the 1973 election creditable and legitimate. Sheikh Hasina took oath as a Prime Minister for the third time on January 14, 2014, while she was holding the same post of Prime Minister of the country.

Thirdly, the tenth parliamentary election was held on January 5, 2014, while the 9th Parliament was dissolved 20 days later on January 24, 2014, just a day before its tenure ended.

Fourthly, neither did Members of Parliament (MP) of the 9th Parliament lose their seats during the 10th Parliament election, nor did they resign from their parliamentary seats.¹² Thus, the legal and political position of all MPs and other ministers remained the same. They contested seats in parliament, while they had been occupying those very seats and the powers associated with them. In other words, after January 5, 2014 Bangladesh got two parliaments, in a country with a unitary form of government.

Fifthly, the tenth parliamentary election can be termed as a constitutional necessity, as much a necessity as the 1996 election held under a politically charged and legally obligated situation. But neither were the political forces behind those two parliamentary elections the same, nor did their foreign patrons belong to the same group. Thus, Bangladesh national interest and ethnic pride has been stolen and destroyed. Of course, Bangladeshis cannot forget and forgive their leaders for their betrayal to the nation and the people.

Constitutional Adventurism vis-à-vis Political Correctness

General Ershad captured power illegally from the elected Presidency of Justice Abdus Satter. Ershad wanted legitimacy for his government, and Awami League had been cooperating with the Ershad government secretly. On the surface, Awami League was cooperating with BNP to oust Ershad from power in the 1980s, and this mysterious political dynamic had started to play a stronger role in shaping the power politics of Bangladesh. Ideological fights, based on sound strategies, began to become things of the past. Grabbing state power and misuse and abuse of

“Grabbing State power and misuse and abuse of national resources had become the only reason most politicians began waging battles against each other.”

¹² 10th Parliament Election was held under article 123 (3)(a) of the Constitution, which is one of the controversial amendments brought by the 15th Amendment to the Constitution.

national resources had become the only reason most politicians began waging battles against each other.¹³

“Most political analysts and observers tend to argue that both of these powerful ladies of Bangladesh do not maintain any real differences, ideologically speaking.”

Being part of a ruling force in the country, many BNP leaders had never tried to understand Awami policies of capturing and retaining power. In fact, neither BNP nor Jamat understood too well the strategies and policies Awami leaders were pursuing while they were in and out of power.

Following the independence of Bangladesh, Awami League wanted to transform itself into a party similar to that led by Ataturk of Turkey or Nasser of Egypt. The untimely and unwanted demise of Bangabandhu did not permit this happen.

Ziaur Rahman wanted to be a leader like Mahathir Mohammed of Malaysia. Foreign forces did not want this for obvious reasons. More importantly, BNP, as a driving force in the hands of Ziaur Rahman, failed to provide a political platform to allow him to achieve his reformative and constructive policies. Fighting Ershad, Begum Khaleda Zia emerged as an uncompromising leader in Bangladesh. As a result, she was a natural choice for BNP leadership, as it had happened with Sheikh Hasina.

Most political analysts and observers tend to argue that both of these powerful ladies of Bangladesh do not maintain any real differences, ideologically speaking. Such an assumption \ is incorrect; despite both being supporters of democracy and free market economy, their ideology of governance and development models are fundamentally different. However, the idea that both the female leaders could be influenced and dominated by Big Brothers from New Delhi gets support. Since 1/11 of 2007, the leadership of Sheikh Hasina took a different turn, witnessed clearly in the tenth parliamentary elections of the country.

Tenth Parliamentary Elections: Inescapable Outcome with Obvious Results

As a ruling party, Awami League has won 232 in a total of 300 parliamentary seats in the latest elections. This is no source of wonder for anybody. The unprecedented events that led to this result knows no parallel in any democratic exercise in the history of any country of the world. Out of 300 seats, 153 seats were won uncontested, while in 1973 this number was 8. Moreover, this time, the Awami League itself won 127 seats uncontested. In 1973, all 8 uncontested seats were in the pocket of the ruling party.

This time Awami League used the autocratic military junta and General Ershad and his faction of Jatiya Party to orchestrate the parliamentary elections, while Bangabandhu was very reluctant to use other political forces or state powers in his election endeavours. Apparently, ten tiny political parties contested in this January 2014 elections, but in reality less than 10% (many

13 See for details, Liton, Shakhawat, “A Failed Adventure”, a weekly publication of *The Daily Star*, 24 January, 2014, p. 18.

estimates show the figure less than 5%) voters participated in these elections that made it the most unrepresented elections of Bangladesh. The IFEX report has elaborated these events in details.¹⁴

Most Western observers are in consensus about the credibility of the tenth parliamentary elections. However, Awami League, as a ruling party, was and is determined to remain in power by hook or crook. On December 21, 2013, *The Economist* stated that in these elections the Awami League would win, but the nation will fail definitely.¹⁵ This is not a new thesis about Awami leadership in Bangladesh and it has become rather the most important political strategy of the party. Even before the demise of first Awami League government under the leadership of Bangabandhu, Ahmed Sofa, a great patriot of Bangladesh, reiterated that Awami League was no more interested to win with the people – it wishes to win power by defeating Bengali people.¹⁶

The people of Bangladesh have increasingly becoming hostages in the hands of rulers and their cronies, who claim themselves as representatives, but are destroying all the hope and potential Bangladesh as nation can aspire to.

From Original Constitutional Flaws to Utter Manipulation & Virtual Suspension of Fundamental Rights

The chief architect of the 1972 Constitution, Dr. Kamal Hossain, would possibly agree that the text of the first supreme law of Bangladesh suffered from two major flaws, which could diminish the entire envisioned system of Bangladesh.

The two major flaws were:

1. Poor application of the theory of separation of powers¹⁷, which should give shape to the constitutional framework for a state and its legal system. Who was it that, for the first time, conceptualized the theory of separation of powers might a debatable issue in legal research or political discourse. But without its application one cannot expect a check and balance in state power at the highest levels of governance. Members (34

“ The people of Bangladesh have increasingly becoming hostage in the hands of rulers and their cronies. ”

14 http://www.ifex.org/bangladesh/2014/01/09/bangladesh_elections/

15 “Sheikh Hasina’s unpopular government has lost control of large parts of the country... The biggest disadvantage is that the poll will be an obvious sham. Of 300 elected parliamentary seats, 154 will be uncontested. The BNP and 17 of its small allies are joining the boycott. The government has detained in hospital and seems poised to exile Mohammad Hossain Ershad, a former dictator and the leader of Jatiyo, the third-largest party, for its boycott”.

16 ‘When Awami League wins, Sheikh Hasina with a handful of people wins, and when Awami League loses, the whole Bangladesh loses,’ in *Collected Interviews of Ahmed Sofa*.

17 A classical work of Montesquieu, titled “*The Spirit of Laws*” published in 1748, has elaborated the necessity of the theory of Separation of Powers for any modern state to be guided with the principles of the rule of law, methods of preservation of human dignity for all.

“The establishment of one-party rule brought with it the adoption of the Fourth Amendment is the beginning of the constitutional disaster.”

of them) of the first Constituent Assembly must have known the substance of the theory of separation of powers, and being well-versed in jurisprudential studies of constitutional theories Dr. Kamal Hossain was probably aware that without some kind of application of Montesquieu's theory, originating from Aristotelian thought – that the rule of law is always better than the absolutism exercised by kings or monarchs – no modern constitutionalism can work for the people. During the lifetime of Montesquieu, the Bourbon monarchy in France was horribly despotic; the monarch was an absolute Lawgiver, the Highest Executor, and the Chief Judge for France. In fact, Louis XIV declared: “I am the State”. Possibly, Dr. Kamal Hossain could not have imagined that Bangladesh could repeat this history. Still, the 1972 constitution was marked with some nominal and very formal distribution of powers at the highest levels of state machinery.

2. The original 1972 Constitution did not contain any provision for declaring emergency under any circumstances. In other words, neither the Head of State (President) nor the Head of the Government (Prime Minister) could declare emergency in the country and the Chief Justice could not endorse any kind of state emergency declared or undeclared by any Bangladeshi citizen of force in disguise of constitutional necessity. Most of the constitutional experts would tell us that this is a very profound constitutional flaw in the 1972 Supreme Law of Bangladesh.

However, if we take these two theoretical shortcomings of the 1972 Constitution of Bangladesh in context and allow them to be exposed simultaneously, then Dr. Kamal Hossain would possibly argue that these two negative notes about the original text of the constitution might have neutralized the pulses of absolutism and anarchism on one hand and could leave Bangladesh alone for the fulfillment of the original intention and declared commitment to the fundamental rights of all citizens, including people claiming themselves as religious minorities or having non-Bengali ethnic identities.

With the help of the second Amendment to the Bangladesh constitution, constitutional provisions necessary for the declaration of state emergency were introduced. But, neither the framers of the constitution nor the lawmakers elected in the 1973 parliamentary elections could seriously ponder about the method of using the power of declaring emergency.

Thus, the establishment of one-party rule brought with it the adoption of the fourth Amendment to the constitution in 1974. This is the beginning of the constitutional disaster, which turned into a tsunami that has buried many of cherished democratic traditions and hard earned fundamental rights. Surprisingly, all this was done in the name of the consolidation of the objectives of the glorious liberation war and for the sake of the preservation

of the basic structure of the constitution, which will be discussed shortly.

Consider what the Fifteenth Amendment to the constitution has achieved. Firstly, in the name of returning to the original 1972 constitution, the nation has been lied to. This is sheer deception, if not utter hypocrisy. No investigation has proven that the present Constitution of Bangladesh is a reminiscence of 1972 Constitution. Now we have state religion as a constitutional principle and all powers vested in the hands of one person, i.e. the Prime Minister, who can control all major work of the President and even the Chief Justice. Chief Justice K. Haque has proven this in front of the nation. Abdul Halim offers a critical assessment of Khairul Haque's legacy.¹⁸

“No investigation has proven that the present Constitution of Bangladesh is a reminiscence of 1972 Constitution.”

Secondly, even the right to have referendum over any vital national issue has been taken away as such a provision is completely absent in the constitution¹⁹.

Thirdly, Bangladesh has lost a system of parliamentary supremacy that could change laws, including constitutional provisions whenever necessary. What kind of constitutional rigidity is this? No credible answer can be found elsewhere in the world.

Fourthly, Bangladeshis were told that they now lived under constitutional supremacy for which national parliamentary elections are orchestrated, where less than 5% voters exercise their voting rights. All major opposition parties were blamed for their non-participation in 5 January 2014 elections. But, the fact of the matter is that the ruling party did not want any other popular party to contest in the 10th parliamentary elections.

Fifthly, any criticism of the Fifteenth Amendment may result in any citizen being accused of sedition against the State, a crime for which the constitution itself declares a punishment of death.²⁰ All this has happened in the backdrop of a kind of fascist onslaught on the political right to protest and assemble in any place in Bangladesh.

Lastly, by virtue of the Fifteenth Amendment to the constitution, the principle accepted worldwide that sovereignty

18 Halim, Md. Abdul, “7th Amendment Judgment: Judicial Politics or Activism”, *The Counsel Law Journal*, pp. 26, 27.

19 The provision for referendum was introduced for the amendment of preamble or any provisions of articles 8, 48, 58, 80, 92A by the Second Proclamation (Fifteenth Amendment) Order, 1978 (Second Proclamation Order No. IV of 1978) and later by way of the Constitution (Twelfth Amendment) Act, 1991 (Act XXVIII of 1991) articles 58, 80, 92 A were omitted and article 56 was inserted.

20 Article 7 A has been inserted by way of the Constitution (Fifteenth Amendment) Act, 2011 (Act No. 14 of 2011) which makes abrogation, suspension etc. of the Constitution, offence punishable with death.

“How the people will enjoy the right to free speech and political opinion is not a debatable question in terms of constitutional principles.”

belongs to people has been violated completely and in many ways. Even with an overwhelming majority, support within and outside the parliament, Bangladeshis supposedly should not even try to change their constitution for the better. Any serious and consistent efforts to bring about progressive changes to the constitution may lead to death penalty for those who voice their right to act or speak against impractical, unhealthy, unacceptable, and discredited provisions of the constitution. Who and how people will enjoy the right to free speech and political opinion is not a debatable question in terms of constitutional principles.

However, under the present constitution, a huge number of constitutional principles, provisions, and rules must be kept above all kinds of criticism and those constitutional letters must be regarded as “sacred words” not to be amended by the nation or by any highest legislative body genuinely elected.

Thus, the present constitution has to be regarded as a religious scripture and its injunctions to be followed blindly; any number of people can be hanged by the government if it thinks that the accused have been engaged in sedition against government. In other words, we have diminished the differences between religious injunctions and constitutional rules on one hand, and on the other hand, have taken the concepts of statehood and government as synonymous.

It makes one wonder how the authors of the Fifteenth Amendment to the Constitution claim themselves as secularists. For some secularists in Bangladesh, anti-Islamism is the real essence of state-secularism, which will promote all non-Islamic religious activists so that they can kill any religious man or woman just by labeling them as Islamic fundamentalists. This is a dangerous phenomenon that recent history has registered in some countries including India, which is now engulfed by Hindu fanatic forces at all level of its polity and governance. Surprisingly, these Hindu fanatic forces are termed as “nationalist”, and have also been credited for their wish to unite South Asian countries under the political ideology of Hinduism.

The Doctrine of Basic Structure vis-à-vis Basic Constitutional Provisions

Initially, those that framed the constitution had been pondering over fundamental constitutional principles. Combining socialism, nationalism, secularism, and democracy, they wanted to have a legal philosophy for constitutionalism in Bangladesh.²¹ However,

21 In 1972 Bangladesh leaders wanted to combine the principles of socialism with a kind of anti-Islamic secularism. On the other hand, India, in 1976, made secularism its constitutional principle. A major problem with Bangladesh leaders has been their wish to get everything done in wishful ways without taking any note of public opinion or hopes and aspirations of the people. Bangabandhu had been struggling with the declared ideology of secularism by claiming it as a different kind of neutrality to all religious beliefs, i.e. non-combative secularism that would not wage a war against Islam in Bengal.

the ideological basis of the Bangladesh constitutional system did not resonate with the hopes and aspirations of the vast majority of people, who wanted to see the materialization of proclaimed goals of economic emancipation.

Politicians, as always, were, and are, very keen to keep citizens engaged in political rhetoric to monopolize power in running state affairs. State ideology is a self-severing agenda for most political parties, which have been engaging in deadly internecine fighting for capturing and retaining power. Neither the empty words of patriotism, nor the religious commitment to the betterment of fellow-citizens can anymore serve as an effective tool to generate popular support to the political parties and their activists as they have lost their credibility as genuine patriots and leaders committed to the causes of nation building. Moreover, most people have been talking consciously about their leaders' hypocritical behaviors and life-style.

In this backdrop, the role of the 'doctrine of necessity' has increased tremendously at every turning point of Bangladesh national history and constitutional development. The doctrine of necessity has been used by politicians, judges, and military-backed governments; they have used it in diametrically opposite ways; thus Bangladesh has not achieve any maturity in its political and constitutional system. Amendment after amendment to the constitution has failed to produce any lasting result to consolidate fundamental rights, the rule of law, and political stability. Political instability, along with endemic corruption and vicious cycles of poverty, has pushed Bangladesh toward a system tantamount to a police state, something the Bangladesh nation has hated since British domination over people and resources.

Since the hard-earned independence of Bangladesh in 1971, the Bangladeshi people wanted to have their own constitutional framework and legal system conducive to the protection of their national glory, dignity, identity, and for the creation of a society based on fairness, decency, equality, and progressive ideals of economic and constitutional growth. Our brutal colonial and Pakistani legacy either hurt the people deeply and/or Bangladeshis have just been indulging in reactionary squabbling, leading to a kind of intellectual bankruptcy. As a result, Bangladesh decided to make political speeches or statements an integral part of the constitution, despite committing fundamental blunders during and after the liberation war.

The instrument of surrender is one example of such a blunder, where neither the Bangladesh Chief of Staff of Freedom Fighters, nor his deputy was seen beside General Jagjit Singh Aurora as the surrender was signed. General Aurora signed as the General Officer Commanding in Chief, India and Bangladesh Forces, Eastern Theatre. Since the Deputy Chief of Staff of Bangladesh Freedom Fighters, A.K. Khandaker, was present at the venue of surrender where the defeated Pakistani army surrendered their

“The role of the ‘doctrine of necessity’ has increased tremendously at every turning point of Bangladesh history and constitutional development.”

weapons, he should have signed the Instrument on behalf of the Bangladesh Force.²²

“Bangladeshis desperately need a constitutional framework and legal system that can make their motherland liveable.”

The Simla Treaty is another post-liberation blunder of the Ruling Awami League, wherein India and Pakistan were party to the decision of releasing 93,000 Pakistani prisoners of war who were really war criminals.²³ The agreement should have been tripartite, and included Bangladesh; it should not have been bilateral, between India and Pakistan. Both these blunders undermined and lowered the sovereignty of Bangladesh, becoming a permanent shame for the nation.

Not Bangabandhu's immensely popular speeches, but his Six Points Formula along with Bangladesh's Shwadinota Shonod (Proclamation of Independence on April 17, 1971), could serve well as Bangladesh's constitutional ideology. Even the brutal Pakistani leaders, including Z.A. Bhutto, acknowledged the strength of the Six Points Formula to lay down the foundation of a constitution of any federal government. Bangladesh is still based on a unitary form of government; it does not need federal constitutionalism as yet. The separate currency issue within Bangladesh territory is completely irrelevant.²⁴ But the spirit of the Six Points and Shadinota Shonod is quite relevant to Bangladeshi constitutionalism.

Bangladeshis desperately need a constitutional framework and legal system that can make their motherland livable, and can keep it sustainable environmentally, with harmonious economic growth. For this Bangladesh really needs constitutional provisions that would remain above all kinds of partisan politics and extremist political or religious ideas.

Should that be named as the Basic Structure of the constitution that would maintain some order in distributing State Powers from top to bottom? Maybe not! As State constitution primarily refers to the formation of national institutions at all important levels and their rules of engagement in contributing to nation building as a whole, so, in final analysis, the interplay between vital state institutions determine speedy and smooth growth towards statehood.

Does Bangladesh really need some non-amendable, permanent, perpetual, infallible, and eternal Articles or constitutional rules in our constitution? One doesn't need serious legal or constitutional acumen to conclude that such kind of audacious rigidity cannot

22 The Instrument of Surrender, available at [http://en.wikipedia.org/wiki/Instrument_of_Surrender_\(1971\)](http://en.wikipedia.org/wiki/Instrument_of_Surrender_(1971)), last visited on May 13, 2014.

23 Simla Agreement, July 2, 1972, available at http://en.wikipedia.org/wiki/Simla_Agreement, last visited on May 13, 2014.

24 The idea that Bangabandhu was wrong to claim a separate currency for then East Pakistan is also incorrect, as still today we can see that Hong Kong has its own currency despite the fact that it is an integral territory of the People's Republic of China.

work for the betterment of nation building. Moreover, it creates a paradoxical situation: no future and fully accredited and credible highest legislative body will be able to make necessary constitutional amendments or changes without which Bangladesh can get locked into a dysfunctional system, in which it exists today. The main challenge at hand is how to fight corruption, poverty, and prevailing impunity, which has been widely used by ruling elite, especially the party in power.

The catastrophic erosion of our prevailing political and constitutional system is the outcome of the concentration of State power in the hands of very few who claim that they have the birth right to dominate the people in every aspect of their existence and activities. These ‘fortunate’ few are seeking life-long sole-agency over the destiny of the people and national interests, which should remain above partisan politics and all kinds of fanaticism. To this date, we have not reached national consensus over any important national and state-building issue.

Some politicians are still partial toward a Pakistani type of politics, with power mongering at any cost. And, the so-called patriotic and largest political party, in particular its central leaders, are out to make Bangladesh completely subservient to its mightiest neighbor, whose ruling elite are reaping benefits at the cost of total destruction²⁵ of the motherland: Golden Bengal.

Indulging in a Myth of Alien Constitutional Doctrine & Its Fatal Consequences

Whatever way we wish to discover a textual justification for the Basic Structure of the Bangladeshi constitution, we may fail to find one, as there is no “constitutional text” for it. In fact, it is impossible to insert such a provision in a state’s constitution, as then many other constitutional principles and provision would also claim such a special status. As a result, all the defenders of the “Basic Structure” of the constitution have to argue merely based on some presumed underlying spirit of constitutional principles and provisions that cannot be found in the constitution.

The doctrine of basic structure is nothing but an abstract hypothesis that tends to curtail the powers of the highest legislative body of a democratic country where some sections or some families look for sole agency in the process of the amending the constitution. In a narrower sense, this perceived doctrine, it may be argued, for the sake of political and constitutional

“ The catastrophic erosion of our prevailing political and constitutional system is the outcome of the concentration of State power.”

²⁵ Making Bangladesh environmentally unsustainable and economically unviable, India would not be able to help itself in any way. Rather a friendly relation might be mutually beneficial. New Delhi has been ignoring this possibility since the inception of Bangladesh as a sovereign State, which is now the fifth largest remittance provider to India, which receives over \$ USD 5 billion annually from a number of Indians working in Bangladesh. The unofficial figure cannot be counted and thus one cannot tell whether Bangladesh would lose its remittance income to India in the near future.

stability, tries to keep some pillars of the constitutional framework irremovable or unchangeable, so that no unconstitutional forces can intervene in the system of governance in any unwanted manner.

“The ruling elite may feel unable to resist its ideological and religious adversaries through constitutional means.”

However, such an impractical rigidity may prove uncalled for and may even provoke the vast marginalized majority to resort to various types of anarchism to have their stake in running the affairs of the State. In a broader sense, the ruling elite may feel unable to resist its ideological and religious adversaries through constitutional means that cannot be challenged in any court of law within the country. In both ways, this doctrine may put the State mechanism in a precarious situation, which may go out of hand at any time. To avert that possibility, the 15th Amendment to our constitution made all kinds of national referendum of getting public support for any amendment unconstitutional and can therefore be regarded as anti-constitutional. This is one of the greatest strategies of constitutional history and development of our time.

The 15th amendment of our constitution has created way too many controversies, too many for a Supreme Law of a modern State. Not only has it attempted to change many age-old and universally accepted formulas of jurisprudence and constitutionalism, it has created too many ambiguities for a sound legal document.²⁶

The Fifteenth Amendment taking us nowhere

The ill-conceived ideology of the two-nation theory of colonial London and its agents made both barbaric Pakistan and fanatic India a reality for all people of the subcontinent. However, India remained on the path of some kind of constitutionalism, and Pakistan opted for militarism. Pakistan has failed to produce any kind of system for its own federalism, but India was sincere to keep its federal government running to avoid any catastrophe such as a dismantling of Indian federalism that encompasses thousands of ethnic and linguistic groups living in the Indian territories.

In 1951, the Indian Parliament decided to make its first constitutional amendment, while, at that time the Pakistanis were still fighting for what type of constitution it should have. Indian politicians understood very well that the concentration of huge capital in private hands might be detrimental to the interests of the growing Indian state. The constitution amendment brought in 1951 known as the First Amendment Act of parliament consolidated powers in the hands of government to resist individuals and groups aspiring to grab properties of all kinds in the name of right to private property. This legal idea of governmental preeminence over national wealth was in the line of socialistic ideals about nationalized economy, where sectors of private economy must

²⁶ See for details, Halim, Md. Abdul, “7th Amendment Judgment: Judicial Politics or Activism”, *The Counsel Law Journal*, Vol. 1, Issue 1, Oct., Dhaka, 2013, p .68.

be under the strict control of governmental agencies. After independence in 1971, the Bangladesh government also followed the same strategy, leading to disastrous consequence, including the devastating famine of 1974.

In *Sajjan Singh vs. State of Rajasthan*²⁷, the 17th Amendment Act of the Indian Constitution, relating to fundamental rights, was challenged but it was also rejected like *Sankari Parsad*. Unfettered amendment privilege of the Parliament remains untouched in this case but the opinion was divided 3:2. Two dissenting judges, *Hidayatullah*, based on non-amendability of a fundamental right, and *Mudholkar JJ*, based on non-amendability of basic structure, raised doubt as to the amendability of all the provisions of the constitution.

The petitions against constitutional amendment were recurrently rejected but objections against amendment were not stopped. After the above cases, came the *Golaknath* case. The *Golaknath* case is the first to breach parliamentary power of unfettered amendment. *I.C. Golaknath vs. State of Punjab*²⁸ established the principle of non-amendability of fundamental rights, based on the argument of *Hedayatullah J.* in the *Sajjan Singh* case in favor of non-amendability of fundamental rights and not on the argument of basic feature of *Mudholkar J.* in *Sajjan Singh* case that was the base of the later *Kesavananda* case.

*KesavanandaBharati vs. State of Kerala*²⁹ is the landmark case establishing the doctrine of basic structure. Parliament acted to undo the effect of the *Golaknath* case and declared that parliament can amend any part of the constitution. The *Kesavananda* case discarded the argument against the non-amendability of the provision of constitution that affects the basic structure of the constitution.³⁰

There are many other subsequent cases where the decision of *Kesavananda* has made the basic structure dubious in some matters and made favorable matters of fundamental rights that should not come under the attack of any ruling party or government. We can observe here that *Indira Gandhi vs. Raj Narain*³¹, popularly known 'Election case', was filed against 39th amendment and the decision of *Kesavananda* was also affirmed in this case. Other cases in favor of the basic structure doctrine to be noted are *Minerva Mills vs. Union of India*³², *Waman Rao vs. Union of India*³³, and *A. K. Roy vs. India*³⁴.

“Parliament acted to undo the effect of the *Golaknath* case and declared that Parliament can amend any part of the Constitution.”

27 AIR 1965 SC 845

28 AIR 1967 SC 1643

29 AIR 1973 SC 1461

30 See for details, Halim, Md. Abdul, *Amendments of the Constitution of Bangladesh: Legislative Versus Judicial*; CCB Foundation, Dhaka, 2012, pp 43, 44.

31 AIR 1975 SC 2299

32 AIR 1980 SC 1789

33 AIR 1981 SC 271

34 AIR 1982 SC 740

Doctrine of Basic Structure in Bangladesh

“The present-day Bangladeshi Constitution has been apparently designed along the lines of Indian jurisprudential understanding of constitutionalism.”

The present-day Bangladeshi constitution has been apparently designed along the lines of Indian jurisprudential understanding of constitutionalism; the constitution can be regarded as a broader legal framework for all national institutions and for the branches of Law yearning for a decent system of Rule of Law. Problems with many jurists and legal minds in Bangladesh is that they believe that the overriding and overarching powers of some people sitting at the top of important national institutions can meet the challenges by empowering them only through dogmatic activism or partisan politics. Power sharing at the State level is not a simple legal mechanism that can ensure the supremacy of one state organ over others.

However, the doctrine of parliamentary supremacy is altogether a different issue, as, through this doctrine, democratic government wishes to uphold the theory and principle of asserting the notion that ‘Sovereignty belongs to People.’ Neither the Parliament nor the Supreme Court of any State can violate this fundamental constitutional principle of putting people’s interest ahead of everything. The executive branch of government headed by President or Prime Minister should be under the supervision and guidance of other two branches of government. And this is not a simple application of the theory of the Separation of Powers within a State mechanism; it is a real check and balance system within the state machinery to save people from arbitrary actions or inactions of the ruling elite.

Without giving any attention to the check and balance system in exercising state powers, an apex court cannot simply buttress the avenues of possible use of arbitrary powers by the top executives of the government that is no more accountable or answerable to the people. That Bangladesh leaders are not caring about the welfare of the people is now an established phenomenon that can easily be understood at any time or in any event of conflict between different political parties and forces. Things get nastier when leaders in powers ignore not only the voices of the people, but also the opposition leaders, who may or may not be the birds of same feathers when it comes to grabbing State powers and occupying seats in parliament through which they can stay in power against the will of the people.³⁵

The argument that the bill of the fifteenth Amendment to the Constitution was prepared on the basis of the report of the Special Committee for Constitutional Amendment (SCCA) on July 21, 2010, does not hold water. The claim that the SCCA held 27 formal meetings and then came up with 51 points of recommendations is also a political maneuvering rather than any serious expression

³⁵ See for details, Halim, Md. Abdul, *Amendments of the Constitution of Bangladesh: Legislative Versus Judicial*, CCB Foundation, Dhaka, 2012, p. 68.

of good will of accommodation of diverse legal views and opinions. The main argument was that the Amendment was necessary because of the judgment of the Supreme Court, headed by the highly controversial C.J. H. Haque. The consequences of the political drama have proved to be disastrous by any standard of maintaining the rule of law and continuity of a constitutional legal framework that can ensure a peaceful and creditable transition of power from one government to another. But after the Fifteenth Amendment, as Abdul Halim claims, the constitution now creates dilemma and confusion.³⁶

“ The consequences of the political drama have proved to be disastrous by any standard of maintaining the rule of law.”

Provision of Basic Structure in the Present constitution of Bangladesh:

Article 7A and 7B includes the provision of basic structure in Bangladesh constitution.

Article 7A.

- (1) *If any person, by show of force or use of force or by any other un-constitutional means-*
 - (a) *abrogates, repeals or suspends or attempts or conspires to abrogate, repeal or suspend this Constitution or any of its article ; or*
 - (b) *subverts or attempts or conspires to subvert the confidence, belief or reliance of the citizens to this Constitution or any of its article,*
his such act shall be sedition and such person shall be guilty of sedition.
- (2) *If any person-*
 - (a) *abets or instigates any act mentioned in clause (1) ; or*
 - (b) *approves, condones, supports or ratifies such act,*
his such act shall also be the same offence.
- (3) *Any person alleged to have committed the offence mentioned in this article shall be sentenced with the highest punishment prescribed for other offences by the existing laws.*

Article 7B

Notwithstanding anything contained in article 142 of the Constitution, the preamble, all articles of Part I, all articles of Part II, subject to the provisions of Part IXA all articles of Part III, and the provisions of articles relating to the basic structures of the Constitution including article 150 of Part XI shall not be amendable by way of insertion, modification, substitution, repeal or by any other means.

Under the pretext of above mentioned constitutional provisions, any person may find himself and herself in a very dangerous situation in the hands of any personnel of any law enforcement

³⁶ See for details, Halim, Md. Abdul, “7th Amendment Judgment: Judicial Politics or Activism”, In : *The Counsel Law Journal*, Vol. 1, Issue 1, Oct., Dhaka, 2013, pp. 78, 79.

“ The Constitution has already undergone many radical changes.”

agencies, guided or misguided by any person or leaders, who are at the helm of political power. Due to these provisions, the lines between the political correctness and being legally prudent have been blurred completely.

Some Troubling Notes about the Fifteenth Amendment to the Constitution

Where the constitution has made no limitation, why does the amendment attempt to impose limitation over the amending power of the parliament? Where the original constitution has not imposed any absolute bar on amending power is it justified to impose such bar by way of judicial interpretation? The answer of the antagonist to the basic structure doctrine is: no.

Rigidity in amendment of the constitution may lead to revolution. It is argued that if all the doors and windows are closed, the possibility of revolution looms. The Parliament has also constituent power.³⁷ The body that makes the constitution is the parliament elected by the people. All parliaments should have such power so that the opinion of the people is respected.

The constitution has already undergone many radical changes. Why should one make an exception to such trends? If one allows it, those amendments would be void which have already been regarded as valid. Only dissenting Judge A.T.M. Afzal, in the 8th Amendment case, observed, that in the absence of the full catalogue of basic structure, nobody may know the limit of amendment. It is inconceivable that the makers decided all the matters and left nothing for the future. There was nothing to prevent the makers to make such provisions of basic structure in the original constitution if those were really wanted by them. However, Fifteenth Amendment did this to our constitution by making a large part of it unamendable.³⁸

A functional constitution cannot alienate a vast majority of the voters. In the January 5, 2014, parliamentary elections not more than 5% of the total voters cast their votes and 153 PMs out of 300 member-parliament were declared elected without contesting their seats. The holding of such farce parliamentary elections was justified by a necessity of constitutional continuity that argues that in the case of absence of other candidates the sole running candidates should be declared as the winners.

37 The Constituent Assembly is the authority to frame a constitution. The Parliament, on the other hand, has the power to remove from and insert into the Constitution. That is why the Parliament also has constituent power.

38 See for details, Halim, Md. Abdul, *Amendments of the Constitution of Bangladesh: Legislative Versus Judicial*; CCB Foundation, Dhaka, 2012, p. 101.

In a similar fashion, present-day Bangladeshi constitution, as mentioned above, declares that no future parliament can change

any article related to so-called Basic Structure of the constitution. One-third of the constitution, as Basic Structure, which includes a number of declarations and public speeches, can, under no circumstances, be regarded as the text of any State-constitution. Without mentioning any role of internal and external influence on the design and draft of the fifteenth amendment, we can easily argue that the flawed constitutional system the nation has been riding now may prove to be obsolete during any given political crisis and ultimately Bangladesh may, in desperation, need to adopt a new constitution to address vital issues related to power-sharing at the highest level of governance.

“Present-day Bangladeshi Constitution declares that no future parliament can change any article related to so-called Basic Structure of the constitution.”

Wild West in the East:

Four stories of State persecution

*Bangladesh Desk
Asian Human Rights Commission, Hong Kong*

The reality of the rule of law in Bangladesh can be viewed clearly in the experiences of victims of human rights abuses. Daily, countless citizens fall prey to the violence of state agents. The Asian Human Rights Commission (AHRC) has documented numerous cases. The documentations depict a nightmarish life of people awash with atrocities, harassment, arbitrary deprivation of life, and denial of justice.

In recent years, abductions by men in civilian clothes, followed by the disappearance of those abducted, has risen alarmingly in Bangladesh. There has been no report of victims receiving judicial remedy in cases of enforced disappearance. Amidst such chilling realities, human rights defenders have been targeted for state persecution, for exposing truth. Out of a few hundred documented cases, 47 have been compiled in this edition. The incidents cover a period from 2009 on, following rule by the military-controlled emergency regime during a period of “democracy”.

The following four cases have been chosen by the AHRC to let its audience know how the state apparatus – from top to bottom – are engaged in persecuting citizens. The stories expose a harsh truth to Bangladeshis and to the people of the world: Bangladesh possesses neither democracy nor the rule of law.

The case of Adilur Rahman Khan

There is similarity between the detention and harassment of Adilur Rahman Khan (See Story No. 1) and the ordeals faced by victims of disappearances in Bangladesh. The agents of the state who picked up Adilur did not wear any law-enforcement agency uniform. No warrant was presented to Adilur concerning any criminal charge against him. When a team from *Odhikar* approached the nearest police station, the Gulshan station, the police personnel there expressed ignorance about Adilur’s arrest. Even by midnight on 10 August 2013, two hours after Adilur was

picked up, the Gulshan police had no official record to justify Adilur's arrest, and no information specifying his whereabouts.

Following intervention from media and human rights defenders, the police admitted that the Detective Branch (DB) of the Dhaka Metropolitan Police had arrested Adilur. The police registered two General Diary Entries (GDEs) against Adilur after detaining him. They produced him before the Chief Metropolitan Magistrate's (CMM) Court of Dhaka the following morning under the two GDEs. The CMM Court sent him to police remand for five days in violation of the law. Adilur's wife had to challenge the CMM Court's order before the High Court to protect her husband from torture in remand.

“The prosecution witnesses for the case are police officers and people defined by the police as “experts” of information technology.”

The events suggest the government actions were arbitrary. Their intention superseded the purview of law in Adilur Rahman Khan's case. The subordinate judiciary, i.e. the Magistracy and the Cyber Crimes Tribunal, acted as if it was the tool in the hands of the government, mandated to harass human rights defenders. The judge of the Cyber Crimes Tribunal, Dhaka, would disappear from his office on the dates when the Tribunal was supposed to entertain the applications of Adilur's lawyers. Not having the judge's signature on certain documents prevented the lawyers from seeking remedy in higher courts. No official explanation was made public about the judge's absence. This absence appears deliberate.

The police investigation reports accusing Adilur and Elan of committing crimes under the Information and Communications Technology Act, 2006, is nearly a verbatim copy of the General Diary Entries. The prosecution witnesses for the case are police officers and people defined by the police as “experts” of information technology. Testimony of such governmental “experts”, who have no known background in the field, can jeopardize the rights to a fair trial and justice if treated as credible by judges.

The Attorney General undermined the independence of the judiciary. His office intervened and stalled the release of the two detained rights defenders. As a result, even after Adilur and Elan were granted bail, and the court order had reached the prison authorities, they were not released. Ultimately, Elan was released two days later, and Adilur was released three days later.

The repression of *Odhikar* and its key leaders indicates that the government of Bangladesh stands against them. All this is organised by the regime to close down *Odhikar* and silence the voices of independent human rights defenders like Adilur Rahman Khan. In Bangladesh, no remedy is accessible or affordable to protect oneself from persecution by the state.

The case of Mohammad Imam Hassan

“The judiciary in Bangladesh does not believe it has any responsibility to provide a remedy to an average justice-seeker.”

Ruhul Amin and his wife Minara Khatun (See Story No. 8) talked to their son in the office of the RAB-2 on four occasions, after paying a 40,000 taka bribe. As parents, they tried their best to rescue their son from the custody of the paramilitary force, which officially claims to be an “elite force”. The “eliteness” of the RAB lies in bribery and a trade in crime, amidst impunity. The RAB’s involvement in any crime – as offenders, facilitators, or masterminds – prevents other state institutions from executing their mandate. Police refusal to record Ruhul’s complaint while his son was in RAB custody again exposes this reality. The RAB, apart from demanding bribes, insisted that the parents file a complaint with the police, as a precondition for Badal’s freedom from its custody. This kept the parents busy with the police. At the same time, the police know that they are not allowed to register complaints if there is any hint of RAB involvement in any alleged crime. The refusal of the police to register such a complaint shut the doors to the Magistracy for victim’s relatives.

The Supreme Court, as the last resort for victims of state orchestrated crimes, seals victims’ fates by conducting result-less actions. Imam Hassan Badal’s case is just one of the habeas corpus writs filed. There have been, at least, a few hundred disappeared victims since 2009. The High Court Division of the Supreme Court held only one hearing to issue a Rule against the respondents in Badal’s case. The judiciary in Bangladesh does not believe it has any responsibility to provide a remedy to an average justice-seeker. Rather, it is the victims’ sole responsibility to keep pursuing their cases, hoping that hearings will not be stalled, and dreaming of a just result. Often, even the High Court’s Rules are ignored by law-enforcement agencies. The respondents, due to the absence of judicial consequences, do not respond to the Rules in time. Subsequently, Rulings against state agents in cases of grave human rights violations become a mere joke for the perpetrators, and a fruitless exercise for the relatives of the victims. The law-enforcement agencies consistently keep denying their responsibilities for disappearing the citizens concerned.

Bangladesh’s incumbent Attorney General remains ever prepared to serve state perpetrators. The Attorney General sometimes takes the role of a postman and sometimes becomes a microphone of the law-enforcement agencies, when the cases of disappearance or extrajudicial executions are heard in the Supreme Court. He submits the law-enforcement agencies’ denials that are no different from the media release circulated by the agencies. The Supreme Court, which is overburdened with politicised recruitments, accepts such denials. Matters get stuck there without any remedy for victims. The highest judiciary has not provided any remedy to victims of disappearance since 2009, in terms of rescuing disappeared persons or punishing perpetrators. The Supreme Court has not yet taken enforced disappearance seriously. There have been no directives from the

Court regarding the pattern of disappearances in Bangladesh. Relatives of victims run around with hope and end up in despair. Ultimately, all the state apparatus offers to the people is distrust, despair, and sheer terror.

The case of Limon Hossain

Limon Hossain's (See Story No. 14) case informed the people of Bangladesh of how the Rapid Action Battalion is a highly destructive paramilitary force. The "elite" paramilitary force deliberately shot an innocent college student to further its business of "success" in crime control. The case shows how difficult it is for a victim to register a complaint against offenders belonging to the state despite massive public support. One may imagine conditions of tens of thousands of victims of human rights abuses that get no publicity or support. Limon's case shows how crimes of the law-enforcement agencies maim not only individual victims but also the criminal justice institutions of the country. The criminal investigation by the police tried to turn truth to falsehood and the investigation report claimed wrong as right. The prosecution complied with the cover up by rubberstamping the police reports. The Magistracy and Sessions Courts proved that they do not exist as institutions for administering justice. The Sessions Court of Jhalkathi deferred Limon's mother's revision petition nine times. All the institutions – the complaint mechanism, the criminal investigation units, the prosecution, and the judiciary – are exposed in this case as a mere facade to protect the criminals of the state. They survive to brand innocent citizens as criminals.

This case also exposes how the National Human Rights Commission stands against people's aspirations for justice. By insisting that Limon's family withdraw the case against officers of the RAB, the NHRC Chairman showed his complicity with the government's position, denying justice to victims of human rights violations.

The state compounds crimes of its own agents at the cost of taxpayer money, wellbeing, and hope. The policymakers of the state dance according to the requirements of the militarised agencies. The state stands united against ordinary citizens.

The case of F.M. Abdur Razzak

A police team stayed in F.M. Abdur Razzak's village home (See Story No. 16) from 9 December 2011 to 3 December 2013. Around eight members led by a Sub Inspector (SI) of Police, and comprising an Assistant Sub Inspector (ASI) and six Police Constables were there for the first six months. Later, the number reduced to four to five personnel led by an ASI. During the two years presence the police could not help Razzak's family establish their right to afford their own property and crops. The police team was a passive spectator of numerous crimes against Razzak's family, committed

“All the institutions – the complaint mechanism, the criminal investigation units, the prosecution, and the judiciary – are exposed in this case as a mere facade to protect the criminals of the State.”

by the gang of the military officer's brother. For example, the police did not prevent the offenders from cutting down trees of Razzak's family or catching fish from Razzak's pond.

“ The police filed untrue investigation reports against the defendants in all these fabricated cases, due to pressures from the military officer and bribery. ”

Razzak and his family have not yet been able to exercise their right to harvest their crops from their own lands despite the police presence. Some members of the police were found playing *carom* with the perpetrators. A few police personnel were compassionate to Razzak's family and expressed their helplessness in establishing his family's right to enjoy their own assets. Officially, there were no supplies of food for the on duty police personnel at Razzak's house during the entire period. Razzak's family, who did not have enough for everyone, nevertheless often shared their meals with the police personnel as a result. The Officer-in-Charge (OC) of the Paikgachha police station withdrew the forces from Razzak's home on 3 December 2013 because of “security threats to the police”, according to a General Diary Entry registered with the Paikgachha police. The police took the advantage of the High Court's order, which did not have any specification about the duration of the presence of police in Razzak's home. One can easily assume the condition of the general public's security in a particular place when the law-enforcement agency itself claims to be under “security threat”.

In last four years, 15 cases were registered by the perpetrators against Razzak, his family members and others who stood beside them either in public or in a Court of law. Seven out of the 15 cases are GR (General Registrar) cases; seven non-GR cases and a CR (Complaint Registrar) cases filed by the perpetrators. The police filed untrue investigation reports against the defendants in all these fabricated cases, due to pressures from the military officer and bribery. Seven Non-GR cases and a GR case are under trial in the Village Courts. Seven other cases are under trials before the relevant Courts. At least, in three cases the defendants, e.g. Razzak and his relatives and friends, may be convicted due to the distorted police report and false deposition by the perpetrators.

During the same period Razzak, his father, brother and few neighbours had filed seven criminal cases regarding physical attacks on them and looting of their assets by the perpetrators. One of these cases was the attempted murder of Razzak following abduction and gouging his eye described earlier. Only in this case the police have filed a relatively fair investigation report to the Court due to numerous pressures from the international human rights organizations including the Asian Human Rights Commission. And, in the rest of the cases the investigation reports were poorly made which benefited the perpetrators.

Apart from the criminal cases, Razzak filed a civil case seeking his right to enjoy all his properties that are illegally occupied by the perpetrators. In response to Razzak's claim for a permanent injunction on occupying his family's properties the Senior

Assistant Judge's Court of Paikgachha has yet to conclude its order since 23 March 2011.

The reality that Razzak and his family have been forced to face in Bangladesh says volumes about the condition of the rule of law of the country. Military officers are publicly perceived to be above the law in Bangladesh. The power of an army officer and his family's gang seems to be much stronger than the institutions that are obliged to uphold the rule of law. Moreover, one of in-laws of the military officer is a high profile official at the Office of the Prime Minister. Because of the governmental endorsements the country's military rules do not apply to him. Impunity and corruption reign in the nation replacing the rule of law.

“ The State never tries to realize how the people feel when they have to live with the utter absence of rule of law that ruins their life.”

It is hard to believe that human beings are behind the operation of the state apparatus in Bangladesh. The state compounds endless crimes orchestrated by a military officer and his goons. Institutionally, there is hardly any visible feeling about the plights of Razzak and his family. Their houses were looted without any protection from the state. Their valuables were taken with the knowledge and acceptance of the police. They were prevented from harvesting and growing new crops in their own lands without any affordable remedy. The elderly, the women, and the children were forced to live a life of gypsy for more than a year. People of all ages and gender of the family and their well-wisher-neighbours had to survive physical attacks, some of which were deadly, that the law-enforcement agencies had complicit to the crimes. For four years the family has been witnessing that those who attempted to assassinate their dear ones are taking the fruits of their orchards away. The same perpetrators are consistently enjoying fish from their own ponds. The offenders are cutting away the matured trees from the family's lands to make money. The family of Razzak has to witness of all these painful illegal actions without any possible remedy. The state never tries to realize how the people feel when they have to live with the utter absence of rule of law that ruins their life.

Conclusion

These four individual cases include almost all the institutions of the state. The Office of the Prime Minister, the highest executive power of the state, the military and paramilitary forces, the police, the prosecution, the judiciary, and other civil administration of the country are directly involved in these cases. The most recent example is the seven persons' abduction and subsequent disappearance by the RAB in Narayanganj in April 2014 for bribery. The rest of the cases published in this edition of *article 2* shows how justice is deliberately denied to the victims of torture and extrajudicial executions. The people's life – from rural to urban – is chained with state orchestrated repressions. Can such a life be imagined in any rule of law based democracy?

CASE STUDIES

Forty seven cases of unresolved killing, torture and disappearance in five years

Bangladesh Desk
Asian Human Rights Commission, Hong Kong

Story 1: Human rights defender, Mr. Adilur Rahman Khan arbitrarily detained



Adilur Rahman Khan

Victim:

Mr. Adilur Rahman Khan, Supreme Court lawyer, human rights defender, Secretary of Odhikar, and former Deputy Attorney General for Bangladesh, currently residing at House no-35, Road no-117, Gulshan, Dhaka – 1212.

Alleged perpetrators:

Officers of the Detective Branch, Dhaka Metropolitan Police, 36 Minto Road, Dhaka, Bangladesh, namely Mr. Masudur Rahman, Deputy Commissioner (Intelligence) and Mr. Abu Yusuf, Assistant Commissioner.

Date of incident: 10 August 2013 at 10:20 p.m.

Place of incident: Compound of Mr. Adilur Rahman Khan's residence in Gulshan, Dhaka.

AHRC-UAC-104-2013; AHRC-FOL-009-2013; AHRC-STM-142-2013; AHRC-STM-144-2013; AHRC-STM-166-2013; AHRC-STM-180-2013; AHRC-STM-184-2013; AHRC-STM-074-2014; AHRC-FPR-012-2014

On 10 August 2013, members of the Detective Branch of Dhaka Metropolitan Police forced their way into the residential compound of Mr. Adilur Rahman Khan and took him into custody without explanation or warrant. On August 11, the police refused filing a case against the victim. An officer claimed that Adilur “has distorted facts about *Hefazat-e-Islam* and distorted photographs using Photoshop...” as justification for his arrest. The remand hearing was held in the Chief Metropolitan Magistrate’s Court of Dhaka. Adilur’s lawyers were not provided any documents related to the charges against their client. Adilur was detained

for 62 days in prison. He was subsequently released on bail – granted by a High Court Division Bench of the Supreme Court of Bangladesh – in the wake of continuous pressure from the international community.

The Government established a special court, a Cyber Crimes Tribunal, in Dhaka, to prosecute Adilur. He was put on trial for the alleged crime of violating the Information and Communications Technology Act, 2006. The police and so-called “cyber experts” chosen by the government are the only witnesses proposed by the prosecution in the Cyber Crimes Tribunal. The judge of the Tribunal, Mr. A.K.M Shamsul Alam, consistently refused to provide certified copies of his order to Adilur’s lawyers. The judge was absent from his office without good reason whenever the lawyers’ applications for certified copies were supposed to be entertained.

A High Court Division Bench, following Adilur’s writ petition, stayed the trial at the Cyber Crimes Tribunal. Subsequently, however, the Attorney General’s Office challenged the stay order of the High Court before the Appellate Division of the Supreme Court. The trial is likely to resume following the Supreme Court’s order.

Apart from harassing Adilur Rahman Khan, the government is also harassing his family, and the staff and volunteer human rights defenders linked to his organization *Odhikar*. Mr. A.S.M. Nasiruddin Elan, *Odhikar*’s Director was also detained in prison for the same reason as Adilur. Both Adilur and Elan had to approach the High Court Division to secure bail. Prison officials did not release them when they received the High Court’s order; instead, they stalled the release on the instruction of the Attorney General’s Office. Family members, staff, and human rights defenders linked to Adilur and *Odhikar* still face constant surveillance by the intelligence agencies and policemen in civilian clothes.

Odhikar’s bank accounts related to its current projects have been frozen by the banks following instructions from the Bangladesh Bank, the state bank of the country. As a result, the organisation is unable to carry out its work and pay staff salaries. The government has engaged the NGO Affairs Bureau (NGOAB), a wing under the Office of the Prime Minister, and the Anti-Corruption Commission (ACC) to investigate *Odhikar*’s alleged financial irregularities. Since August 2013, the ACC, via phone calls, has asked *Odhikar* to send its audit reports to their office insisting that they are “just checking”. In January 2014, Adilur found that in July 2013 the ACC had filed a money-laundering case against him and his colleague Elan. Virtually every week persons either from the NGOAB, the ACC, or from the law-enforcement agencies visit the *Odhikar* office.

Suspicious individuals in civilian clothes, with private vehicle or motorbikes, have been seen loitering in front of the main gate

of the building where *Odhikar's* office and Adilur's residence are situated. The security guards of the building, car drivers for Adilur's family, domestic helpers, and visitors to the office remain under constant surveillance. These suspicious men insisted that the visitors, guards, drivers, and helpers share their personal cell phone numbers and provide information on the whereabouts of Adilur from time to time.

The NGOAB had previously approved *Odhikar's* projects; the required submissions, such as audit reports, were made in a timely manner. Now, the NGOAB acts as if it intends to shut the organization and wipe out its rights activism. The NGOAB officials often call staff members of *Odhikar* on the phone, asking the latter sending bills, vouchers, and audit reports. However, the NGOAB is careful not to send official letters for with such demands. They have often asked Adilur and Elan over phone to appear instantly before the NGOAB for "cooperating" with them.

A statutory institution like the Anti-Corruption Commission (ACC) has also been acting as a government instrument mandated to persecute critics of the government regarding human rights abuse. Like the NGOAB, its officials have called Adilur and Elan on the phone, asking them to visit the ACC office, immediately, for "cooperation". Once Adilur and Elan showed up, they found the ACC had called a number of pro-government private TV channels for a live broadcast related to an alleged money laundering case against the two human rights defenders, who did not have any prior knowledge about such a case. On 21 January 2014, the ACC officials insisted Adilur and Elan to sign on papers, which appeared to be "statements being recorded under Section 161 of the Code of Criminal Procedure".

Being a professional lawyer Adilur refused to sign any document without checking the details. While arguing with the ACC officials, Adilur eventually saw a paper containing information of a case (No. 58) filed in July 2013, accusing him and his colleague Elan for an alleged money laundering. The ACC did not inform these defendants, orally or in writing, about such a case. Moreover, they called the TV channels beforehand to broadcast live details related to the case against Adilur and Elan. Thus, in absence of an independent media, the pro-government private TV channels, newspapers, and online news portals have published untrue reports on Adilur. It is understandable that the ACC, which has been acting as a government tool and facilitating the process of Adilur's character assassination through media, may instigate prosecution against Adilur and Elan at any time.

Story 2: Abduction and stabbing of an activist who exposed illegal sand mining

Victim:

1. *Mr. Shahed Kayes, executive director of Subornogram Foundation, based in Sonargaon in Narayanganj district. He is*



Shahed Kayes

a human rights defender and poet.

2. *Mr. Kamruzzaman Dipu, a volunteer at Subornogram Foundation.*
3. *A citizen of the United States working as a Peace Fellow at Subornogram Foundation in Bangladesh.*

Alleged perpetrators:

1. *Mr. Subid Ali Bhuyan, a parliamentarian of Comilla district, who is a retired Major General of the Bangladesh Army*
2. *Ms. Selina Islam, owner of Four Point Trading & Construction Ltd.*
3. *Mr. Zakir Hossain, owner of Jalal Enterprise, resident of Sonakanda of Meghna in Comilla district.*
4. *Mr. Md. Mohsin, a person associated with the Four Point Trading & Construction Ltd., owned by Selina Islam.*
5. *Mr. Osman Gani, son of late Amir Ali, president of Bangladesh Awami League of its Ward No. 6 Unit of Baradi Union Parishad, ex member of Baradi Union Parishad, Nunertek, Baradi, Sonargaon, Narayanganj.*
6. *Mr. Zakir Hossain Zakaria, son of Mr. Sadar Ali (former member of Union Parishad), Nunertek, Baradi, Sonargaon, Narayanganj.*
7. *Mr. Hossain Mian, son of late Mongol Ali, resident of Nunertek (Chuadanga) of Sonargaon, Narayanganj.*

Date of incident: 25 July 2013 at 2:15 pm Place of incident: Meghna River near Baiyder Bazaar under the jurisdiction of the Sonargaon police station in Narayanganj district and Farazi Kandi under the jurisdiction of Meghna police station in Comilla district.

AHRC-UAU-022-2013; AHRC-STM-139-2013; AHRC-STM-138-2013; AHRC-UAU-033-2012; AHRC-UAC-033-2012; AHRC-HAG-003-2011

On 25 July 2013, Mr. Shahed Kayes and two others were on a boat on the Meghna River when they were intercepted by 6 unknown people in 2 speedboats. Shahed Kayes allegedly agreed to join the strangers if they allowed his friends to stay on their boat.

The perpetrators then took the victim to an island in a different river where they were joined by others. This group then began to beat Shahed with sticks as well as stab and slash at him with a knife. During this attack, the victim believes he heard the attackers accuse him of causing them financial loss with his activism and promised that they would kill him. The victim was also able to identify some of the attackers as members of a company he was targeting for illegal sand mining.

The victims' friends convinced the local police to intervene and save Shahed, but they did not apprehend the perpetrators. Shahed was then admitted to a local hospital for treatment of numerous blunt traumas as well as knife wounds to his shoulder, neck, and wrist.

The victim filed an FIR report, naming the perpetrators he was able to identify. Police later were able to make a single arrest.

Story 3: Man dies in police custody after court ignored him being tortured

Victim: Mr. Rizvi Hassan, 26, married with two children, of Alambari village, Roshangiri Post Office, Fatikchhari upazila, Chittagong. Alleged perpetrators:

- 1. Shariful Islam, Sub Inspector of Police, Hat Hazari police station*
- 2. Sub Inspector Anis*
- 3. Mithun Barua, Sub Inspector of Police*
- 4. Manzur Kader Mazumder, Inspector of Police and Officer-in-Charge (Investigation) All are attached Fatikchhari police station of Chittagong district*
- 5. Mr. A F M Nizam Uddin, Assistant Superintendent of Police (ASP), Hat Hazari Zone, Chittagong Date of incident: 26 March – 17 April 2013 Place of incident: Hat Hajari Police Station of Chittagong district*

AHRC-UAC-100-2013

On 26 March 2013, Rizvi Hassan was arrested by some policemen. During the following ten days he was detained and intermittently tortured at various locations. The torture included injections with unknown chemicals, beatings, electrical shocks, and simulated drowning with spiced water among other acts. During this time the police also attempted to get the victim to produce fire arms for them, and they forced him to sign several documents and pieces of paper without explaining their purpose.

On April 5, the police brought him to court and asked for 20 days remand on two charges, the court granted seven days, and the detention and the torture continued for another week.

On April 12, the police again produced the victim in court, claiming to have found weapons in his possession, and asked for an additional ten days remand. The victim, on suggestion of his attorney, informed the court that the police were torturing him and revealed the injuries so caused. The court allowed the police three more days remand; however the police kept the victim for another five days and continued to torture him.

On April 17, the police again produced the victim in court, claiming he was involved in a robbery and asked for an additional five days of remand. The court granted one day of remand. This time the victim was held in a different police station and was not tortured. However, his health had declined to the point where he needed medical treatment that the prison was unable to provide.

On 26 June 2013, the victim's brother, Mr. Nazim Uddin, demanded that Rizvi be immediately released and the fabricated cases against him be dropped.

Story 4: Police tortures a businessman to death for failing to pay bribe

Victim: Mr. Shamim Reza, 26, son of Mr. Alauddin Mian, businessman by profession, of Protaper Chor village, under the jurisdiction of Sonargaon police station in Narayanganj district. Alleged perpetrators:

- 1. Atiqur Rahman Khan, Inspector of Police & Officer-in-Charge (Administration), departmental proceedings*
- 2. Arup Torofdar, Inspector of Police, withdrawn to Police Headquarters*
- 3. Poltu Ghosh, Sub Inspector of Police, withdrawn to District police line*
- 4. Uttam Prashad Basak, Assistant Superintendent of Police (Circle-B), attached to Narayanganj District.*

Nos. 1, 2 and 3 are attached to Sonargaon Police Station of Narayanganj district.

Police Office, stationed in Sonargaon, and punishment transfer ordered

Date of incident: 14 May – 22 May 2013

Place of incident: House of Police Inspector Atiqur Rahman Khan, adjacent to Sonargaon Police Station

AHRC-UAC-097-2013

On 14 May 2013, policemen attached to Sonargaon police arrested Mr. Shamim Reza without a warrant after they raided and ransacked his house. He was detained for several days. When his brother saw him on May 17, Shamim appeared to be severely injured and was unable to move. He was certain that the police intended to beat him to death for failing to pay a bribe demanded from him by Atiqur Rahman Khan, Inspector of Police and the Officer-in-Charge.

On May 20, Shamim, after agreeing to confess to an unrelated murder, was taken to court which subsequently ordered him to be admitted for medical treatment. In spite of this he died on May 22.

On May 23, the Superintendent of Police (SP) of Narayanganj district formed a three-member probe committee to investigate, but the family complained that two of the committee members were involved in the incident and therefore biased and held a protest regarding the issue. After protests began to cause traffic problems, the Inspector General of the Bangladesh Police formed another probe committee on May 24. The resulting report was not made public, though media sources determined it did recommend initiating departmental proceedings against several members of the police that were involved.

On May 28, the victim's father filed a writ petition with a Division Bench of the High Court seeking arrest of the alleged perpetrators, but that bench refused to hear the petition.

But on June 13, the victim's widow filed a similar petition and The Magistrate of the Court ordered that the complaint be taken into cognizance and that an investigation report be submitted along with the report regarding the Unnatural Death complaint registered with the Shahbagh police station of the city of Dhaka before 31 July 2013.

Story 5: Families of victims killed by RAB officers threatened for filing complaint



Korban Ali

Victims:

1. Mr. Korban Ali, an electrician, 25, son of Mr. Lokman Hossain, of Mutubi village of Sonaimuri upazila under Noakhali district
2. Amena Akhtar, 13, of Mutubi village of Sonaimuri
3. Saddam Hossain, 20, of Mutubi village of Sonaimur

Alleged perpetrators:

1. Mohammad Jashim Uddin, Deputy Assistant Director (DAD)
2. Corporal (Cpl) Mohammad Ansar Uddin
3. Cpl Mohammad Belal Hossain
4. Sree Chondron Kumar Chowdhury, Assistant Sub Inspector (ASI)
5. Mohammad Kamal Hossain, ASI
6. Mohammad Mostafa Kamal, ASI
7. Nur Mohammad Sardar, Habilder
8. Mohammad Ansar Uddin, Nayek
9. Mohammad Mohosin Ali, Police Constable of Rapid Action Battalion (RAB)-11
10. Deputy Inspector General (DIG) of Chittagong Range of the Bangladesh Police

Date of incident: 1 March 2013 Place of incident: Mutubi village of Sonaimuri upazila under Noakhali district

AHRC-UAC-086-2013

On 1 March 2013, members of a local community attacked a RAB van by pelting it with throwing. The RAB officers retaliated by firing at the attackers as they left a mosque near Sonaimuri a short time later. During the attack, Mr. Korban Ali was shot in the head and died instantly. The RAB officers took his body with them as they left.

On 2 March 2013, the RAB filed their report of the incident, which included a claim that the attack on their vehicle had included gunfire. The report, however, contained numerous inconsistencies regarding the timing of the event and the fatal injuries Mr. Korban Ali had suffered.

On 10 March 2013, the victim's father, Lokman Hossain, filed a complaint with the Noakhali Judicial Magistrate's Court against ten different law enforcement offices. This procedure was used presumably because the police would refuse filing a complaint themselves.

The magistrate then asked the Officer in Charge (OC) of Sonaimuri Police Station to submit an inquiry report to the Court, instead of ordering the police to register the petition as a First Information Report (FIR). The police have not yet submitted its inquiry report to the Court.

The family of the victim subsequently received numerous threats both in person and by phone from individuals employed by the state.

Story 6: Police forced two women whom they tortured to recant their testimonies in front of a judge

Victims:

1. Ms. Sumaya Sultana Seema, 18, student of Intermediate First Year at Dr. Abul Hossain College at Pangsha of Rajbari district, daughter of late Mr. Abdus Salam Mollah and Mrs. Aleya Akhter
 2. Mrs. Aleya Akhter, 50, widow of late Mr. Abdus Salam Mollah, and mother of Ms. Sumaya Sultana Seema
 3. Mr. Arif Hossain, 14, son of of Mrs. Aleya Akhter
 4. Mrs. Runa Akhter, 25, daughter of Mrs. Aleya Akhter
- Three of them are residents of a rented house at Beradanga village under the jurisdiction of Sadar police station in Rajbari district, from Baroipara village under the jurisdiction of Khoksha Police Station of Kushtia district. Runa Akhter lives in Goalanda under the jurisdiction of Rajbari district.
5. Ms. Piyari Khatun Priya, 21, cousin sister of Sumaya Sultana Seema, resident of Baroipara village under the jurisdiction of Khoksha Police Station of Kushtia district
 6. Mrs. Mariam Begum, 70, mother of Mrs. Aleya Akhter, resident of Beradanga village under the jurisdiction of Sadar police station in Rajbari district
 7. Mrs. Husneyara, 50, wife of Mr. Altaf Hossain Master, a resident of Taherpur village under the jurisdiction of Khoksha Police Station of Kushtia district

Alleged perpetrators:

1. Mr. Masud, Assistant Sub Inspector (ASI) of Detective Branch of Police, Kushtia district
 2. Mr. Harendra Nath, Officer-in-Charge (OC) of Khoksha Police Station, Kushtia
 3. Mr. Md. Abdur Razzak, Officer-in-Charge (OC) of Kumarkhali Police Station, Khushtia
 4. Officers of the Detective Branch (DB) of Police in Kushtia district since the incident of arbitrary detention
 5. Mr. Md. Jainul Abedin, Additional Superintendent of Police of Kushtia district
 6. Mr. Mafiz Uddin, Superintendent of Police of Kushtia district
- Date of incident: From 3am on 10 September 2012 to date
Place of incident: Police stations and offices of the police in Kushtia district

AHRC-UAC-027-2013

On 10 September 2012, 12 armed policemen from Khoksha came to the home of the victim looking for her 14-year-old son

for his alleged involvement in a murder. When it became clear the son was not there, they asked the remaining family to come to the police station. The family refused and the officers began to take them into custody.

After being begged by one of the victim's daughters, the police chose to only apprehend Mrs. Aleya and Seema. On the way to the police station, the officers sexually assaulted Seema.

For several days, the two women were beaten, suffered electric shocks; tortured by application of nails, boiling water, and green chili paste; and subjected to other forms of assault. Mrs. Aleya was also forced to do chores around the police station. Seema began to show signs of physical and mental stress, and attempted to hang herself.

On September 19 the two were released on bail. On September 26 they were cleared of the charge of suspicious behavior. However, the police immediately submitted a petition demanding the detention of the two women until the completion of the investigation of the murder which was granted. On October 1, a Division Bench of the High Court began proceedings intended to lead to action against the perpetrators.

On October 4, the court was to hear a writ petition filed on behalf of the victims but this was repeatedly delayed. When the bail petition was heard on October 14, the court refused to pass any order. In spite of repeated requests by the victims' legal team, the court also refused to give an explanation for their position.

On October 31, victims Aleya and Seema were again released on bail after third parties threatened to investigate judicial corruption and intervention against court judges by several human rights groups. The victims claimed that they tried to register a case against the perpetrators, but that the police threatened their family and refused to register their case.

On November 23, the victims were abducted upon the orders of the Additional Superintendent of Police of the Special Branch of the police of Kushtia district. They were then presented to the Superintendent who again threatened them and their family.

On November 29, the victims were abducted again and brought to court by two officers in civilian dress where there were forced to recant their allegations in front of a judge who subsequently declared the case closed.

Story 7: Sick and starving elderly denied allowance, relief cards for failing to pay bribe

Victims:

1. Ms. Saimal Beowa, 76, village Talukghorabandha, post-Pabnapur of subdistrict Palashbari in district Gaibandha

2. Ms. Rokeya Beowa, 88, of village Ghorabandha, post Halimnagar
3. Ms. Khukhi Beowa, 75, of village Kisamot Gopalpur, Post-Badiakhali-5760 in Gaibandha Sadar sub- district, District-Gaibandha

Alleged Perpetrators:

Officials of the Union Health and Family Welfare Centre (UHFWC) in Monohorpur and local Union Council members

Place of incident: Palasbari sub-district, Gaibandha district, Rangpur Division

AHRC-HAC-009-2013

From 29 April 2010 to 22 January 2013, all the victims were entitled to “elderly allowance” and some for “widow allowance.” However, these are denied to the victims without explanation (except in one case where the elderly woman’s age was recorded incorrectly). As a result, they had to beg for food.

They were not able to eat properly. Their health condition deteriorated compounded by their preexisting poor health. These women lived too far from public health institutions and could not even afford to pay transportation costs. These individuals believed they were denied of their allowances and relief cards because they failed to pay bribes due to their financial status. Others claim that they are unwilling to speak out on the matter because they fear they may be assaulted by corrupt officials.

On several occasions, Mr. Mofiz Uddin visited Union Council members and the Chairman in order to ask for relief. Despite being given the hope of receiving access to the social welfare programmes, Mofiz Uddin and his wife have not received any government assistance.

Another individual, Sakina Beowa, allegedly paid a bribe of 1000 BDT (approximately USD 15) to a Union Council member and the Chairman in hopes of receiving relief. However, she did not get either the relief card or her money back for almost a year and a half. She was eventually refunded 300 BDT (USD 5). She claims that it is impossible for a poor person like her to manage 3000 BDT (USD 44), which is believed to be the unofficial rate of bribe, to obtain a relief card.

Other victims are unable to beg due to illness and/or their deteriorating physical condition and have to rely on family and friends to collect resources on their behalf. Some have also had family members appeal to the Union Council members on their behalf. In spite of this, aid is still not forthcoming and the victims believe this is because they are unable to afford the appropriate bribes.

Story 8: To release an exfiltrated abductee the RAB demands bribes from the family

Victim:

Mr. Mohammad Imam Hassan, age 24, employed in a shutter and

grill-making factory at Tejgaon Industrial Area, Dhaka. Also known as Badal, he is a resident of 250 Tejkunipara under the jurisdiction of Tejgaon Industrial Area Police Station, and originally hails from Dakkhin Rajnagar village, under the jurisdiction of Sadar Police Station, Panchagarh district.

Alleged perpetrators:

1. Mr. Raju, Sub Inspector, Rapid Action Battalion (RAB)-2, Sher-E-Bangla Nagar, Dhaka
2. Mr. Mahbubur Rahman, Officer-in-Charge, Tejgaon Police Station
3. Mr. Mohammad Zakir Hossain Mollah, former Officer-in-Charge, Sher-E-Bangla Nagar Police Station, currently Officer-in-Charge, Sadar Police Station, Gopalganj district
4. Mr. Mohammad Hossain, Deputy Commissioner, Tejgaon Zone, Dhaka Metropolitan Police
5. Mr. Saiful Islam Shanto, Superintendent of Police, Detective Branch of the RAB
6. Mr. Ziaul Ahsan, Lieutenant Colonel, Bangladesh Army, seconded to the RAB, Director, Intelligence Wing, RAB Headquarters
7. Mr. Soleman, Member of RAB-2
8. Mr. Solaiman, Member of RAB-2
9. Mr. Fazlur Rahman, Additional Deputy Inspector General of RAB-2, assigned for investigating the case of Imam Hassan
10. Mr. Iqbal Shafi, Assistant Superintendent of Police seconded to RAB-2 as its Assistant Director, acting in-charge of the investigation of Imam Hassan's case
11. Officers of the RAB-2 since the incident of abduction

Date of incident: 5 March 2012 to the present

Place of incident: Offices of RAB-2 and police stations in Dhaka Metropolitan City area

AHRC-UAC-190-2012

Mr. Mohammad Imam Hassan, also known as Badal, was abducted for ransom by a group of miscreants in Dhaka. His family, based in Panchagarh district in northern Bangladesh, called the RAB-2 in Dhaka requesting Badal's rescue. The RAB rescued him from the miscreants, but refused to release him unless Badal's family paid up a bribe of 100,000 taka. The officers succeeded in collecting a bribe of 40,000 taka from Badal's parents, Ruhul Amin and Minara Khatun. The RAB officers arranged four meetings between the parents and Badal at the RAB-2 office in Dhaka, between 13 and 16 March 2012. The parents were warned that failure to pay up would result in their son's death.

The family's inability to pay the entire bribe resulted the disappearance of their son. The family was prevented from filing a complaint. Local authorities and government agents refused to help them, and the perpetrators have not been prosecuted.

On 12 November 2012, the victim's father, Mr. Ruhul Amin and Odhikar's Director A.S.M. Nasiruddin Elan jointly filed a habeas

corpus writ petition (No. 14880 of 2012) with the High Court Division seeking judicial initiative for the rescue of Badal. The Secretary of the Home Ministry, Director General of the RAB, and the Inspector General of the Bangladesh Police were among those named as respondents in the writ. The High Court Bench issued a Rule, returnable within a week, against the respondents asking them why the respondents should not be held responsible for Badal's alleged disappearance. Mr. Amin also filed an application with the National Human Rights Commission (NHRC), which requested the Ministry of Home Affairs to investigate the matter.

Since the High Court Rule, Ruhul Amin's life became more complicated than ever. The authorities, under the guise of investigations, have harassed his family. Ruhul has been served notice by the local police of Panchagarh, instructing him to appear before a police officer of the Dhaka Metropolitan Police. Subsequently, he travelled 500 km at his own cost to testify in front of the police officer. The Ministry of Home Affairs also called him to the Ministry headquarters. Ruhul was instructed to bring all necessary evidence that would establish his claim about the disappearance of his son. When Ruhul went to the Home Ministry, dire threats were made warning him not to pursue his son's disappearance.

Story 9: Police refused to register complaint of rape against a political leader

Victims:

1. Ms. X (name withheld), 25, of Nalkata village under the jurisdiction of Dighinala police station in Khagrachhari Hill district
2. Ms. XX (name withheld), young woman from a Hindu community, under the jurisdiction of Lama police station in Bandarban Hill district
3. Ms. XXX (name withheld), 14, of Longadu Punarbashan (repatriation) area under the jurisdiction of Rajasthali police station in Rangamati Hill district

Alleged perpetrators:

1. Mr. Md. Azhar, 28, son of Md. Gafur Ali, of North Milanpur village under the jurisdiction of Dighinala police station in Khagrachhari district
2. Mr. Didarul Islam, president of Jatiyatabadi Jubo Dal (youth wing of the Bangladesh Nationalist Party-BNP) of its Lama upazilla unit, living in (which) village under the jurisdiction of Lama police station in Bandarban district
3. Ariful Islam, son of Mr. Emdadul Haque, of Islampur village under the jurisdiction of Rajasthali police station in Rangamati Hill district

Date of incidents: 18 and 30 September and 2 October 2012 respectively

Places of incidents: Dighinala of Khagrachhari, Lama of Bandarban and Rajasthali of Rangamati Hill districts of Chittagong Hill Tracts

AHRC-UAC-187-2012

Two young women have been raped and one girl narrowly avoided an attempted rape due to her neighbours' assistance in three separate jurisdictions of the Chittagong Hill Tracts in Bangladesh.

The police have allegedly been biased against the non-ethnic settlers instead of working professionally to uphold the law and investigating the cases credibly. In one of the rape cases, the police did not register a formal complaint as the alleged perpetrator is an influential political leader in the area. The victim's right to have a credible medical examination has also been denied by the police.

Story 10: Three persons faced detention in a fabricated case lodged by illegal-sand-miners

Victims:

1. *Md. Jilani, 35, son of Md. Sundar Ali, of Chuadanga village, present member of the Nunertek-Mayadip of Baradi union parishad, faced detention for nine days*
2. *Mr. Shah Ali, faced detention for 13 days*
3. *Mr. Hanifa, faced detention for 13 days*
4. *Mr. Shirish Ali, received injuries as a result of physical attack by the thugs of sand miners*
5. *Mrs. Zobeda Begum, received injuries and fractured left leg as a result of physical attack by the thugs of sand miners*
6. *Mrs. Jharna Akter, received injuries as a result of physical attack by the thugs of sand miners*
7. *Around 9000 inhabitants of the islands*

All are residents of Mayadip and Nunertek islands under the jurisdiction of Sonargaon police station in Narayanganj district

Alleged perpetrators:

1. *Mr. Subid Ali Bhuyan, a parliamentarian of Comilla district, who is a retired Major General of the Bangladesh Army*
2. *Mr. Zakir Hossain, owner of Jalal Enterprise, resident of Sonakanda of Meghna in Comilla – has taken lease of dredging in Meghna River from Comilla district*
3. *Mr. Gazi Ataur Rahman, lease owner of Nirman Traders, resident of Sonargaon of Narayanganj*
4. *Mr. Ali Hossain, lease owner of Madina Enterprise-2, village Haria of Sonargaon*
5. *Dayal Khaza Baba Dredger*
6. *Mr. Mohammad Nasim, OC of Meghna police station, Comilla*
7. *Mr. Osman Gani, son of late Amir Ali, president of Bangladesh Awami League of its Ward No. 6 Unit of Baradi Union Parishad, ex member of Baradi union parishad, Nunertek, Baradi, Sonargaon, Narayanganj*
8. *Mr. Zakir Hossain Zakaria, son of Mr. Sadar Ali, Nunertek, Baradi, Sonargaon, Narayanganj*
9. *Mr. Abul Kashem, son of late Mr. Arob Ali, Nunertek, Baradi, Sonargaon, Narayanganj*
10. *Mr. Abdul Latif, son of late Mr. Abdus Samad, Nunertek, Baradi, Sonargaon, Narayanganj*
11. *Mr. Tara Mia, son of Mr. Abed Ali, Nunertek, Baradi, Sonargaon, Narayanganj*
12. *Mr. Salahuddin, son of late Mr. Tofazzal, Nunertek, Baradi, Sonargaon, Narayanganj*
13. *Mr. Monsur Ali, son of Majot Ali, resident of Nunertek, Baradi, Sonargaon, Narayanganj*
14. *Mr. Moynul, son of Mr. Ibrahim, resident of Nunertek, Baradi,*

Sonargaon, Narayanganj 15. Mr. Swapan, resident of Nolchor village under the jurisdiction of Meghna police station in Comilla district 16. Md. Tarikullah, resident of Nolchor village under the jurisdiction of Meghna police station in Comilla district 17. Md. Shafikullah, resident of Nolchor village under the jurisdiction of Meghna police station in Comilla district 18. Md. Sanaullah, resident of Nolchor village under the jurisdiction of Meghna police station in Comilla district 19. Md. Nizam of Nolchor village of Meghna upazilla of Comilla district 20. Mamun Mridha, son of Mr. Razzak Mridha, hailed from Patarhat village, under the jurisdiction of Mehendiganj police station in Barisal district
Date of incident: From March to October 2012 Place of incident: Mayadip Island and surrounding areas under the jurisdiction of the Sonargaon police station in Narayanganj district

AHRC-UAU-033-2012; AHRC-UAC-033-2012; AHRC-HAG-003-2011

In spite of government regulations, court orders, protest by local inhabitants, and intervention by various NGOs among other things, illegal sand mining in the Meghna River continues. Confrontations turn violent at times and often result in prosecution of those who oppose the sand mining. Similarly, mining companies also coerce the police into filing falsified charges against protestors.

Notable events include 9 August 2011; a part of Mayadip Island containing a paddy fell into the river and was washed away. September 11, a large group assaulted and injured inhabitants of Mayadip Island requiring some of the victims to be hospitalised. The attackers were heard making threats against any who oppose the sand mining. On September 13, government officials arrived, seize some of the equipment, and arrested several sand miners. However, they were surrounded and threatened until they released the equipment and the persons involved. The mob coerced the police into dropping the charges.

Story 11: Police fail to investigate a case of a man missing for ten years

Victim: Mr. Md. Karamat Ali, about 30, son of late Mr. Meser Ali, of Polashpole village under the jurisdiction of Sadar upazilla of Satkhira district

Alleged perpetrators:

1. *Mr. Md. Hossain Ali, son of late Mr. Razu Goldar, of Ghona village under the jurisdiction of Sadar upazilla of Satkhira district, a former employee of the missing person at his business company and currently owner of Sadia Seed House at Satkhira district town*
2. *Mr. Abdus Sabur, Sub Inspector of Police*
3. *Mr. Asadul Islam, Sub Inspector of Police*
4. *Mr. Fakir Azizur Rahman, Sub Inspector of Police These three police officers were attached to the Sadar Police Station of Satkhira district at the period when the victim found missing and were responsible for investigating and registering the*



Md. Karamat Ali

- complaint of the family of the missing person
5. Mr. Md. Abu Jafar, Sub Inspector of Police cum Investigation Officer of the missing case, attached to the Sadar Police Station of Satkhira district
 6. Mr. Md. Abdul Gafur, Secretary of Barobazar Maszid Committee of Satkhira district town
 7. Mr. Hafizur Rahman, son of late Mr. Abdus Samad, village-Polashpole
 8. Mr. Salam Sarder, son of Sarwar a.k.a. Saru Sarder, village-Sultanpur
 9. Mr. Mizan, son of late Wazed, village- Dahakula
 10. Mr. Ramzan Ali
 11. Mr. Muzibur Rahman
 12. Mr. Mizanur Rahman
 13. Mr. Anar From No. 10 to 13 all are sons of Mr. Abdul Mazed, residents of village- Katia
 14. Mr. Masum (Satkhira Light House), Village- Sultanpur
 15. Mr. Subid Hasan Bilu, son of Shafikul Islam a.k.a. Gher Khokon, village- Dahakula
 16. Mr. Shafikul a.k.a. Gher Khokon, village- Dahakula
 17. Around 12 unidentified persons All are living in their respective places under the jurisdiction of Sadar police station of Satkhira district

Date of incident: From 11 May 2002 to September 2012 Place of incident: Al-Amin Seed House, at Sultanpur Barobazar in Satkhira district town

AHRC-UAC-175-2012

The victim has been missing since the summer of 2002 while on a business trip. His business partner claimed he had extended his trip to visit another city and had instructed him to take over the business.

In 2009 the wife of the victim lodged a complaint against the business partner. However the police have failed to investigate the case.

Story 12: A school teacher was forced into sexual act then suspended by her school for supporting another rape victim

Victim: Mrs. Shampa Goswami, a schoolteacher by profession, of Kaliganj upazilla, under the jurisdiction of Satkhira district. She was a human rights defender.

Alleged perpetrators:

1. Mr. Shushanta Kaur, of Bhobanipur village under the jurisdiction of Paikgachha police station in Khulna district
2. Mr. Samir Dey, political thug, attached to the Bangladesh Chhatra League, which is the student wing of the Bangladesh Awami League, the main political party of ruling regime;
3. Mr. Roni Biswas
4. Mr. Subhash Dey, father of Samir Dey
5. Mr. Hiralal Biswas
6. Mr. Kartik Sarkar

7. *Mr. Yasin Ali Gazi All political activists of the Bangladesh Awami League in the area*
 8. *Mr. Shahadat Hossain, Chairman of Mozahar Memorial Secondary School Management Committee, president of the Satkhira district unit of Jatiya Party – an ally of the incumbent ruling regime comprising 14 political parties, chairman of Kaliganj Upazilla Parishad – a local government unit – and former of Member of Parliament*
 9. *Mr. Abdul Hamid Sarder, Member of Mozahar Memorial Secondary School Management Committee and organizing secretary of a local union council unit of the Bangladesh Nationalist Party (BNP) at Kaliganj upazilla of Satkhira district*
 10. *Mr. Rafiqul Islam*
 11. *Mr. Abdus Salim*
 12. *Mr. Israil Gazi*
 13. *Mr. Panchanan Mandal*
 14. *Mr. Munsur Ali All members of Mozahar Memorial Secondary School Management Committee*
 15. *Police officers of Kaliganj police station of Satkhira district*
- Date of incident: August 2011 to September 2012 Place of incident: Mozahar Memorial Secondary School at Kaliganj and various places in Satkhira district*

AHRC-UAC-174-2012

In August 2011, Mrs. Shampa Goswami was visiting the victim of a gang rape when she was harassed by a man claiming to be a friend of the victim. This harassment escalated and in October Mrs. Shampa and a friend were accosted in a restaurant by a group demanding they stop supporting the victim.

When she tried to leave, a group followed her, surrounded her, took her phone, and sexually assaulted her. They then brought her to a rooftop where her brother's friend was held captive and coerced the two into intimate acts which were photographed for the express purpose of blackmail.

After this they took her to a room where they began demanding money and sexual favours from her. They were interrupted by a passerby who heard her cries for help. The group refused to return Ms. Goswami's phone or money. They forced her onto a bus. When she went to file a complaint she was accosted by another group that threatened her and forced her away.

On 19 February 2012, a case was finally brought against the perpetrators, and the perpetrators and their families responded by publicly threatening Mrs. Goswami's work. Shortly thereafter, Mrs. Goswami was asked by her superiors to drop the case which Mrs. Goswami responded to by filing a GD regarding the pressure. The management committee of the school escalated further, threatening to suspend her if she did not withdraw the case.

At this point the perpetrators attempted to use the photograph showing sexual acts they had forced her to do with the intention

of destroying her public image and credibility. On June 30, the police arrested two of the perpetrators.

But the school where Mrs. Goswami was teaching suspended her on September 10. The police investigation into the victim's complaint has been disrupted caused, allegedly, by either corruption or coercion from other parties.

Story 13: A policeman who raped an 11-year-old girl was never held accountable

Victim: Miss X (name withheld), 11 years, of Tapan Karbari Para village of Noymile area under Merung Union Parishad

Alleged perpetrators:

1. Mr. Russel Rana, Police Constable
2. Mr. Md. Shah Alam, Camp-In-Charge Both are attached to the Otol Tila Police Camp under the jurisdiction of Dighinala police station in Khagrachhari district

Date and time of incident: 21 August 2012 at 2:30pm

Place of incident: Behind a bush on a hill near to the Otol Tila Police Camp under the jurisdiction of Dighinala police station in Khagrachhari district

AHRC-UAC-167-2012

A policeman raped an 11-year-old girl in the Chittagong Hill Tracts. The girl suffered serious physical, psychological, and social trauma due to the assault. The local police initially refused to register a complaint. Instead of registering the complaint Mr. Md. Shah Alam, Atal Tila Police Camp in-charge, offered BDT 1,000 (USD \$ 12) to the girl's mother to settle the matter.

Due to tremendous public pressure, a complaint was eventually recorded at the Dighinala police station. The police authorities have not taken any action against the alleged perpetrator, other than withdrawing the officer from his place of duty. The purpose was rather to protect the policeman than to hold him accountable.

Story 14: Magistrate violates law, while the government's goons attempt to brand college student as a criminal after the Rapid Action Battalion took his leg away

Victim:

Md. Limon Hossain, age 16, son of Mr. Tofazzel Hossain and Mrs. Henoara Begum, living in Saturaia village, under the jurisdiction of the Rajapur Police Station of Jhalkathi district.

Names of victims of latest incident:

1. Ms. Henoara Begum,
2. Mr. Tofazzel Hossain,
3. Around six other people

Alleged perpetrators of the original incident:

1. Md. Lutfor Rahman, Deputy Assistant Director (DAD) ID No. 5926,
2. Md. Hasan Habib, Sub Inspector (SI)



Limon Hossain

3. *Md. Harun-ur-Rashid, Police Constable (PC) ID No. 30264*
4. *Md. Jahangir Hossain, Assistant Sub Inspector (ASI) ID No. 5515*
5. *Mr. Tarek Aziz, ASI, ID No. 378*
6. *Mr. Muktadir Hossain, Nayek ID No. 63165*
7. *Md. Tanzir Ahmed, RAB ID No. 2006475*
8. *Mr. Prohlad Chandra, Nayek, ID No. 546*
9. *Mr. Anis Mollah, Sipahi, ID No. 30711*
10. *Mr. Kartik Kumar Bisawhs, Soldier ID No. 1812201*
11. *Mr. Md. Mazharul Islam, Corporal ID No. 46660*
12. *Mr. Md. Abdul Aziz, Constable ID No. 4590*
13. *Mr. Kartik Kumar Biswash*

All the alleged perpetrators were attached to Crime Prevention Company (CPC) 01 of the Rapid Action Battalion (RAB)-8 based in Barisal district at the time of the original incident.

Alleged perpetrators of the latest related incident:

1. *Mr. Ibrahim Hawladar, resident of Saturia village, known to be an “informer” of the RAB in Jhalkathi district*
2. *Ms. Nusrat Jahan, Senior Judicial Magistrate, attached to the Chief Judicial Magistrate’s Court, Jhalkathi district*

Date of the latest incident: 20-23 August 2012

Place of the latest incident: Street near Idurbari Bridge under the jurisdiction of Rajapur police station, and the Chief Judicial Magistrate’s Court of Jhalkathi district

AHRC-STM-218-2012; AHRC-UAU-028-2012; AHRC-UAC-075-2011

On 23 March 2011, members of the RAB stopped Mr. Limon Hossain in his tracks. He had been out near Idurbari Bridge to take his family’s cattle home. After accusing the victim of being a terrorist and threatening to kill him, one of the higher-ranked officers in the group shot him in the knee of his left leg. When family members rushed to help Limon, they were beaten by the RAB, who then proceeded to strip off Limon’s clothing to clean the blood and dirt off their boots. The RAB then departed by boat, taking Limon with them.

Later that day, Mr. Hossain woke up in a hospital in a neighboring city. The RAB had filed two reports related to the incident, rife with factual errors. The reports claimed the victim was a member of a terrorist squad that had attacked the RAB.

The next day, the Limon’s family learned about his whereabouts and attempted to visit him in the hospital. They only allowed the victim’s mother to see him for a few moments before the RAB members forced her out. The family was also unable to pay for the medical treatment recommended by the doctor, despite having collected funds from the community.

On March 17, doctors amputated the Limon’s left leg above the knee. On April 6, after a related media report, the RAB locked down the entire ward, only allowing the NHRC chairman inside to meet with the victim. Acting on the Chairman’s advice, the family filed a complaint with a local magistrate on 10 April 2011. The

police did not register the complaint for two weeks. On 24 April, when public pressure mounted via the media and interventions from rights defenders, the complaint was registered with the Rajapur police. As a result, the RAB responded with threats and intimidation.

The victim's family went into hiding. As a consequence of their pursuit of justice against the RAB perpetrators, Limon and his family have been attacked and injured. When they were waiting at a bus stop on August 20, on the occasion of the Eid-ul Fitr, Limon and his family were attacked by the RAB informer Ibrahim. On August 30, 2012, the police secretly submitted investigation report dropping all charges against the RAB in the case filed by Limon's mother, Henoara Begum. She challenged the police investigation report in court. She filed a "no confidence" petition against the police investigation report. The Sessions Court of Jhalkathi rejected her plea on 13 February 2013. She further filed a review petition with the same Court on 13 March 2013. Up to June 2014, the hearings have been deferred on nine occasions with unjustified excuses.

Earlier, on 24 October 2012, executive officers of Jhalkathi district insisted Henoara withdraw her case against the RAB officers on the condition that fabricated charges filed by RAB officials against Limon would be dropped. On 23 June 2013, the NHRC Chairman Prof. Mizanur Rahman pursued Henoara to withdraw her case against the RAB officers, on behalf of the Ministry of Home Affairs. Henoara refused to comply with these pressures and wished to continue her fight for justice. In one of the RAB's fabricated cases against Limon, the Court framed charge against him on 1 July 2013. It resulted in tremendous criticism on the court's decision in the country led by human rights defenders and civil society groups in the media. Subsequently, on 9 July 2013, the Ministry of Home Affairs withdrew the two fabricated cases filed by the RAB against Limon.

Story 15: Police and parliamentarians protected thugs who attacked a journalist

Victim: Mr. Billal Hossain Robin, 37, son of late Mr. Muzibur Rahman, a journalist by profession, a reporter for Daily Manabzamin – a Dhaka based Bangla language newspaper, of Subedar Villa at Siddhirganj in Narayanganj district Alleged perpetrators:

1. Nazrul Islam, 40, son of Chan Mia Bepari, Village, Mijmiji pashchimpara, Siddhirgon, Narayanganj
2. 15 persons in the gang led by Nazrul Islam
3. Mr. Ashraf, Officer-in-Charge (Investigation), attached to the Siddhirganj police station in Narayanganj district,
4. Mr. Nazmul Huda, Sub Inspector, attached to the Siddhirganj police station in Narayanganj district

Date of incident: 12 February 2011 Place of incident: Siddhirganj police station in Narayanganj

AHRC-UAC-102-2011

On 12 February 2011, Mr. Billal Hossain Robin was attacked and beaten by a group of 15 people. The attackers also robbed him. The group's leader pointed his gun at the victim's head because he was not happy with his reporting. They stopped attacking the victim only after the people in the community responded to help the victim who was crying for help.

The victim, with assistance from professional colleagues, contacted the police and the RAB. While drafting his complaint at the police station, seven of his attackers showed up and threatened him again. When the police did not intervene, he called the RAB whose arrival caused the mob to disperse.

The police criticised the account in the victim's complaint. They claimed that since a gun was used they would have to collect that gun in evidence which they did not wish to do. The police refused to provide a copy of the complaint to the victim and refused to file First Information Report (FIR) claiming they would register it only after they completed their investigation.

When the victim asked why the police wanted the complaint immediately if they were not intending to register it, the police made a series of phone calls then informed him they could not take the case at all due to orders of a superior authority. They refused to disclose the identity of the person.

Eventually an OC arrived at the scene and, after a friend of the victim alleged that the OC was accepting a bribe to not accept the case, the OC asked the victim to write another complaint which was then filed properly.

The next day the victim learned that his attackers had filed a case against him (records indicate it was the very next case the police filed). On February 15, the OC called the victim and promised to investigate the case personally if the victim refrained from starting a public protest as doing so would disrupt the Cricket World Cup.

The political party to which the leader of the attacking mob belongs offered his support to the perpetrator, labelling him a "political activist" for the ruling political party.

Story 16: Police inaction narrows the path of justice for wounded human rights defender, who needs constant support for survival

Victims:

1. Mr. F.M. Abdur Razzak, age 44, Editor of the *Gonomichhil* (a fortnightly newspaper) & President of Human Rights Development Centre (HRDC), Paikgachha, son of Mr. Nur Ali Fakir
2. Mr. Bodiuzzaman, age 24, son of Mr. Nur Ali Fakir, a businessman



F.M. A. Razzak

3. *Mr. Abu Bakkar Sana, relative of Mr. F. M. A. Razzak*
All victims are originally inhabitants of Godaipur village, under the jurisdiction of Paikgachha Police Station, Khulna district, Bangladesh. They have been homeless since February 2011 due to the attack on their life, house, and property by relatives of Major Mustafizur Rahman Bokul.

Alleged perpetrators:

1. *Mr. Mustafizur Rahman Bokul, a Major of the Bangladesh Army, currently attached to the Bogra Cantonment, son of Mr. Abdur Rouf Sarder*
2. *Mr. Abdur Rouf Sarder, a local madrasa teacher and son of late Mr. Gafur Ali Sarder*
3. *Mr. Abul Kashem Sarder, President of Godaipur Purbopara Baitus Salam Mosque Management Committee, and son of late Mr. Nesar Ali Sarder*
4. *Mr. Kazal Sarder, son of Mr. Abdur Rouf Sarder*
5. *Mr. Nur Islam Sana, son of late Mr. Kesmat Ali Sana*
6. *Mrs. Koli Begum, mother of Major Mustafizur Rahman Bokul*
All the above live in Godaipur village, Paikgachha Police Station, Khulna district

Mr. Enamul Haque, Inspector of Police and Officer-in-Charge (OC), attached to the Paikgachha Police Station, Khulna district

7. *Mr. Idris Ali, Sub Inspector of Police, attached to the Paikgachha Police Station, Khulna district*
8. *Mr. Nasir Uddin, Assistant Superintendent of Police of the Dakope Circle of Khulna district*

Date of latest incident: 29 April 2011

Place of incident: Terminal for Dhaka-bound buses, and the house of Major Mustafizur Rahman Bokul, at Godaipur village, Paikgachha Police Station, Khulna district

AHRC-UAU-025-2011; AHRC-UAU-023-2011; AHRC-UAU-016-2011; AHRC-UAU-013-2011; AHRC-FUA-012-2011; AHRC-UAU-023-2011; UA-035-2007; UP-034-2007; AHRC-UAU-065-2008; AHRC-UAU-067-2008; AHRC-UAU-069-2008; article2, Vol. 8, No. 1; article2, Vol. 10, No. 2, and Ethics in Action Vol.2 No.6

The plight of Mr. F. M. A. Razzak has been published in analytical reports in article2. In 2008, Razzak was detained and tortured in a fabricated case involving the abduction of a minor girl, who actually fled from her home due to the physical assault she suffered from her step mother. Razzak was forced to pay numerous bribes to the police during his 25 day detention. The girl, when recovered from another district, testified in court that she had not seen Razzak before and that there was no question of him abducting her as she had fled from her home on her own. Razzak was acquitted by the court. Razzak's situation and Bangladesh's criminal justice institutions has been analysed in article2 Vol. 8, No. 1, published in March 2009.

In February and March of 2011, Mr. F.M.A. Razzak and his family were subjected to numerous damaging assaults of their

persons and property by various mobs led or incited by relatives of a military officer with whom Mr. Razzak had had a previous land dispute. While the courts sided with Mr. Razzak, the officer and his family have been encouraging members of a local mosque to drive Mr. Razzak off the land. The victim has also been the subject of numerous threats and demands for money. Mr. Razzak has also had difficulty filing a complaint as the police claim to be unable to enforce the law in the area and the perpetrators call repeatedly demanding he withdraw the complaint.

On 14 March 2011, while F.M.A. Razzak was in hiding due to the previous threats and attacks, the brother of the military officer lead a mob that broke into Mr. Razzak's home, stole numerous valuables, and proceeded to relock the house with their own locks. When Mr. Razzak reported this, the police OC claimed to be unable to patrol the area due to violence against his officers.

On 29 April 2011, F.M.A. Razzak was abducted, along with two family members, by a mob of 20 people armed with crude weapons who were lead by the brother of the military officer and included the officer's mother and the rest of his entire family. The victims were taken to a field where they were attacked with these weapons. The attack caused severe injuries to Mr. Razzak, including permanent and significant damage to his eyes and the victim is certain that they intended to kill him if not for the timely, though reluctant, intervention by police who had been brought to the location by other family members. In spite of witnessing the final parts of the attack, the police made no arrests and witnesses claim that the OC not only condoned the attack, but encouraged it in a phone call.

The injuries to Mr. Razzak were severe enough that was actually declared dead before a second examination by doctors was able to determine he had, in fact, survived and consequently transferred him to a nearby hospital. However, the doctors at that hospital refused to treat him allegedly at the behest of the perpetrators. At one point it even appeared the mob was planning to finish their attack in the hospital itself, but the local community attempted to apprehend them. The perpetrators again escaped, allegedly with the assistance of the police, and Mr. Razzak had to be transferred to another hospital where similar interference further delayed treatment.

On 19 May 2011, Mr. Razzak was still recovering from several major surgeries and his other injuries in a hospital. However, the lack of support and financial resources meant that he will likely be released before he has recovered sufficiently to no longer need professional medical assistance. Similarly, it is unlikely he will be able to afford the 2 years rehabilitation that the doctors believe will likely be the minimum for him to recover from most of his injuries.

Subsequent developments have been documented in article2 special edition titled “Focus: Defending the human rights defender: Standing up for FMA Razzak” in Vol. 10, No. 2, June 2011. The current publication underlines the developments have taken place since June 2011.

On December 5, the court ordered that the family be allowed to return to their home, and on December 9 the police assisted them in doing so. Furthermore, on 10 April 2012, an administrative inquiry began an investigation of the incidents and the inaction of the police. However, *on April 13, family members of the military officer began attacking the lands of the victim and when his family came out to protest they attacked Mr. Razzak’s brothers with various weapons and required treatment at a hospital.*

Story 17: Two cousins were laid with fabricated charges after four days of incommunicado torture

Victims:

1. Mr. Md. Nahidulr Haque Sazib, 25, son of late Mr. Mezbah Uddin Sabu, of House No. 83/84 Hosseni Dalan Road, Chandkharpooll
2. Mr. Md. Kawsar Hossain Razib, 24, son of Mr. Mohammad Awlad Hossain, of House No. 9/3 Hosseni Dalan Road, Chandkharpooll

Alleged perpetrators:

1. Md. Abu Bakor Siddik, Deputy Assistant Director (DAD) ID no. 45778
2. Md. Hazrat Ali, Sub Inspector (SI) ID no. 15921
3. Md. Bachhu Mian, Nayek ID no. 52807
4. Md. Sumon Rana, Nayek ID no. 1291
5. Md. Zahirul Islam, Constable ID no. 1173
6. Md. Shafikul Islam, Sipahi ID no. 62803

There were six other unidentified members. All are attached to the Company-3 of the Rapid Action Battalion (RAB)-10, based Lalbagh Camp in the city of Dhaka Date of incident: 5 to 10 April 2011 Place of incident: Torture cell of the RAB-10 Dhaka

AHRC-UAC-082-2011

On April 5, Mr. Sazib was stopped by members of the RAB. Accusing him of being a “snatcher”, they blindfolded and took him to a nearby RAB camp. There he was beaten until he passed out. A RAB medic was brought in to give him nominal treatment and juice before they resume torturing him again with electrical shocks to his feet. This method of torture lasted throughout the night.

On April 6, Mr. Sazib was taken to a superior officer who then ordered his men to continue torturing him until they got what they need. Mr. Razib was later taken off the street at gun point. They also threatened the victim’s family members when who were asking for justification why they arrested the victim. In the camp, they again blindfolded him, tied to a chair, beat and electrocuted his feet. They also inserted needles into his toes and fingers.

On April 7, similar methods of torture were applied on Mr. Sazib. His hands and ears were damaged. Mr. Razib was also tortured further on the same day. He was forced to admit and confess to a crime and threatened that he would either be killed in “crossfire” or they would file fabricated charges on him. Out of fear, he agreed to their demands.

On April 8, Mr. Sazib’s torture was expanded again to include kicking and stomping on his legs. The officers at one point required him to recite verses from the Quran as he was tortured.

On April 9 midnight, the two cousins were put in a vehicle together and driven to a river. The victims believed the RAB were intending to shoot them if they ran. They were again taken back to the RAB camp. They were told it had been decided that they would not be killed, but would be laid with fabricated charges which they later did. They were, however, warned not to mention their treatment to anyone. Mr. Razib was then briefly taken to a hospital for treatment. Mr. Sazib was tortured again before being taken to a hospital for medical treatment.

On April 10, the victims were arraigned and released on bail. Since then they and their family have received numerous threats for reporting their abuse. They have been unable to receive further medical treatment.

Story 18: Police attacked villagers in retaliation for injuring a policeman involved in robbery

Victims:

About 60 villagers. Twenty six of them were named while the rest are unnamed. These villagers live in Duptoil village under the jurisdiction of the Birol police station of Dinajpur district; others lives in village Karimpur Thana Birgonj, in Karimpur village under the jurisdiction of Birgonj Thana in Shorgram village Birol Thana
Alleged perpetrators:

1. Mr. Md. Haider Ali, Sub Inspector of police
2. Mr. Mujibor Rahaman (Constable ID no. 1048)
3. Mr. Md. Israel Haque (Constable ID no. 277)
4. Mr. Md. Rashedul Haque, Driver cum Constable (Constable ID no. 268)
5. Mr. Ferdous, Sub Inspector of Birol Police station
6. Mr. Md. A K M Mohssin Uz Zaman Khan, Officer-in-Charge (Admin), Birol police station
7. Mr. Horidas Mohanto, Officer-in-Charge (Investigation), Biral police station
8. Mr. Siddiquee Tanzilur Rahman, Superintendent of Police, Dinajpur district
9. Mr. Md. Mokbul Hossain, ASP (Sadar Circle)
10. Mr. Sayttendra Nath Roy, Sub Inspector cum Riot Police-in-charge, Dinajpur
11. Two platoons of riot police

Date of incident: 7 and 8 March 2011

Place of incident: Daptoil village in Biral upazila of Dinajpur district

AHRC-UAC-068-2011

On 8 March 2011, a group of policemen dressed in civilian clothes knocked on the door of Mr. Shahjahan. Due to a recent robbery where the perpetrators had claimed to be police officers, the resident refused to open the door calling his neighbours for help. A mob quickly assembled and chased the police off, injuring one of them.

The officers filed a complaint against about 60 villagers (most unnamed) and later that day 2 platoons of riot police arrived in the village. These police began to assault, threaten, arrest, and otherwise harass passersby of all ages; entered private property; took private property; and disrupted local events such, as a wedding.

Furthermore, the police are accused of making sexual advances and sexually assaulting numerous young women, often “claiming” them as future brides.

Story 19: A male judge allegedly molested his subordinate

Victim: Mrs. Salma Begum, 42, a cleaner by occupation, attached to the Court of Settlement of Dhaka

Alleged perpetrator: Mr. Mohammad Yasin, a District Judge, appointed as the Chairman of the First Court of Settlement of Dhaka at Shegunbagicha in the city of Dhaka

Date of incident: 23 February 2011

Place of incident: Official Chamber of the Chairman of the First Court of Settlement of Dhaka at Shegunbagicha in the city of Dhaka

AHRC-UAC-052-2011

On 23 February 2011, Mrs. Salma Begum was hugged from behind by the chairmen of the First Court. The perpetrator at first claimed to be “kidding” but when other witnesses arrived he demanded she be thrown out.

After a closed meeting with other judges, Mrs. Begum was told she had made a false accusation and that medical examination would be conducted. She was also told not to speak about the incident. The police eventually arrived, but they appear not to have investigated. The victim claims the perpetrator has threatened her job and promised to hide behind influential friends.



Gias Ahmed

Story 20: Police tortures a journalist for criticising their traffic management skills

Victim:

Mr. Gias Ahmed, Joint News Editor of Desh TV, a private television channel based in Dhaka, a Member of the Dhaka Union of Journalist (DUJ) and Bangladesh Federal Union of Journalists (BFUJ), lives

in the Dhaka Metropolitan City

Alleged perpetrators:

1. *Mr. Mosharf, Police Constable*
2. *S M Asad, Police Sergeant*
3. *Mr. Ashraful, Police Sergeant*
4. *Mr. Jahangir, Sub Inspector of Police*
5. *Mr. Mahbubur Rahamn, Police Inspector and Officer-in-Charge (OC) of the Tejgaon police station*
6. *Mr. Salim Mohammad Jahangir, Deputy Commissioner (DC) of the Tejgaon Zone*
7. *Mr. Masud Hossain, Additional Deputy Commissioner (Public Relations)*
8. *Md. Elias Sharif, Additional Deputy Commissioner (Traffic) of the West Zone*
9. *Mr. Hasnat Nazmul Alam, Police Sergeant*

All are attached to the Dhaka Metropolitan Police (DMP)

Date of incident: 14 February 2011

Place of incident: Police outpost at SARC Fountain roundabout and the custody of Tejgaon police station in Dhaka.

AHRC-UAC-044-2011

On February 14, Mr. Gias Ahmed was beaten on the street by several police officers for criticising the traffic management skills of one of their colleagues on duty. They took him inside a police vehicle where they talked of how were going to torture him, bragged of torturing other journalists and to falsely accuse him of carrying a gun.

At the police station, he was asked to sign a confession and pay bribe. When he refused they put him in a cell. They restricted access to him and allowed only basic medical treatment for his injuries. When the police were questioned about his injuries, two of the officers involved gave contradictory accounts of the incident.

After midnight, the police released the victim. The police also promised to investigate his claims (on condition he would not to publish the story). The police began its internal probe, met with the victim, and collected evidence, but they did not publish the result of their findings.

Story 21: Police killed an 18-year-old student

Victim: Imtiaz Hossain Abir, 18, student of higher secondary level at the Northern College of Mohammadpur in Dhaka, son of Mr. Kazi Golam Farukh, living in Rupnagar Residential area House no 31, third floor, Road no 21, Mirpur under the jurisdiction of the Pallabi police station in Dhaka Metropolitan City

Alleged perpetrators:

1. *Mr. Md. Ismael Hossain (ID No BP -7695016392), Investigating Officer of a criminal case and Sub Inspector of Police, attached to the Pallabi police station, Dhaka Metropolitan Police*
2. *Mr. Md. Iqbal Hossain, BP No: 6387106356, Officer-in-Charge, Pallabi Police station,*



Imtiaz Hossain

3. *Mr.Md. Hekmot Ali ,Sub Inspector of Police*
4. *Mr. Md.Mojibor, Consatbale Number 2557*
5. *Mr. Md. Saydur Rahman, Constable ID Number 19883 All are attached to the Pallabi Police station Date of incident: 10 January 2011*

Place of incident: Baunia Balur Math area, Mirpur under the jurisdiction of the Pallabi police station in the city of Dhaka

AHRC-UAC-029-2011

On January 10, Mr. Kazi Imtiaz Hossain Abir was abducted on his way home from a badminton match. After his phone was answered by a stranger, his family began to look for him but was unable to find out what had happened. The next day the news reported that Mr. Abir had been killed by the police as a result of “crossfire” with an unidentified gang that he was assisting in preparing a robbery. They learned that three cases had been opened against him.

The official records of the shooting are inconsistent as to the identity of the victim, the nature of his injuries, and other relevant facts. Notably, many in the community do not remember a gun fight at all, but rather a small number of shots fired. Similarly, eye witness evidence suggests that the three witnesses called by the police were instructed as to what they saw by the police after the boy had been shot and killed, rather than be allowed to record what they actually had witnessed.

Forensic analysis also indicates that the victim had been shot at very close range in the leg, which is generally inconsistent with a gun battle in an open area.

The family has not filed a complaint as they believe that the criminal justice system would protect the police and thus their troubles would only be compounded. They are also upset that the personal property of the victim has not been returned to them.

Story 22: Government food subsidy fails to reach the poor due to corruption



Victims:

1. About 234 Vulnerable Group Feeding (VGF) card holders who have not received food subsidy 2. VGF card holders who received less than earmarked food subsidy

Alleged Perpetrators: Local government unit, Palasbari sub-district, Gaibandha district Place of incident: Monohorpur union, Palasbari sub-district, Gaibandha district

AHRC-HAG-004-2011; AHRC-HAG-002-2010; AHRC-HAG-003-2010; AHRC-HAG-004-2010

On September 8, about 1,000 families were entitled for assistance under the Vulnerable Group Feeding (VGF) program.

On March 21, the administration distributed the food subsidy to the beneficiaries but failed to reach 234 of the card holders. Some of those who did receive it did not receive the full amount. It is also alleged that members from various local government councils have also taken VGF cards. The VGF committee allegedly submitted a muster roll with false signatures to the government officials in charge of the program while none of the beneficiaries were informed that they were entitled to receive food subsidy by VGF.

Story 23: Arbitrary detention and fabrication of charges on a labour rights activist

Victim: Ms. Moshrefa Mishu, 46, a leftist political activist, general secretary of the Ganatantrik Biplobi (Democratic Revolutionary) Party and President of the Garment Workers Unity Forum (GWUF, living in a house 51-2 Kolabagan North Road under the jurisdiction of the Kolabagan police station in the Dhaka Metropolitan city
Alleged perpetrators:

1. *Mr. Md. Anisur Rahman, Police Inspector and Officer in-Charge (OC) of Kafrul Police station*
 2. *Mr. Md. Robiul Huq, Sub Inspector of police and the Investigation Officer (IO) of case no 76 of Kafrul police station*
 3. *Mr. Md. Motiur Rahman, Sub Inspector of police and the Investigation Officer (IO) of case 21 of Kafrul police station*
 4. *Mr. Md. Shamim Hossain, Police Inspector and Officer-in-Charge (OC) of Khilkhet police station*
 5. *Mr. K M Firoz Al Jalal, Inspector of police and the Investigation Officer (IO) of the case with Khilkhet police station*
 6. *Mr. Nazrul Islam, Additional Deputy Commissioner (ADC), Detective Branch (DB) of Police*
 7. *Mr. Muniruz Zaman, Assistant Commissioner (AC) of DB*
 8. *Mr. Nasir, AC of DB*
- All are attached to the Dhaka Metropolitan Police (DMP)*
9. *Mr. Munshi Abdul Mazid, Metropolitan Magistrate, attached to the Chief Metropolitan Magistrate Court of Dhaka*
 10. *Dr. Mustafizur Rahman, Assistant Professor of Medicine Unit of the Dhaka Medical College Hospital (DMCH)*

Date of incident: 14 December 2010

Place of incident: Custody of Detective Branch of the Dhaka Metropolitan Police and Dhaka Central Jail

AHRC-UAC-006-2011



Moshrefa Mishu

At 1am on December 14, Ms. Moshrefa Mishu was arrested by heavily armed men and women wearing civilian clothing after they forced their way into her home. They arrested her without a warrant insisting they had a dictate from a higher level of the government. The police refused Ms. Mishu to use the toilet and pack her belongings before taking her with them. They also refused to allow her carry her inhaler for asthma.

At the police station Ms. Mishu was interrogated on her political convictions. They accused her of attempting to incite a riot among workers at Kuril and for being agent for mainland China. They asked her to sign a blank piece of paper on premise that she would receive a political appointment.

In the afternoon, Ms. Mishu was arraigned for two cases. She was remanded for two days. A third case was filed in a different jurisdiction. That evening they interrogated her again, presented her with a blank piece of paper again, and threatened to kill or disappear her if she refused to sign. She suffered from difficulty breathing, but the police refused to provide for medical assistance.

On December 19, Ms. Mishu was again presented in court, this time for the third charge of arson, vandalism and obstruction. It was alleged that the magistrate said he had orders from superior not to grant her bail. She was given one more day of remand. The victim's medical condition worsened. At the insistence of her family, the magistrate ordered her transfer to a hospital.

When Ms. Mishu returned to court, the police again demanded the she be remanded and it was so ordered.

Story 24: Illegal arrest and detention of a lawyer-cum-politician for months on fabricated charges

Victim: Mr. Mantu Ghosh, 60, a lawyer by profession and also a member of the Polit Bureau of the Communist Party of Bangladesh (CPB), at House No. 306/1 Notun Pal Para of the Narayanganj district town

Alleged perpetrators:

- 1. Mr. Khondokar Mustafizur Rahman, Investigating Officer of a criminal case and Sub Inspector of Police, attached to the Gulshan police station, Dhaka Metropolitan Police*
- 2. Mr. Md. Kamal Uddin, Officer-in-Charge, Gulshan Police station,*
- 3. Mr.Md. Obidul Huq, BP No: 6184010192, Assistant Police Commissioner, attached to Detective & Crime Information Department of the Dhaka Metropolitan Police*
- 4. Mr.Md. Ziaur Rahman, BP No: 6790008809, Police Inspector, attached to Detective & Crime Information Department of the Dhaka Metropolitan Police*
- 5. Eleven police personnel attached to the Detective Branch of the Dhaka Metropolitan Police*
- 6. Mr. Moinul Islam Khan, Sub Inspector of Police, attached to the Tejgoan Industrial Area police station*
- 7. Mr. Shah Mohammed Ahad Hossain, Sub Inspector of Police, attached to the Tejgoan Industrial Area police station*
- 8. Mr. Md. Sayed Iftekhar Hossain, Sub Inspector of Police, attached to the Tejgoan Industrial Area police station*
- 9. Mr. Md. Homayon Kabir, Sub Inspector of Police, attached to the Tejgoan Industrial Area police station*
- 10. Mr. Md. Nazrul Islam, Sub Inspector of Police, attached to the Tejgoan Industrial Area police station*

11. *Mr. Alamgir Hossain, Sub Inspector of Police, attached to the Tejgoan Industrial Area police station*
12. *Mr. Bacchu Mia, Sub Inspector of Police, attached to the Adbar police station*
13. *Mir Sabbir Ali Sub Inspector of Police, attached to the Adbar police station*
14. *Mr. Md. Korban Ali, Sub Inspector of Police, attached to the Ashulia police station*
15. *Mr. Mijanur Rahman, Sub Inspector of Police, attached to the Ashulia police station*
16. *Mr. Mir Billal Hossain, Sub Inspector of Police, attached to the Ashulia police station*
17. *Mr. Mijanur Rahman, Sub Inspector of Police, attached to the Ashulia police station*
18. *Mr. Golam Mustafa, Sub Inspector of Police, attached to the Ashulia police station*

All are attached to the Dhaka Metropolitan Police

Place of incident (illegal arrest): House No. 306/1 Notun Pal Para of the Narayanganj district town

Date of incident: 31 July 2010

AHRC-UAC-169-2010

On July 31 2010, at 1am 12 heavily armed police dressed in civilian clothing arrested Mr. Ghosh in his home without a warrant. At the station he was interrogated regarding his political affiliations, especially with India, and his work with readymade garment factory workers. Later that afternoon he was arraigned and remanded for two days on a case including explosive substances. The following day, a police station in a different jurisdiction filed three new cases against him and he was remanded for an additional five days.

On August 3, another station demanded remand regarding two cases filed in July and were granted four more days of remand. During this time, the police allegedly treated Mr. Ghosh inhumanly and degraded him in the name of interrogation. On August 5 he filed he made a complaint about this. The court, upon hearing the complaint, admonished the police not to use torture, and to provide him medical care he needed.

On August 8, a police station in Dhaka arrested him on four cases pending since June and the victim was again remanded. Over the next month the court variously granted and rejected bail applications on the numerous cases against Mr. Ghosh without explanation, which lead to Mr. Ghosh remaining in custody.

On October 11, the victim's lawyers asked for a special bail petition, citing Mr. Ghosh's health. The petition was granted and the victim was released.

Story 25: Police tortures a man to death in custody when his wife fails to pay them a bribe

Victim: Mr. Md. Mokles Matbor, 45, of Moshurigao (Moshurpara) under the jurisdiction of the Gosairhat Police Station in Shariatpur district

Alleged perpetrators:

1. *Mr. Sayed Imdadul Huq, Sub Inspector of Police*
 2. *Mr. Md. Sahadat Hossain, Assistant Sub Inspector of Police*
 3. *Mr. Jalal Sikdar (Constable No: 461), Police Constable*
 4. *Mr. Lutfor Rahman (Constable No.491), Police Constable*
 5. *Mr. Shofiqul Islam, (Constable No.366), Police Constable*
 6. *Mr. Bulbul Ahamed, Probationary Sub Inspector of police*
 7. *Mr. Md. Ekram Ali Molla, Inspector of Police and Officer-in-Charge (OC). All are attached to the Gosairhat police station in Shariatpur district*
 8. *Mr. Abul Hasnat, Assistant Superintendent of Police, Goshairhat Circle of Shariatpur district*
- Alleged perpetrators who gave false medical documents:*
1. *Mr. A K M Alauddin, Upazilla Nirbahi Officer (chief administrative officer of sub-district) and Executive Magistrate Gosairhat Upazila*
 2. *Dr. Nirmal Chandra Das, Residential Medical Officer, Sadar Hospital, Shariatpur*
 3. *Dr. Rajesh Mazumder, Medical Officer, Sadar Hospital, Shariatpur*
 4. *Mr. A K M Shahidur Rahman, Superintendent of Police (SP), Shariatpur district*
 5. *Mr. Ashok Kumar Dutta, Senior Magistrate, Shariatpur district*
- Place of incident (Torture & Death): Gosairhat Police Station in Shariatpur district*
Date of incident (Custodial death due to torture): 31 August 2010

AHRC-UAC-167 -2010

On August 29, Mr. Matbor was arrested as a suspect in the rape and murder of a woman and her two children that had been filed on August 10. The arresting officers did not produce a warrant at the time of his arrest. When his wife went to the police station for an explanation, she was asked to pay a bribe for his safety. She was unable to pay. That evening the police tortured Mr. Matbor with beatings and manipulation of his genitals, acts his wife claims to have witnessed from a distance.

On August 31, the court granted remand and later that night Mr. Matbor was dead. The police claim he had hanged himself in his cell. The Goshairhat police registered a case of “Unnatural Death” and the chief executive officer of the sub-district, as an Executive Magistrate, signed an Inquest Report of the dead body, which was prepared by a police officer the same evening. The Inquest Report claimed that there was no sign of injury on the body of the deceased.

On the other hand, Mr. Matbor relatives allege that the civil and police administration jointly suppressed the facts regarding the custodial torture. The Superintendent of Police of Shariatpur district and other police officers allegedly convinced the administrative officials to make a fake report and the doctors at the hospital collaborated with them. The senior Magistrate who granted police remand of Mr. Matbor would also have to be involved with the process of manipulating the merit of the custodial death case by suppressing the truth.

In order to verify the allegation of custodial death when the local human rights defenders visited the place where the body was allegedly found. They erroneously concluded that the victim could not have hanged himself because his feet would likely have been touching the ground had he attempted to do so. When a cousin of the victim went to the police station to demand answers, the police denied wrong doing and offered settlements. The cousin claimed that the shopkeepers and pedestrians who witnessed the torture of Mr. Matbor, asserted that police forced him to walk around with a brick tied to his genitals. The dead body had a number of marks of injury and the male organ was abnormally swollen.

On the morning of September 3, an Assistant Superintendent of Police, accompanied by the OC of the Goshairhat police and a number of policemen, went to the victim's house, apologized to his widow, and offered to settle the case financially.

Story 26: A man dies after being shot in police custody

Victim: Mr. Md. Mizanur Rahman, 35 years, a businessman who runs a photo-studio on rent, son of Mr. Abdul Jalil, of Baroberait, under the jurisdiction of the Badda police station of the Dhaka Metropolitan city

Alleged perpetrators:

1. Mr. Anisur Rahman, Sub Inspector of police
2. Mr. Kamal Uddin, Inspector of Police and Officer-in-Charge (OC)
3. Mr. Sheikh Masud Karim, Operations Officer
4. Mr. Mahmud Moyeen, Sub Inspector of Police
5. Mr. Khitish Chandra Roy, Sub Inspector of Police
6. Mr. Md. Abdul Malek, Police Constable (Badge No. 6467)
7. Mr. Md. Shafiuzzaman, Police Constable (Badge No. 3013)
8. Mr. Sahidullah, Police Constable (Badge No. 5773) All are attached to the Gulshan police station of the Dhaka Metropolitan Police (DMP)

Date and Time of arrest: At 3am on 30 June 2010

Place of arrest: Victim's home

AHRC-UAC-107-2010

On June 30, a team of policemen dressed in civilian clothing broke into the home of Mr. Rahman and arrested him without a warrant. They told his landlord that he was a suspect in a case involving the theft of a car. His wife went to the police station. When the police brought him in, she insisted he was innocent and the police told her the court would determine the facts accordingly.



Mizanur Rahman

When she returned to the police station later that day, she bribed the guard to get access to her husband. She then met with the SI to demand her husband be release which he responded to by demanding a bribe she was unable to pay. The next day, the victim's wife again went to the station, this time to determine why her husband had not been produced in court. The SI demanded a reduced bribe and insinuated that her husband might be subjected to torture if she did not pay. The wife claimed to be unable to pay, and she and her sister again bribed the guards to meet with her husband who claimed that he had already been tortured and denied food. Later that day she received a phone call demanding a further reduced bribe which would result in lighter charges for her husband so that he could be released. However when they went to the police station to pay the bribe, the SI was not available to accept it, so they bribed the guard to get food to the victim.

The next day, the victim's wife received a phone call telling her that her husband was in hospital. Shortly thereafter she called the police to ask if her husband was still in his cell and they claimed he was. Two hours after the first call she was again called from the hospital and told her she needed to come immediately and that her husband needed blood. When she checked with the police again she was told her husband was not in his cell. When she arrived at the hospital she found her husband on the floor.

According to his cell mate, Mr. Rahman was shot and bled to death while waiting at the hospital after the two of them were forced to participate in a mock escape attempt on 1 July 2010. While the police claim he was killed in a gun battle on the street when they interrupted him trying to steal a car.

On July 5, a probe was established to examine his killing (and two others) in police custody and the court ordered that it be informed of how the matter would be dealt with internally. Similarly, it ordered the government to explain itself to the court, and established a panel of notable lawyers and experts to assist.

Over the next few weeks the victim's family found itself under government surveillance and consequently moved several times, while the police claimed to following the court's order and criticised the media for playing up the emotional aspect of the case. Later, the police abducted the victim's wife, attempted to coerce her with threats and money from talking with journalists or NGOs, and stole her cell phone (which was later returned to her). The widow also complained that her former landlord asked her to settle the case to spare the career of one of the superior officers in the local police force and that no one representing the court had taken her statement.

By August 21, it appears that the police had paid a sum of money to the victim's widow and her sister-in-law; the wife had gone to the office of the AC where she received the Death Certificate

of the victim, a money receipt, and a certificate issued by a local Imam of a mosque regarding burial of her husband's dead body.

Story 27: Police detains and threatens to torture a widow who questioned the death of her husband

Victim: Mr. Babul Kazi, an auto-rickshaw operator cum mechanic by profession, son of late Mr. Rupai Kazi, of House No. 327/A, Noyatola of Baramoghbazar, under the jurisdiction of the Ramna police station of the Dhaka Metropolitan City

Alleged perpetrators:

1. Mr. Altaf Hossain, Sub Inspector of Police
2. Mr. Hiron Mian, Police Constable (Badge No. 6998)
3. Mr. Seraj, Police Constable (Badge No. 27761)
4. Mr. Shibli Noman, Police Inspector and Officer-in-Charge (OC)
5. Mr. Enamul Haque, Sub Inspector of Police All are attached to the Ramna Police Station of the Dhaka Metropolitan Police
6. Mr. Nannu Mian, Member of AnsarI (Village Defence Party) (Badge No. 23509), assigned to assist the Ramna police
7. Mr. Krishna Pada Roy, Deputy Commissioner (DC) of Motijheel Zone, Dhaka Metropolitan Police

Place of incident: Ramna police custody

Date of Incident: 28 June 2010

AHRC-UAC-101-2010



Babul Kazi

On June 18, a man claiming to represent to police arrived at Mr. Kazi's home to request a bribe to secure the release of Mr. Kazi's rickshaw and business partners, who had been arrested by the RAB. Over the next few days Mr. Kazi partially paid the bribe and continued to seek funds, but the police did not release.

On June 28, two police officers arrived at Mr. Kazi's workshop and demanded he pay the money he had collected so far. When he refused they abducted him. The victim's wife attempted to contact the police to determine his whereabouts later that evening but was told he was in the hospital with head injuries sustained by jumping from the police van. He died on arrival at the hospital covered with sand.

When the family attempted to confront the police, they were threatened with violence and forced to sign blank sheets of paper. The police returned the victim's phone, but took all his money. On June 29, the hospital still refused to release further details of the victim's death, and the police began to threaten the family not to make the case public. Since then, the family has been told by various political leaders not to file a case, in spite of the fact that the police records regarding the relevant incidents are contradictory.

On July 3, the DMP formed an inquiry committee to look into this case, and on July 5 a Public Interest Litigation was filed by two human rights organisations with the High Court Division of the Supreme Court regarding three custodial deaths, including

Babul's, that took place in Dhaka within one week. A Division Bench responded by directing the Ministry of Home Affairs to form probe committees that excluded police members, to investigate the incidents and the police responded by detaining the victim's widow, threatening her with torture, and interrogating her over whom she may have spoken to.

Story 28: Father of a 23-year-old boy who died in police custody threatened for not withdrawing his complaint

Victim: Mr. Robiul Hasan Khokon, 23, son of Mr. Md. Shahajahan, of Mozzotpara (Jheelpara) under the jurisdiction of the Chatkhil police station in Noakhali district

Alleged perpetrators (Torture):

1. Mr. Abdul Mannan, Sub Inspector of Police
2. Mr. Mohammed Sohidullah, Police Constable
3. Mr. Golam Mostafa, Police Constable
4. Mr. Humayan Kabir, Inspector of Police and Officer-in-Charge (OC) All are attached to the Chatkhil Police Station of Noakhali district

Place of incident (Torture): Chatkhil police station in Noakhali district

Date of incident (Custodial death due to torture): 13 May 2010

AHRC-UAU-024-2010

On December 21 2009, Mr. Robiul Islam Khokon was arrested by the RAB while riding a bus. On December 22 a case was filed against him alleging he had two illegal firearms in his possession. On April 9 2010, the police asked for a warrant for his arrest regarding an open robbery case from October 2009. On April 10, the police were granted remand of Mr. Khokon for interrogation.

On May 10 2010, Mr. Khokon was arrested again, and phone call was made to his father soliciting a bribe; a solicitation backed with threats of torture and death for the victim. When the family did not bring the money to the police station, the police beat Mr. Khokon with various instruments to the point he required hospitalisation shortly after midnight. When the family approached the police on May 11, the police denied the victim was in their custody and insisted the relatives leave without revealing his whereabouts.

On May 12, the victim was transferred to a different hospital where, on May 13, he died. Consequently, an inquest took place and police refused to produce the Inquest Report to the media, human rights defenders and relatives of the deceased. Nevertheless, The Shahbagh police registered an Unnatural Death case regarding the incident.

On May 14, police requested the signature of the victim's mother and registered a murder case against one of the alleged perpetrators, though the dates of the alleged torture conflict with timeline of the victim's hospitalisation. The accused police officer was then arrested and denied bail.

On June 5, the police station of the accused perpetrator attempted to bribe the father of the victim, who refused the payment and asked only for justice. On June 14, the court began the hearing of the case by continuing it to a later date. The father of the victim, while leaving the courthouse, was approached by the wife and several coworkers of the accused who threatened to torture and kill the victim's father if he did not withdraw the case.

Story 29: RAB officers asked their arrestees what cases they should fabricate against them

Victims:

Mr. Salim Miah, 35, a businessman of fruits and fish, son of Mr. Abdur Rashid, of Vaool Chandpur village under the jurisdiction of the Kapasia police station of the Gazipur district

Name of detained victims:

- 1. Mr. Mohammad Ali Hossain, a farmer and fish businessman, of Pirojpur village under the Kapasia police station in Gazipur district*
- 2. Mr. Mohon, 28, son of Ismail Sirker of Mirpur*
- 3. Mr. Abdul Hasanat, 28, son of Shibah Uddin of Vaool Chandpur village under the Kapasia police station of the Gazipur district*
- 4. Mr. Mainul Islam*
- 5. Mr. Mamun*

Name of officers allegedly involved in the case:

- 1. Mr. Md. Mozaffar Hossain, Deputy Assistant Director (DAD)*
- 2. Mr. Md. Jahangir Alam, Sub Inspector of Police*
- 3. Mr. Quashem, Havildar*
- 4. Mr. Taleb, Lance Nayek*
- 5. Mr. Abul Bashar, Nayek*
- 6. Mr. Mamun, Constable*

All are attached to the Rapid Action Battalion (RAB)-4 stationed at Paikpara in Mirpur of the city of Dhaka

Place of original incident: The custody of the RAB-4 in Dhaka

Date of original incident: 19 February 2010

AHRC-UAU-020-2010



Photo of Mr. Salim

On February 19, Mr. Salim Miah was among several people arrested by the RAB while he was visiting his friend in his home. The RAB was vague as to the reason why, and asked the victims what type of case they should fabricate against them. The witness claims that other witnesses saw Mr. Miah in a separate cell where he had been tortured.

On March 1, the witness was released but Mr. Miah was not. Mr. Miah's wife spent several weeks searching police stations, morgues, prisons, and hospitals to no avail and eventually filed a Habeus petition.

On April 15, the courts held a hearing on the petition and the government claimed they had never arrested or had custody of the victim. The court told the police to recheck all their records

and report back in three weeks on the whereabouts of anyone of that name who had contact with the RAB. The police appear to have ignored this order.

Story 30: Police kills a man who refused their offer to act as their contract killer

Victim: Mr. Rubel, 30, of Sarulia under the jurisdiction of the Demra police station in Dhaka Metropolitan City

Alleged perpetrators:

1. Major Kamruzzaman,
2. Deputy Assistant Director (DAD) Mr. Delwar Hossain,
3. Sergeant Mr. Ferdous Ali
4. Sub Inspector Mr. Aminur Rahman,
5. Constables Mr. Mohammad Ruhul Amin
6. Mr. Mohammad Abdul Quader
7. Mr. Faruk Hossain
8. Mr. Mohammad Pervez
9. Soldier Mr. Mohammad Jamshed All are attached to the Rapid Action Battalion (RAB)-10 10. Demra Police Station, Dhaka Metropolitan Police

Place of Incident: House No. 4 of the Garden Road at Bahir Tengra of Sharulia area under the jurisdiction of the Demra police station in the city of Dhaka.

Date of incident: 16 March 2010

AHRC-UAC-066-2010

On March 16 2010, an RAB team in civilian dress surrounded the home of Mr. Rubel Ahmed's neighbour while he was visiting. One of the officers approached Mr. Ahmed and conducted an inspection of the victim using information he received in a contemporaneous phone call. When the inspection concluded, they restrained Mr. Ahmed. They began beating him and insisted he had firearms. The victim managed to escape to the rooftop where he was detained a second time. They shot him in the head and torso while taking him back downstairs.

The police then allegedly tried to stage the scene as either a gunfight or a suicide (or both) before alleging it had been a cross-fire related death during a gun battle. Local witnesses strongly dispute any possibility that a gun battle occurred. The body was examined and returned to the family for burial, but the police insisted the burial happen immediately, and warned the family not to make a complaint.

The brother of the victim believes the RAB office had motives to kill. He alleges that someone had approached the victim and attempted to hire him as a contract killer. When the victim refused and then warned the person whom he was asked to kill, the person hired the police to kill Mr. Ahmed in revenge.

Story 31: A policeman who demanded bribe from his victims asked them to collect their money back after he was exposed

Victim: Mr. Kazi Muhammad Ziaul Haque, 30, employed as a Senior Principal Officer of the Rupali Bank Ltd. at the head office of the bank in Dhaka, son of late Mr. Shamsul Haque, of 18/9 Rajar Bagh under the Shabuzbagh police station of the Dhaka Metropolitan area Alleged perpetrators:

1. *Mr. Md. Rafikul Islam, Sub Inspector of Police*
2. *Mr. Murad, Constable of Police*
3. *Mr. Mamun, Sub Inspector of Police, Second Officer*
4. *Mr. Tofazzel Hossain, Officer-in-Charge (OC)*
5. *Two unidentified police officers All are attached to the Motijheel police station*

Place of Incident: Motijheel police custody under the Dhaka Metropolitan Police

Date of incident: 7 to 8 March 2010

AHRC-UAC-031-2010



Ziaul Haque

On March 7, the victim was involved in a small accident. The responding officer demanded a bribe from the victim and insisted that the victim bring the officer to the victim's house for payment of the bribe. When it became known to the officer that the victim's family would be unable to pay the bribe, he allegedly attempted to throw the victim from the bike while it was still moving, but then called his superior officer who arrested him and brought him back to the police station.

At the station, the two policemen began to beat the victim in the presence of the other individual involved in the crash. The police then threatened to fabricate charges against the victim and kill him in a staged gunfight. Eventually the brother of the victim arrived, but the police refused to deal with him unless he paid a reduced bribe, which he could not.

The next day the victim and his brother brought before the SI where the victim signed blank documents and was charged with offenses loosely related to the previous events. The victim, then released, went to a local medical center where the doctor recommended he be admitted for his injuries.

Later, he filed two petitions on the matter and had his case published in a national newspaper, he was contacted by a local OC who wanted to schedule a meeting to discuss a refund of the bribe money, an invitation the victim rejected.

Story 32: The family of a man whom police falsely charged paid bribe so the police would not to torture him but they tortured him anyway

Victims:

1. *Mr. Md. Sohrab Hossain, 40, a carpenter by profession, son of late Mr. Mokshed Sheikh, of Tokia village under the Paikgachha police station in Khulna district*



Md. Sohrab Hossain

2. *Mr. Hamidur Rahman, 38, son of Mr. Akimuddin Sheikh, an inhabitant of Madanpur village,*
3. *Mr. Selim Morol, 40, son of Mr. Hazrat Morol, of Islamkati village. Both villages are under the Tala police station in Satkhira district*

Alleged perpetrators:

1. *Md. Lutfor Rahma, Sub Inspector (SI), attached to the Tala Police Station in Satkhira district as the Second Officer of the police station*
2. *Four police constables of the Tala police station of Sathkhira district*

Date of the arrest: At 9pm on 7 January 2010

Place of arrest: Atharomile Bazar, Dumuria, Khulna

AHRC-UAC-028-2010

On January 7 2010, the police arrested Mr. Sohrab Hossain with two murder suspects. The police proceeded to beat him before bringing him to their station. The police at the station investigated and concluded that he might have lied about his name, since his name bore a passing resemblance to a different murder suspect, and proceeded to torture him in order to obtain a confession.

The next day Mr. Hossain was charged with robbery from December 2009 and brought before a court scheduled the remand hearing for the January 13, and ordered the victim to be held until then. His family attempted to visit him and was forced to pay bribe before the police gave them any information. The court allowed two days remand, and he was later returned to the police station while the family bribed the SI not to torture the victim further.

However, the torture continued and the family was required to pay an additional bribe to ensure that he was given food, and then charged transportation fees for his transit to and from the jail where he was kept. Mr. Hossain was kept in custody for at least two months, in spite of his family's protestations regarding the case against him.

Story 33: Police files charges against protestors for condemning the death of a torture victim

Victims:

1. *Mr. Md. Mohiuddin Arif, 30, married with two children, son of Mr. Md. Abdul Mazid, of House No. 928, Road No. 5, section-7 of the Pallabi Residential Area of Dhaka Metropolitan city*

Alleged perpetrators:

1. *Mr. Mr. Anowar*
2. *Mr. Babul*
3. *Mr. Bishawnath*

All are officers of the Rapid Action Battalion

4. *Mr. Kabir Hossain, Lieutenant Colonel of the Bangladesh Army, currently seconded to the Rapid Action Battalion (RAB) as the Commander of the RAB-4 based in Mirpur of Dhaka Metropolitan City*

5. *Mr. Iqbal Hossain, Officer-in-Charge (OC), Pallabi Police Station under the Dhaka Metropolitan Police*

6. *Police officers of the Pallabi Police Station*

Date of arrest: January 24, 2010

Place of incident: Office of the Rapid Action Battalion-4 and Pallabi Police Station

AHRC-UAC-019-2010

On January 24, officers from the RAB arrested Mr. Arif at his family's home and warned his family not to tell anyone about it. Later when they came back, Mr. Arif already had injuries. They then ransacked his house supposedly to find evidence they could use against him, but they could not find any, so they began assaulting Mr. Arif in front of his family.

Under torture, Mr. Arif told the RAB officers they could find a gun in his home. Mr. Arif, however, knew they would fabricate a charge against him, and the officers would continue torturing him until they have evidence, even if there is nothing at all. When they could not find any, the RAB left taking Mr. Arif with them.

The next day the victim was transferred to police custody. The police denied Mr. Arif's family to visit him. They told them they would feed him.

On January 26, Mr. Arif was charged with robbery without him being presented in person in court. His family visited him and learned that due to his injuries, he could not stand; he suffered from broken bones in his legs and torso, among other injuries. The judge then ordered him detained in jail. Over the next several days Mr. Arif was repeatedly sent for medical treatment and returned to his cell.

On February 3, Mr. Arif died before reaching the hospital. The medical examiner investigated pursuant to an inquest, but details of the report were not made public. When the community staged a protest against the RAB, the police responded by registering cases against the forty protestors. They began intimidating and threatening them.

Story 34: Torture of a journalist in a police vehicle in Rangpur

Victim:

1. *Mr. Saidul Islam Alamgir, 40, of district correspondent for the Bangladesh Shangbad Shangastha (BSS), a state-run news agency. He is son of late Mr. Farid Uddin and lives in West Mulatole in Rangpur.*

Alleged perpetrators:

1. *Mr. Nur Alam*
2. *Mr. Rajendra Chandra Sheel*
3. *Mr. Shariful Islam, Second Officer,*
4. *Mr. Mustafizur Rahman*



All are Sub Inspectors of Police, attached to the Kotowali Police Station in Rangpur

5. Mr. Abdus Sabur, Havilder of police

6. Mr. Mehedi Hassan, Constable of Police

Both are attached to the Kotowali Police Station in Rangpur

Place of the incident: Inside a police vehicle under the jurisdiction of the Kotwali Police Station, Rangpur, Bangladesh

Time and date of torture: 11:30pm 12 January to 3am 13 January 2010

AHRC-UAC-008-2010

On January 10, Mr. Saidul Islam Alamgir filed a complaint regarding the actions of several influential businessmen.

On January 12, after missing an appointment with the police OC, he was briefly abducted and beaten by a group, some of whom he recognised as police officers who also tried to cause permanent injury to him and threatened to kill him in the presence of his nephew (who was also detained). At the station, Mr. Alamgir was forced into an overcrowded cell, denied explanation of his arrest, and threatened again.

The next day, the victim collapsed and, after some confrontation, other journalists were able to secure his release and brought him to a local hospital for treatment. He was then briefly held in a courtroom jail before being transferred to a prison. However, on the 14th, due to intercession by several individuals and in part due to his health, he was granted bail for further medical treatment.

Story 35: Elderly widows denied food

Victims:

1. Bimala, 75, widow

2. Halima, 73, widow

3. Sobiron, 82, widow

4. Sarifon Nesha, 72, widow

Victim who paid bribe to get old age allowance

5. Mr. Sabed Ali, 82, paid BDK 2000 (USD 30) to get old age allowance

Victim whose Vulnerable Group Development (VGD) card is kept with a member of Union Council

6. Ms. Nasima, wife of Mr. Safiqul Islam

Alleged perpetrators:

1. Chairman of Union Council, Ghorabandha village, Halimnagar post office, Palashbari sub-district, Gaibandha district, Rangpur division

2. Mr. Hamid and Other members of Union council of Ghorabandha village

3. Public servants of Palashbari sub-district in charge of relevant social security programs

These persons took bribes to provide social security programs or keep the food distribution card (VGD card) but did not distribute them.

Place of incident: Ghorabandha village, Halimnagar post office, Palashbari sub-district, Gaibandha district, Rangpur division.

AHRC-HAG-002-2010

Thirteen elderly individuals from three villages have not received support to which they are entitled regarding their situation. While some of them have been able to scrape by on assistance from family members, most are suffering from inadequate nutrition, inadequate healthcare, and failing health.

Upon appealing to local leaders they are often required to pay bribes outside of their financial ability. In many cases this means that they are forced to beg on the streets. Those with family often find the support from friends and relatives is insufficient to ameliorate the government's failure.

Story 36: Eviction of around 30 lower caste families in a Hindu community

Victims: Low caste; Hindu; Nathpara community in Karal village, under the Patiya police station in Chittagong district.

Alleged perpetrators: The Ministry of Communication, the Patiya police and representatives from Chittagong and Patiya Upazilla.

AHRC-UAG-002-2009

On September 15 2009 the District Administration of Chittagong served a notice to the residents of Nathpara, Karol village, asking that they claim official ownership before 14 October 2009. The residents did not respond as some of them may not actually have legally recognized documents that prove their ownership and several evictions attempts have followed and were met with protests.



The inhabitants alternately claim that their historic and sentimental attachment to the land is not being properly considered and that the policy to compensate them is flawed. Concurrently they alleged that they were targeted because of their status as a minority, and their previous marginalisation would make moving difficult for them. While they acknowledge that the project will improve the infrastructure of the area, they fear that internal displacement may lead them to into further financial difficulty.

In following weeks a group of community representatives have met and received verbal assurances from the incumbent minister and secretaries. However the local administration, with police, continued to visit the village regularly to urge residents to leave.

Story 37: Police sexually molested, tortured a pregnant woman they abduct

Victim: Mrs. Shahin Sultana Santa, 34, wife of Mr. Atiur Rahman (a lawyer by profession), former residents of house number 7/A (3rd Floor), Road number 10, Mohammadia Housing Society under Mohammadpur police station in Dhaka

Alleged perpetrators:

1. *Mr. Mazharul Haque, Deputy Commissioner of Police (South Zone), Dhaka Metropolitan Police (DMP)*
2. *Mr. Kohinur Mian, Deputy Commissioner of Police (West Zone), Dhaka Metropolitan Police (DMP)*
3. *Mr. Ruhul Amin, Police Constable of the Dhaka Metropolitan Police (DMP)*
4. *Around 20 to 25 police personnel of the Dhaka Metropolitan Police (DMP)*

Date of incident: 12 March 2006

Place of incident: Mirpur Road, in between Manik Mian Avenue and Road number 27 of Dhanmondi R/A in Dhaka

UA-105-2006; UP-058-2006

On March 12, Mrs. Shahin Sultana Santa, is diabetic and was pregnant at the time of the assault, was abducted, sexually assaulted, and tortured by various means by police. As a result, she suffered numerous injuries due to which she miscarried. Since then the police have threatened her and her husband with fabricated charges against them and intimidated witnesses. In one case a witness was killed in a trap alleged to have been set by police. On May 21, her case was dismissed.

On October 30, Santa registered a Revision Petition with the Metropolitan Sessions Court of Dhaka, which challenged the tribunal's dismissal of her torture case. The complaint had been pending for almost three years, with nineteen successive hearings called, and delayed, until 27 September 2009, when the court ordered the police to register the complaint.

After investigation, several attempts were made to arrest the perpetrators who, in the interim, were suspended and, on 1 October 2009, pre-emptively filed a petition for bail. The police also began internal proceedings and recorded witness statements on November 30.

Story 38: Killing of a man in 'crossfire'

Victims:

1. *Mr. Nirapad Boiragi, 58; son of late Mr. Sonnasi Boiragi, formerly a tailor in a shop owned by Mr. Peter at Chalna Bazar; of Sajiara village, under the Dumuria police station, Khulna*

Alleged perpetrators:

1. *Mr. Md. Fauzul Kabir, Inspector of Police and Officer-in-Charge (OC) of the Dumuria police station, Khulna*
2. *Other officers attached to the Dumuria police, Khulna*

3. *Officers attached to Kakope police station, Khulna*

4. *Officers of the Khulna district police*

Date of incident: 9 October 2009

Place of incident: On the bank of Bhadra River, beside Dumuria Bazar, in an area under the Dumuria police station, Khulna

AHRC-UAC-167-2009

Mr. Nirapad Boiragi, who had been arbitrarily arrested at least three times prior was, on October 7 2009, was summoned to a local police station where he was arrested and detained without warrant. When his family tried to contact him and arrange legal representation the next day, they were unable to determine where he was.

On October 9, the family was informed he was killed in “crossfire” during a gun battle with the police during the arrest of a subversive political group, a story that conflicts with his prior arrest and detainment.

The police only allowed the family to identify the body once, at a distance, before refusing to allow any further examination or care, before they ordered its immediate cremation without the consent or involvement of the family and, the next day, gave the victim a funeral with honors appropriate to his position.

Story 39: Three women were beaten by a mob in a land dispute

Victims:

1. *Ms. Rita Kuntala Gomes; lawyer; daughter of Mr. Sunil Gomes; living at DCC 606/A North Kafrul under the Kafrul police station, Dhaka Metropolitan City.*

Names of alleged negligent officials:

1. *Mr. Delwar Ahamed Inspector of Police and Officer-in-Charge (OC) of the Kafrul police station*

2. *Mr. Maniruzzaman, Sub Inspector of Police*

3. *Mr. Mohammad Emdadul Haq, Sub Inspector of Police*

4. *Mr. Faruk Ahmed, Sub Inspector of Police*

5. *Mr. Mahbub, Assistant Sub Inspector of Police*

All attached to the Kafrul Police Station under the Dhaka Metropolitan Police (DMP) in Dhaka.

Date of incident: 22 October 2009

Place of incident: Victim’s residence

AHRC-UAC-157-2009

On 9 October 2009, Ms. Gomes was called to a local police station to address a land dispute that was already pending in court. On arrival, however, she was informed that an FIR had been lodged against her entire family by the other party alleging theft of construction materials.

The next day, a group of women gathered outside the other party’s house and, at the instruction of the owner, began using sticks to beat the victim, her mother, and an employee. Arrival of

the police brought the attack to a halt, but the officers left shortly thereafter without offering protection, dispersing the group of attackers, or making arrests.

On October 11, Ms. Gomes and her family were granted bail regarding the charge of theft and subsequently received threats of eviction. On October 22, the victim reported that gunfire was heard outside her house, but the police did not investigate. The victim believes this is an extension of a pattern of neglect fuelled by religious intolerance as she and her family are members of a minority religious group.

Story 40: Disappearance of a torture victim after police picked him up

Victims:

1. *Mr. Muzibur Rahman, 40, a businessman, son of Mr. Munsop Sana, of Court Road in the Paikgachha town under the Paikgachha police station in Khulna*

Alleged perpetrators:

1. *Mr. Aminul Islam, Sub Inspector of Police*
2. *Mr. Momin Uddin, Sub Inspector of Police*
3. *Mr. Md. Aslam Hossain, Inspector of Police and Officer-in-Charge (OC)*
4. *Mr. Ramesh, Constable of Police*

All are attached to the Paikgachha police station of the Khulna district

Place of incident: Paikgachha police station in Khulna district

Date of incident: 13 November 2009

AHRC-UAU-032-2009; UP-048-2007

On November 13 2009, Mr. Muzibur Rahman was arrested at his farm without warrant, detained but not made available to family or legal representatives, and then taken away in a police vehicle. The police eventually remarked that they had been ordered to send him to the Office of the Deputy Inspector General of Police. His family believe this was related to his claims of police torture (which he had decided not to pursue in court) stemming from a case several years earlier.

Story 41: Detention and torture of a man whom police laid fabricated charges on four occasions

Victim:

1. *Mr. Golok Chandra Mandal, 32, a businessman by profession, son of late Mr. Govinda Chandra Mandal, of Khaliarchak village under the Paikgachha police station in Khulna district*

Alleged perpetrators:

1. *Mr. Ainuddin Bishwas, Sub Inspector of Police*
2. *Mr. S. M. Badrul Alam, Inspector of Police and Officer-in-Charge (OC)*
3. *Mr. Hashem Ali Khan, Inspector of Police and Officer-in-Charge (OC), recently withdrawn from the Paikgachha police station*

4. *Mr. Delwar Hossain, Sub Inspector of Police, recently transferred to Kustia district*

All were attached to the Paikgachha Police Station at the time of the incidents

5. *Mr. Gawharul Islam, Sub Inspector of Police, attached to the Batiyaghata police station of Khulna district*

6. *Mr. Saiful Islam, Inspector of Police, attached to the Detective Branch of Police of Khulna district*

Perpetrators involved in beating:

1. *Mr. Md. Abdullah Sardar, 32, son of Mr. Omar Ali Sardar*

2. *Mr. Mizanur Rahman, 30, son of late Mr. Zobed Gazi*

3. *Mr. Jagadish Paramanik, 32, son of Mr. Sunil Paramanik*

4. *Mr. Mrityunjay, 30, son of Mr. Bhushan Mandal*

All are living in Sarol village under the Paikgachha police station in Khulna district

5. *Mr. Md. Madhu Sheikh, 36, son of Mr. Habibur Rahman Sheikh, living in Mekelpurakati under the Paikgachha police station in Khulna district*

Date of incident: 11 September, 2009

Place of incident: Police station of Paikgachha

AHRC-UAC-147-2009

Starting in 2008, Mr. Golak Chandra Mandal has had several cases fabricated against him, allegedly at the behest of business and political rivals, in an effort to harass, detain, and defame him.

Mr. Mandal spent 18 days in prison, from September 17 to October 5, 2008, in spite of already being cleared of involvement by police investigation. Another case was fabricated against him shortly thereafter, and bribes were solicited from the family to ensure a favourable report.

On October 26, the police arrested him on suspicion of murder using evidence allegedly obtained after 3 days of torturing the “witnesses” (he was not a suspect named by the official complainant).

On October 27, the police filed for the arrest warrant (in spite of the fact he had already been arrested). He was detained until November 25, when the court granted three days of remand, during which he was tortured while the OC solicited bribes from family to ensure he would not be permanently disabled. He was then returned to jail where he remained until December 27, when he was released and went into hiding.

On January 24, the investigation into a charge filed in October, alleging a crime the victim could not have committed as he was in jail at the time, finally cleared him of wrong doing. Subsequently, he filed a complaint against the police, and the DIG ordered an inquiry. The local police responded by arranging an assault of the victim. The victim filed a complaint on September 2 regarding the assault, and within hours the group returned and beat him with

sticks and machetes before robbing him. The police first refused to file regarding the second assault, but eventually filed an FIR after the victim was required to get a court order on September 8.

On September 11, the police filed an assault FIR naming Mr. Mandal as a suspect. Strangely, the person filing it claimed he was not allowed to read the FIR before signing it, and later signed an affidavit alleging the police had used him to fabricate the charges.

On September 17, the police claimed that their investigation into Mr. Mandal's allegations had cleared their officers of wrong doing. The victim submitted an objection with affidavits from witnesses avowing the police had never contacted them during the investigation.

Story 42: Police prevented a journalist from filing torture allegations against paramilitary soldiers

Victim:

1. *Mr. F. M. Masum, journalist of the New Age, an English speaking national daily newspaper; living in South Jatrabari, Dhaka Metropolitan City*

Alleged perpetrators:

1. *Mr. Anis, Flight Lieutenant of the Bangladesh Air Force, attached to the Rapid Action Battalion-10 at the time of the incident*
2. *Around eight other members of the Rapid Action Battalion-10.*

Date of incident: 22 October 2009

Place of incident: The house of the victim and the office of the RAB-10 at Dhalapur in Dhaka

AHRC-UAC-146-2009

On October 22, the RAB raided the residence of F. M. Masum, beat him with various weapons, tortured him, threatened to kill him, and attempted to frame him as a drug dealer. When they removed him from the premises, they refused to allow him to bring his asthma medication. Calls made to various officials in an attempt to correct the situation were met with dramatically different stories and attitudes, many mutually exclusive, though eventually they agreed to release Mr. Masum.

He was shortly released “in good health” in spite of his need for hospitalisation and significant medical treatment and months of rehabilitation. The first hospital he visited also refused to admit him despite determining his condition as “critical”. It is believed that this was done at the behest of the military.

The following day, the RAB released a statement of “regret” and promised an internal investigation. Over the next two days, attempts were made to register a case with the local police, and the Home Minister assured the victim the case would be registered, but the police had still not registered the case as of October 31.

Story 43: Police pressured the victim of an acid attack to withdraw her case and marry her attacker

Victim:

1. *Ms. Reshma, 18; daughter of Mr. Md. Habibullah Morol; of Horinkhola village under the Koyra police station in Khulna district.*

Alleged perpetrators:

1. *Mr. Md. Abdul Hashem, Sub Inspector of Police; attached to Koyra Police Station in Khulna district at the time of the incident.*
2. *Mr. Kazi Daud Hossain, Inspector of Police and Officer-in-Charge (OC) of Koyra Police Station in Khulna district at the time of the incident.*
3. *Mr. Md. Ayub Mollah, age 20; son of Mr. Eakub Mollah; living in Ghatakhali under Koyra Police Station in Khulna district.*

Date of incident: 7 May 2009

Place of incident: The victim's home, Horinkhola village, Khulna district

AHRC-UAC-144-2009



Reshma

The victim, after refusing a marriage proposal, enduring harassment, and reporting that harassment to the perpetrator's family, was threatened by the perpetrator with an acid attack.

On May 7, 2009, the perpetrator attempted to sexually assault Ms. Reshma, and when she resisted he threw acid onto her face.

When Ms. Reshma attempted to file a case, the police refused and recommended that she settle for financial restitution and marry her attacker as they believe her family was too poor and her perpetrators family too well connected for her claim to succeed. The perpetrator and his political associates then started to harass Reshma, threatening her life, and other witnesses have also allegedly been warned not to testify. The case she filed with in September, at a different police station, allegedly cleared the perpetrator of wrong doing.

Story 44: Police torture a man and file fake charges against him and others

Victims:

1. *Mr. Monirul Islam Morol, 35, son of Mr. Md. Lutfur Morol, living in Dhamrail village under the Paikgachha police station in Khulna district*

Name of the Victim (In Fabricated Case):

1. *Mr. Khairul Islam, 36, son of late Mr. Jasmatullah Fakir, living in Chak Kawali village under the Paikgachha police station in Khulna district*
2. *Mr. Anarul Sana, 38, son of late Mr. Jaha Box Sana, living in Kawali village under the Paikgachha police station in Khulna district*
3. *Mr. Seyed Ali Sardar, 37, son of Mr. Jasim Sardar, living in Nagarghata village under the Patkelghata police station of Satkhira district*



Monirul Islam Morol

4. Ms. Rawshanara, 40, elected Member of Nagarghat Union Council in the reserved seats for the female persons, daughter of Mr. Jasim Sardar, living in Nagarghata village under the Patkelghata police station of Satkhira district
5. Mr. Enayet Gazi, 36, son of Mr. Ibrahim Gazi, living in Patkelghata village under the Patkelghata police station of Satkhira district
6. Mr. Kabir Mollik, 22, son of Mr. Kawsar Mallik, living in Dhulihar village under the Satkhira Sadar police station in Satkhira district
7. Mr. Shafikul Mallik, 40, son of Mr. Kawsar Mallik, living in Dhulihar village under the Satkhira Sadar police station in Satkhira district
8. Mr. Nazrul Islam Sana, 35, son of Mr. Mohiuddin Sana, living in Dhulihar village under the Satkhira Sadar police station in Satkhira district
9. Mr. Razzak Morol, 39, son of Mr. Asmatullah Morol, living in Alomdanga under the Patkelghata police station of Satkhira district
10. Mr. Ismaile Hossain, 30, son of Mr. Nur Mohammad, living in Jhikargachha under the Kolaroa police station in Satkhira district
11. Mr. Abdul Hannan Boddi, age 38, son of Mr. Abdul Kader Boddi, living in Komlapur under the Satkhira Sadar police station in Satkhira district
12. Mr. Kutub Ali, 28, son of Mr. Sayed Ali, living in Hadipur village under the Devhata police station in Satkhira district

Alleged perpetrators:

1. Mr. Delware Hossain, Sub Inspector of Police, attached to the Paikgachha police station in Khulna district at the time of the incident
2. Mr. Badrul Alam, Inspector of Police and Officer-in-Charge (OC) of the Paikgachha police station in Khulna district at the time of the incident
3. Ms. Monzila Begum, age 36, wife of Mr. Afaz Uddin, living in Dhamrail under the Paikgachha police station in Khulna district
4. Ms. Fatema Begum, age 55, wife of Mr. Wahed Ali Gayen, living in Moukhali under the Paikgachha police station in Khulna district
5. Sub Inspector Ziaur Rahman Zia, Sub Inspector of Police, attached to the Patkelghata police station in Satkhira district at the time of the incident

Date of incident: 13 May and 23 - 29 July 2009

Place of incident: Home of Monirul Islam Morol and the Paikgachha police station

AHRC-UAC-138-2009

A number of victims of fraud (one of whom was a council member), in an agreement signed and witnessed by the police sub inspector on 13 May 2009, took custody of one of the men who defrauded them while he was to repay the victims (This agreement of responsibility is known as “Jimmanama” and is outside the legal process).

The criminal's mother, however, filed a case against the victims alleging they had kidnapped her son and led a police raid on the council member's house to rescue him. During the raid, they also beat and arrested the council member's younger brother. Subsequently, various raids on the homes of the fraud victims took place and the police attempted to arrest them. While one victim was able to secure a High Court order against the police on July 3, the others had to resort to bribery to ensure the raids would stop. Nevertheless, the police filed an abduction case against the victims and, when a victim (Mr. Monirul) complained, arrested, detained, and beat him without a warrant.

On 25 July, the police fabricated a case of attempted abduction of the fraud's daughter against a group of the victims. During this time they began beating Mr. Monirul again as a means of soliciting bribes from his family.

Story 45: Police corruption resulted in kidnapping of a girl four times in a month

Victim (Abducted): Ms. Rupa Mandal, 12, daughter of late Mr. Bikash Chandra Mandal

Name of the victim (Police Torture):

1. *Ms. Shukkuli Rani Mandal, 40, wife of late Mr. Bikash Chandra Mandal*
2. *Ms. Krishna Mandal, 14, daughter of late Mr. Bikash Chandra Mandal*

All are living in Saral village under the Ward number 5 of the Paikgachha Municipality in Khulna district.

Alleged perpetrators (Abduction):

1. *Mr. Zohor Ali Morol, 22, working as a Staff of the Jewel Fish Product Ltd. at Paikgachha in Khulna district,*
2. *Mr. Haidar Ali Morol, 35*
3. *Mr. Nur Islam Morol, 26*
4. *Mr. Asadul Islam Morol, 38*

All are sons of Mr. Intaz Ali Morol, of Batikhali village under the Ward number 6 of the Paikgachha Municipality in Khulna district

5. *Mr. Md. Islam Sardar, 50, son of late Mr. Sadan Sardar, of Batikhali village under the Ward number 6 of the Paikgachha Municipality in Khulna district*
6. *Mr. Md. Salim, 42, working as the General Manager of Jewel Fish Product Ltd. At Paikgachha in Khulna district*
7. *Mr. Md. Shahidul Islam, 40, working as a Staff of the Jewel Fish Product Ltd. at Paikgachha in Khulna district, son of Md. Nowsher Ali Sardar, living in Kazla village under the Sadar police station in Satkhira district*
8. *Mr. Abdus Sattar Par, 42, working as a Staff of the Jewel Fish Product Ltd. at Paikgachha in Khulna district, son of late Mr. Nur Ali Par, of Indonagar village under the Sadar police station in Satkhira district*

Alleged Perpetrator (Police Torture):

9. *Mr. Delwar Hossain, Sub Inspector of Police, attached to the Paikgachha police station in Khulna district*

Date of incident: At 11:00 AM on 22 August 2009

Place of incident (Abduction): House of the victims

Place of incident (Police Torture): Paikgachha Bus Terminal and the Office of the Jewel Fish Product Ltd.

AHRC-UAC-119-2009

On July 22, Ms. Mandal was abducted. While she was rescued by police at the behest of her mother, the police refused to file a complaint. On Jul 27, she was abducted again and the police refused to respond, but she was ultimately rescued by members of the local community. On August 19, Ms. Mandal was abducted a third time, this time taken to the home of the perpetrator. The police again refused to file a criminal complaint, but solicited a bribe from the perpetrator as well as a promise that he would direct his interest towards marrying a Muslim girl.

The perpetrator subsequently informed the victim's family that he would marry the victim anyway, and that he would kill anyone who attempted to intervene. The family appealed to the local government who, in turn, ordered the police to provide protection for the victim's family. The police made no effort to follow this order. On August 22, the victim was abducted again while members of her family were beaten. The mother of the victim appealed to the police and was again denied assistance of any kind.

An FIR was filed only after petition to the Special Tribunal for Women and Children Repression Prevention of Khulna. The victim's family was then subjected to threats from employees of the perpetrator's company and the police pressured them to either arbitrate or withdraw the case. On September 10, the SI believed to have assisted the perpetrators was transferred, but the victim had still not been located.

Story 46: Two men arbitrarily detained and tortured by police to elicit bribes

Victims:

1. *Mr. Monirul Islam Monir, son of late Mr. Nawab Ali Gazi*

2. *Mr. Shahidul Islam, son of Mr. Shahar Ali*

Both resident in Takia village, Khulna district, under the jurisdiction of the Paikgachha police station

Names of alleged perpetrators:

1. *Mr. Ayub Ali, Sub Inspector of Police, attached to Paikgachha police station, Khulna district*

2. *Mr. Ali Hashem Khan, Inspector of Police and Officer-in-Charge (OC), Paikgachha police station, Khulna district*

Date of arrest and torture: November 2 to 6, 2008

Place of torture: Paikgachha police custody

AHRC-UAC-049-2009

In September 2007, Mr. Shahidul Islam and Mr. Monirul Islam were accused of burglary by a neighbour. The son of the

neighbour attempted to file a report, but was asked for a bribe by the OIC and SI. Instead of filing the report, the SI was tasked with resolving the case through other means.

On 2 November 2008, the SI summoned Shahidul to the police station and had him held there without cause while other police forced their way into Monirul's home and arrested him.

The two men were held for four days and, when they were unable to pay the requested bribes, they were beaten and tortured. The police then informed the family of the torture and demanded the family pay the bribe (which the family borrowed money to do). The men were subsequently brought to court where they were accused of having been causing a public disturbance near the magistrate the night before (while they were in police custody).

On 12 June 2009, the two victims were summoned to appear the next day at a police station 3 hours away from their home to testify regarding their allegations of police torture. The day of the appointment, an officer went to their home and issued threats in an attempt to get them to show up. The victims declined to appear, though the mother of one of the victims claims she did not pass the summons to them at all. Another notice was sent on June 23, but arrived after the proposed meeting time. A third notice arrived on July 18, with a request that the Shahidul first visit the local police station. Shahidul, fearing that he would be tortured again, opted to pay a motorbike rider to drive him to the meeting and bypass the local police.

At the meeting Shahidul claims the ASP questioned him, asked what motivated him to complain to human rights groups, and asked him to speculate on what might have happened had he not been released or had the police instead charged him with a more serious crime. He believed that this was intended to skew his perspective of the events.

Story 47: Twelve men are detained and tortured by police under fabricated charges

Victims:

1. *Mr. Farid Tarafdar, son of Mr. Esen Ali Tarafdar, a grocer, whose right hand was broken*
2. *Mr. Shahidul Bishwas, son of Mr. Abdul Malek Bishwas and a fish-seller*
3. *Mr. Tarek Mirza, son of Mr. Rafikur Mirza and vegetables-seller*
4. *Mr. Uzzal Bishwas, son of late Mr. Haren Bishwas and a banana-seller, whose right hand was broken*
5. *Mr. Kishore Banarjee, son of Mr. Dilip Banarjee and a worker of a local cable operator*
6. *Mr. Nil Ratan Banarjee, son of Mr. Ganesh Banarjee and a tea stall owner*

7. *Mr. Titon Datta, son of Mr. Arjun Datta and a worker of a local cable operator*
8. *Mr. Alamgir Dewan, son of Mr. Mohammod Ali Dewan and an electrician*
9. *Mr. Md. Bazlur Rahman Gazi, son of Mr. Abul Kashem Gazi and a restaurant worker, who sustained serious damage to his left shoulder*
10. *Mr. Rafikul Islam, son of Mr. Mohammod Ali and a banana seller*
11. *Mr. Ziaur Rahman Zia, son of Mr. Abul Hossain, rickshawpuller, who sustained serious injury to his left heel and cannot walk*
12. *Mr. Swapan, son of Mr. Subol Bishwas and a motor vehicle driver, whose middle back has been seriously injured*

All resident in the municipal area of Manirampur municipal town, Jessore district, under the jurisdiction of the Manirampur police station

Names of alleged perpetrators:

1. *Mr. Lokman Hakim, Officer-in-Charge (OC) of the Manirampur Police Station*
2. *Mr. Abdul Kader Begh, Officer-in-Charge (OC) of the Kotowali Police Station*
3. *Mr. Apurba Hassan, Town Sub Inspector of Police, attached to the Kotowali police station, Jessore district*
4. *Five police officers of the Manirampur and the Kotowali police stations of Jessore district*

Date of arrest and torture: 10 May 2009

Place of torture: Manirampur and the Kotowali police station in Jessore

AHRC-UAC-052-2009

On May 10 2009, following a clash between two factions of the student wing of the ruling political party, the police arrested a group of 13 men who were sitting in a school field late at night. While one of the men was released, the other 12 were held overnight and beaten. The next morning, the police charged them with conspiracy to commit a cognizable offence, bail was granted, and they were released.

The victims then went to a local press club to report their treatment. Four of the victims claim to have been unable to work due to their injuries, and that they cannot afford proper medical treatment.

INTERVIEWS

‘The rulers do not believe in human dignity’



Nurul Kabir
Editor, New Age

(Nurul Kabir had his undergraduate and postgraduate education in English at the University of Dhaka in 1982 and 1983 respectively. In 1983, he also graduated law from the same university. He was a leading activist of the student movement against military rule in the 1980s. He joined journalism as a political correspondent in 1990. He has authored a number of books.)

Article 2: As a senior journalist, four decades after independence, do you think that the promises made at the time of setting up Bangladesh as an independent democratic state, have been met?

Nurul Kabir: Bangladesh engaged in a war of independence with a view to ensuring ‘equality, human dignity and social justice’ for the people of Bangladesh. A record of the country’s ‘proclamation of independence’ was made on 10 April 1971.

After independence was achieved, Bangladesh constitutionally promised to be a ‘people’s republic’. The ‘preamble’ of the constitution of the newly created state pledged that the ‘fundamental aim of the state’ would be: ‘to realize ... a society in

which the rule of law, fundamental human rights and freedom, equality and political, economic and social justice, would be secured for all citizens' and to ensure socio-political conditions in which the citizens would 'prosper in freedom'.

“There is an enormous gap between the aspirations of the Bangladeshi people at large and the political elite.”

In 1971, more than four decades into independence, Bangladesh had grown into an autocratic state. The ruling coteries had all the privileges to practically 'prosper in freedom', with state protection. For the ordinary masses, including the middle class, 'fundamental human rights, freedom, equality and political, economic and social justice' remain elusive.

Article 2: Are there any inconsistencies between the aspirations of the people of Bangladesh and those of the political elite and the bureaucrats?

Nurul Kabir: There is an enormous gap between the aspirations of the Bangladeshi people at large and the political elite and the bureaucrats. The people aspire to a truly representative democracy. A government that is genuinely accountable to the people. An economy that is egalitarian, where all would have equal access to public resources. And, of course, a secular political culture in which religion would not be used for partisan or personal gains. These are the principles and values that were missing in our country during the Pakistani era. The war of liberation war was fought to bring back those things that were taken away.

Our nation's political elite are spread out over two political camps led by the Bangladesh Awami League and the Bangladesh Nationalist Party. They have gradually imposed a political culture which is devoid of democratic practices both within and without the parties. A model of unbridled market economy was introduced which survives by creating disparities in incomes on a continuing basis. This culture permits the political use of religion which contributes to the growth of 'religious communalism'.

State bureaucracy, which is the beneficiary of the undemocratic political, economic and cultural systems, is an obvious instrument of the elite which perpetuates the anti-people systems.

Article 2: To what extent has militarization contributed to making Bangladesh what it is today as opposed to what it would have been without militarization?

Nurul Kabir: The various phases of military rule have definitely contributed to an autocratic society and to a specific form of government in Bangladesh. It was primarily the failure of the political parties that paved the way for military takeovers. Every time a military takeover has taken place, the people have eventually and successfully taken to the streets. They sent the military back to their barracks, thus helping the political parties return to power. In all of this, the political elite have not conducted

themselves properly, generating a sense of frustration among the population.

Therefore, the entire ruling class, including both civil and military elite, is to blame for the precarious state of affairs in Bangladesh at the present time.

Article 2: What are the challenges to realizing freedom of expression and opinion to the fullest in Bangladesh?

Nurul Kabir: Bangladesh suffers from the existence of a political elite class, divided into two feuding political camps, which is inherently undemocratic. The elite in question try to silence the dissenting views of the citizens. It adopts various means, ranging from keeping the intelligentsia divided on political lines to intimidating the dissenting voices by various legal and extra-legal means. Organized resistance of the democratically oriented intelligentsia, backed by public sympathy, is the prime answer to the problem.

Article 2: Is the culture of violence inseparable from the specific form of government in Bangladesh? What should be done to end widespread violence in the country?

Nurul Kabir: Historically, the people of Bangladesh have lived under two repressive regimes, that of the British colonial and Pakistani neo-colonial states. Violence, instead of consent, was the primary means used by those states in governing the people. Democratic struggles by the general populace against British colonialism or Pakistani rule often turned violent. In addition, Bangladesh emerged from a violent war of independence.

After the emergence of Bangladesh, successive governments have used state and organizational violence in varying degrees, to control political dissent. The opposition, on the other hand, have at times, resorted to violence of various kinds to respond to state-sponsored violence. Understandably, the ruling class has not allowed the culture of democratic tolerance to put forth its views, political or otherwise, or to develop in Bangladesh up to the present. As a result, the virus of violence has spread beyond the political arena, affecting social, familial and personal relations.

However, one does not have a reason to believe that violence is inseparable from the Bangladesh polity. There is a growing demand in society to put an end to the culture of physical, verbal and psychological violence.

Article 2: What is your opinion about endemic torture, extrajudicial execution, and the government's often quoted excuses of 'crossfire' and 'gun battle'?

Nurul Kabir: The endemic torture of citizens by the state of alleged criminals or not - means that the rulers do not believe

“Violence, instead of consent, was the primary means used by those states in governing the people.”

“Paramilitary force killed hundreds of political leaders and activists.”

in the dignity of the human person. Extra-judicial execution means the rulers have no respect for the rule of law. Successive governments’ propaganda about ‘crossfire’ ‘encounters’, ‘gun battles’, and the like suggests that they think they can always fool the people.

However, such an oppressive, dictatorial approach by the state towards alleged criminals or others, is entirely unacceptable to a democratic mind-set. Social resistance against this phenomenon is the essential element which could prevent an unruly government from continuing their objectionable practices.

Article 2: What is the difference between ‘enforced disappearances’ and ‘secret killings’ that happened before and during the independence movement and those that are happening at the present time?

Nurul Kabir: During Bangladesh’s war of independence in 1971, the Pakistani army of occupation, with the collaboration of some Islamist political groups opposing liberation, had engineered ‘enforced disappearances’ of many Bangladeshis supporting the cause of independence. The objective of such extrajudicial murders was to weaken the forces engaged in the war of liberation.

Immediately before the defeat of the Pakistani forces, the Jamaat-e-Islami, with one of its front organizations, the Al Badr, had allegedly masterminded the ‘enforced disappearances’ of many left-wing intellectuals. They were later found dead in a ‘killing ground’ on the outskirts of Dhaka. The aim of these gruesome acts was to hinder the growth of a socialistic influence in the post-liberation society of Bangladesh.

In the independent Bangladesh, the Rakhsmi Bahini, a paramilitary force created by the Awami League with party loyalists, was behind ‘enforced disappearances’ and ‘extra-judicial murders’. They killed hundreds of political leaders and activists. The most prominent among them was Siraj Sikder, the chief of the left-wing Sarbahara Party. He put up armed resistance against the pseudo-democratic government of Sheikh Mujibur Rahman. The objective of the Awami-league was to consolidate their rule without opposition from any political quarters – armed or not armed.

During the initial months of the military regime of General Ziaur Rahman, allegations were made. It was said that dozens of military officials, opposing his takeover, were victims of ‘extra-judicial murders’ inside temporary troop quarters – beyond the eyes of the public.

State extra-judicial killings reappeared during Khaleda Zia’s second term in office, with the short-lived ‘operation clean heart’. Under this operation, the army picked up ‘anti-social elements’ and killed them in the dark of night. Most of the victims of this infamous ‘operation’ were young men belonging to Khaleda’s own

party, the Bangladesh Nationalist Party. Their objective was to 'quickly discipline' the hardened criminals by extrajudicial means.

In addition, there were a number of victims of government sponsored extra-judicial murders under the Khaleda regime, who belonged to 'ultra-left' political groups active in the rural areas. These were politically motivated murders to prevent the possible rise of a politically left ideology.

The 'enforced disappearances' and 'extra-judicial murders' reached a climax, after the post-independence Awami League era, under the second and controversial third term in office of Sheikh Hasina. Primarily, the victims were the opposition leaders and activists belonging to the Bangladesh Nationalist Party and the Bangladesh Jamaat-e-Islami. All these operations appear to have as their prime objective, the weakening of their political opponents.

A good number of politically innocent people, including children, have also been the victims of the above operations. The cause is reportedly the steadily growing financial corruption in the 'forces' responsible for carrying out 'enforced disappearances' and 'secret killings'. Due to bribes, they target persons with no political connections.

Article 2: How far are the criminal justice institutions and the Supreme Court of Bangladesh independent and capable of preventing gross human rights abuses?

Nurul Kabir: The institutions responsible for delivering criminal justice in Bangladesh suffer from many limitations. The prime limitation is partisan interference by the Executive, particularly at the lower level of the judiciary. Two other serious impediments, also at the lower level, are the financial corruption in the police and the lack of administrative justice. These three impediments contribute towards the prevention of human rights abuses.

As for the higher judiciary, allegation has it that some benches are being influenced by partisan interests and/or fear of government intimidation. Although difficult to prove such allegations, one is free to infer such a conclusion. An example would be, when a politician is refused bail for an alleged crime under one political regime and the same politician accused of the same crime under another regime is granted bail.

Article 2: To what extent has the judiciary contributed towards limiting its own freedom and independence?

Nurul Kabir: The main obstacles for the judiciary to act with complete freedom, arises out of partisan interests and intimidation by successive governments.

The leadership of the judiciary has taken stands beyond limiting freedom and independence. Other institutions, too, ranging from

“The institutions responsible for delivering criminal justice in Bangladesh suffer from many limitations.”

“Many people in the mainstream of ‘civil society’ lack understanding. This lack of insight concerns the importance of non-partisan intellectual activism.”

public universities, to election commissions, to public service commissions, to the media, have taken additional stands on issues. . Historically, these institutions have on more than one occasion supported, willingly or unwillingly, extra-constitutional political and military regimes. This is an institutional moral weakness, which is very difficult for successive leaders to reject.

The bar is a very important component for the bench to deliver justice. However, it is politically divided along partisan lines. They rarely forget their partisan interests while conducting cases of rights abuses. Yet, there are exceptional people in both the bench and the bar, who have stood their ground against any possible governmental intimidation.

Article 2: Do you think that the criminal justice institutions in Bangladesh have become puppets under various political parties and the military?

Nurul Kabir: Despite its limitations, it would be too simplistic, or even an injustice, to say that the criminal justice institutions in Bangladesh have been acting as puppets under various regimes. Some people have gotten relief from government intimidations, thanks to quick judicial action by the country’s highest court. However, the poorer sections of the population cannot afford such benefits from the higher judiciary, for which the judges can hardly be blamed.

Article 2: What divides the mainstream of civil society in Bangladesh along political lines and how far has it affected their independence?

Nurul Kabir: In the first place, many people in the mainstream of ‘civil society’ lack understanding. This lack of insight concerns the importance of non-partisan intellectual activism for the democratic transformation of the state and society. Secondly, the partisan reading of national history has polarized the intelligentsia into two feuding political camps led by the Bangladesh Awami League and the Bangladesh Nationalist Party. In addition, vested interests play a role in recruiting members in the civil society to join particular camps along the political divide. This division has severely affected, and continues to affect, the strength of our ‘civil society’, the non-partisan pro-active role which is crucial for democratic growth of the state.

Article 2: Is the global paranoia about growing Islamic militancy in Bangladesh real?

Nurul Kabir: Islamist parties and groups have gained strength in Bangladesh over the last decade or so. However, this has nothing to do with the growth of ‘Islamic militancy’ as propagated by certain anti-Bangladesh quarters at home and abroad.

There are four reasons for the gradual Islamization of Bangladeshi society. This includes failure of mainstream political parties to effectively address the problems of the poor, the Christianized West's prolonged support for Israel and against Palestine's right to statehood, imposition of the so-called War on Terror in Iraq and Afghanistan and India's hostile attitude towards Bangladesh.

Moreover, there is the Awami League's cynical attitude towards even pious Muslims and their repressive measures against Islamist forces which have contributed to the further Islamization of society.

Article 2: Are there non-Bangladeshi interests that are involved in promoting this idea?

Nurul Kabir: Obviously. Certain Indian groups, from the West Bengal state of India, have been digitally propagandizing Bangladesh for years. Besides, an Indian intelligence agency, and a section of India's South Bloc officials, continuously project Bangladesh as a land of Islamic militancy. The objective of such efforts is aimed at securing Western support for India so it can control Bangladesh. In this way their aspirations in establishing dominance over Bangladesh can be met.

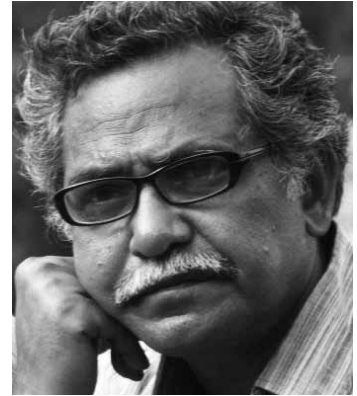
Article 2: To improve the situation of the rule of law in Bangladesh what suggestions do you have, and how may leaders motivate ordinary people to participate in actual nation-building?

Nurul Kabir: In any country, it is the people who are the prime victims when there is no rule of law. So, the politically conscious and democratically oriented sections, of the population, need to put up an organized resistance to an undemocratic regime which lords itself over national institutions. They need to realize that anyone can be the victim of lawlessness at any time.

The leaders, themselves, must first visibly engage in nation-building activities, before they can engage the entire populace in nation building. Genuine leaders are those who lead by example.

“The politically conscious and democratically oriented need to realize that anyone can be the victim of lawlessness at any time.”

‘Weak electoral process perpetuates conflict’



Professor Anu Muhammad
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(Prof. Anu Muhammad is a professor of Economics at Jahangirnagar University. He is a known economist and political activist. He has been leading a movement in his capacity as Member Secretary of the ‘National Committee to Protect Oil Gas, Mineral Resources, Port and Power’. He has authored a number of books.)

Article 2: Have promises, made at the time of constituting Bangladesh an independent democratic state, been met?

Professor Anu Muhammad: The process of establishing democracy in Bangladesh has been hindered in many ways. A regime in office immediately after independence imposed a one-party rule, instead of establishing a democratic institution. Initially, they indirectly set up the one-party rule that was later transformed to a direct one-party ruling system. Subsequently, the state of emergency and military rule was put in place, using the same process. Bangladesh was under military rule for almost 15 years. As a matter of fact, Bangladesh re-entered into the same form of repressive, autocratic rule which the people previously fought against to achieve independence. However, a remnant of

beneficiaries remained who wished to continue this same type of government. And in terms of wealth and power, an autocratic system only benefits a small segment of the population.

More than twenty years have passed since the emergence of our elected governmental system in 1991. During this period, the government should have established institutions in compliance with democratic norms. They have not lived up to expectations. For example, political parties, being autocratic, focus on one individual who can exert undue influence on their party. In running the state, political parties follow methods they are familiar with. As a result, the Parliament never becomes a functional platform. Following elections in Bangladesh, there are merely ‘representatives’ in the Parliament. When the state has adopted certain principles and bilateral and multi-national agreements, they are rarely discussed beforehand in Parliament. Important decisions are taken outside the Parliament. Vested-interests, both local and foreign, are often behind such decisions.

“ There has been no viable institutional structure developed within the electoral system.”

Next, we need to realize that there has been no viable institutional structure developed within the electoral system. The Election Commission functions as a puppet of the regime which means it does not work independently. This weakness of the electoral process keeps conflicts on-going. As a result, the concept of a ‘caretaker government’ arose. When the caretaker government became partisan to the political government, this new concept also lost confidence and acceptance. Now, it is only the ruling party’s all-pervasive influence that persists. The January 5, 2014 election was held under such conditions.

Besides, a judicial system, that is supposed to be guiding the nation free from executive influence, is not in place. On paper, the judiciary is independent. But, in fact, it is still an institution under the direct influence of the ruling party. The situation of the judiciary has deteriorated further. It has lost its independence and its distinct identity – whatever was left of it– in the last few years. Governmental decisions have fully influenced the lowest judiciary with the higher judiciary also subject to pressure.

Article 2: What is the actual status of ‘separation of power’ and ‘independence of the judiciary’ as two of the three basic pillars of the state of Bangladesh?

Professor Anu Muhammad: The status of the judiciary’s independence in Bangladesh is deplorable. Its distinct character, as an independent branch separated from the Executive, does not exist. On paper only, the lower judiciary is separated. In the way the lower judiciary operates and adjudicates, clearly demonstrates that every decision is fully influenced by the government. It can also be said that many decisions of the higher judiciary are also influenced in various ways by the government. Taking this reality into consideration, and considering how it should be functioning

as a democratic institution, the judiciary of Bangladesh is not acting as a support and a last resort for its people.

“The political elite are in cooperation with the bureaucrats. Their main purpose is to increase their personal wealth.”

Article 2: Are there any inconsistencies between the aspirations of the ordinary people of Bangladesh, the political elite and the bureaucrats?

Professor Anu Muhammad: There is a consistency between the bureaucrats in administration and the politicians or the politically elite. These two groups are most powerful. They cooperate with each other to further their on-going, unlawful and lawless activities. Illegally appropriating general and public property, including forests, rivers, canals or wetlands, is their main endeavor. It does not matter whether the properties are public or private. By using forged documents, black laws, and arbitrary administrative decisions, individuals, having allegiance with powerful ruling politicians, take possession of this wealth. Ordinary people's money, foreign grants - everything is the target of their corruption. These appropriations are made on behalf of ministers and the elite segment of the political parties, because such things cannot be done without the active participation and support from the bureaucrats. Thus, the political elite are in cooperation with the bureaucrats. By reciprocating, these groups including political leaders, bureaucrats, some 'consultants', foreign groups, have created a syndicate to keep the cycle going. All have contributed to building this syndicate. Their main purpose is to increase their personal wealth as quickly as possible. And, in order to acquire this individual wealth unhindered and to accumulate more private wealth, they take shelter under various forms of violence. They even use agencies and forces of the state for their malicious purposes.

Article 2: To what extent has militarization contributed to making Bangladesh what it is today?

Professor Anu Muhammad: Militarization is taking place in two ways. First was the establishing of the military forces of Bangladesh and the expansion of their authority. Second was the creation of various armed forces under the control of private parties. The armed forces, or the law-enforcement agencies, are being expanded and used for the interests of those in power. There are additional private forces with arms under the control and patronization of power groups acting in their own interests; these forces can be termed terrorists. These terrorist groups are the most active groups in Bangladesh, today. They are not independent. Rather, they work as an associate force of different power groups. Their main job is to keep spreading violence in various forms. These forces, whose very existence, are a threat and stand in the way of the path of democracy. For instance, whenever people protest against an unlawful or unfair action and demand peace, these terrorists intervene, obstructing normal people's lives. Examples are trade unions in garment factories, and academic

institutions, sites of land-grabbing. The powerful groups protect these terrorists, both of whom are protecting their own interests.

Article 2: What are the challenges in realizing the independence of the judiciary to its fullest in Bangladesh?

Professor Anu Muhammad: The criminal justice system is not functioning independently, for two reasons. First, there are direct influences from those who exercise powerful means of control. If those who work in the judiciary ignore the wishes of these powerful agents they may be harmed. There can be various consequences for judges who remain in fear of these consequences. In order to avoid possible retaliation, they do many things that are questionable. Second, the judicial system is influenced not only by power but by money. Due to massive corruption, the possibility of monetary benefit is there, which happens in a direct manner. Huge money transactions take place which influence the judicial operating system. Therefore, those who are related to the judiciary are unable to play their true roles.

“ Huge money transactions take place which influence the judicial operating system.”

Article 2: What is your opinion about Government excuses of ‘crossfire’ and ‘gun battle’, endemic custodial torture and extrajudicial execution?

Professor Anu Muhammad: The state is itself directly involved in these four areas. Incidents that are termed as ‘crossfire’, ‘encounter’, ‘gun-battle’ –are all made up stories. These are state-sponsored killings by forces of the state. Law-enforcement agencies such as the Police and the Rapid Action Battalion (RAB) openly threaten people about ‘crossfire’. Several categories stand out in murders of this kind.

First, whenever any person becomes politically challenging to a particular regime, state agents are used to eliminate these challenging figures with extreme persuasion. Second, if any protestors attempt to prevent pro-government criminal gangs, in alliance with powerful people, to appropriate lands, rivers, forests, another’s property then the protestors are eliminated. Third, if any member of a criminal gang leaves the group, or if any member engages in any internal conflict within the gang, the weaker ones are eliminated in the same way.

Fourth, fear is created in society in general so that a certain silent consent results out of this fear. It is done in such a way that no protests or challenges surface, which means the democratic process does not function at all. The intention is to silence any dissenting voice. If anyone speaks out they will possibly disappear or be murdered.

I have heard the experiences of the people in Rampal, in Bagerhat district [*adjacent to the Sundarban mangrove area where the government has given permission and land to an Indian*

“The JRB used to deny their killings. Now, we see agencies describe the stories of their killings.”

company to establish a power plant despite a serious threat to the environment, wild life, and human livelihood]. The people protested against the decision of establishing a power plant. The RAB, police and other agencies of the state went to the people and said, “If you protest and talk too much against this governmental decision, we will put you in ‘crossfire’. It means that whenever the people talk about their rights, the threat of ‘crossfire’ is used to frighten them into submission.

All incidents of abduction and disappearance are being carried out in the name of state agents. Private gangs, even commit these crimes in the name of state agents like the police and the RAB -who themselves are committing *these crimes*. Most importantly, whoever commits such crimes, state agents are responsible. As long as these incidents remain unanswered and unaddressed, it stands to reason that the offenders are linked to influential groups of the state. It has created a severe and distressing atmosphere in Bangladesh.

Article 2: What is the difference between disappearances and ‘secret killings’ that took place before and during the independence movement and those which occur today?

Professor Anu Muhammad: It is very frustrating that people still have to fight for a democratic process, independent dignity and the liberation war spirit. Immediately after independence, disappearance became a massive problem under the aegis of the Jatiya Rakkhi Bahini [*Jatiya Rakkhi Bahini or National Defence Force, a paramilitary force, created in February 1972, is accused of large scale disappearances and extrajudicial executions amounting to around 30,000 in three and a half years*].

The difference between the incidents that happen now and those which took place in earlier days is openness. The National Defence Force aka Jatiya Rakkhi Bahini (JRB) used to kill people secretly, while now the agencies declare the killings publicly, by making up fake stories. The JRB used to deny their killings. Now, we see agencies describe the stories of their killings. The people whom they kill are publicly stigmatized by tagging them as murderers, terrorists and the like. These killings are presented in a way that the so-called terrorism is seen as under control by them. These forces widely publicize the stories of their killings in society. Throughout the process they humiliate everything-the democratic process, the judicial system and the laws of the land. Undermined are the thoughts and consciences of people. It means that those valuable concepts of acceptability and necessity are neutered! The criminal justice system and the judiciary is first made ineffective, and then shown forth as ineffective. State institutions can then further the killing of people with the justification that terrorism is being controlled.

Article 2: How independent and capable are the criminal justice institutions and the Supreme Court of Bangladesh in preventing gross human rights abuses?

Professor Anu Muhammad: I don't see any notable role for them. According to criminal law, a process is followed in investigating a case, and subsequently a charge is brought against the defendants. The role of the public institutions is the key. The police have a certain role in the process, but in fact, they are influenced by power and money. As a result, there is no space for protecting the rights of the people.

It is very difficult, expensive and not possible for everyone to approach the Supreme Court. Apart from this, there are many cases where the Supreme Court gives certain directives to the Government, which are not implemented. Both the Legislature of the state and the Office of the Attorney General, act in such a manner that the Court's order is never executed if the offenders have any allegiance with, or belong to the government. When a Court order is issued in favor of an individual, who stands against the interests of the government or its institutions, these officials keep the matter hanging, unexecuted. Lingering and not following an official court order amounts to a violation of the Supreme Court's order and makes it ineffective.

There is impunity which acts like license. In another words, the meaning of impunity offers a license to kill. It literally encourages the law-enforcement agencies to go forward, in effect following this message, "You go ahead with whatever you wish to do and undo. There will not be any consequences for your actions at all!"

For the above stated reasons, the Joint Drive Indemnity Act, 2003, was passed in parliament. Subsequently, relying on the indemnity laws, the police and the RAB engaged in similar actions described above. Their crimes have crossed the line. They have been using the privilege of impunity in settling individual conflicts for personal gains and killing people for their personal benefit while branding them as terrorists. These kinds of behavior have become endemic. The situation is such that no person in Bangladesh can claim that they feel safe. Any person, man or woman, belonging to any profession or class, can be murdered or made to disappear. This is the situation that has been created in this country at the present time.

If there is any minimal form of democracy in a country, impunity cannot co-exist with it! Everyone should be accountable for their actions and should face trial if need be, regardless the person, the crime committed or their socio-economic status.

Article 2: To what extent has the judiciary contributed to limiting its own freedom and independence?

“There is impunity which acts like license. The meaning of impunity offers a license to kill.”

“The judiciary survives as a hostage to the powerful, the government, regional influential leaders.”

Professor Anu Muhammad: We don't see any effective role at present for the judiciary. The reason being, that the administration, judicial system and all other institutions are highly politicized. This is characteristic of Bangladesh. The level of politicization is such that the judiciary is not in a position to maintain fairness. Voices of those who want to be part of an independent judiciary are not heard, as a result of politicization.

Within the judiciary, supporters of the Bangladesh Awami League (BAL) always endorse the actions of their party regardless of the problem. Protests, from the BNP, only surface when a matter fits into its partisan interests. They have not taken a stand for making the judiciary an independent institution nor have they presented their position on this issue. They have no program for such. We have observed how the BNP, during their time in power, maintained control over the judiciary. The beneficiaries of a politicized judiciary work to prevent the making of an independent judiciary. They wish to keep the judiciary in their own grip.

As a result of politicization, independent voices are not heard. And, all those who want to fight for change to ensure independence have been hemmed in. Therefore, the judiciary survives as a hostage to the powerful, the government, regional influential leaders or a few people from the opposition. Often negotiation and exchange of money takes place among these powerful groups.

Article 2: So, you think the criminal justice institutions in Bangladesh are mere puppets under the military and various political parties?

Professor Anu Muhammad: Yes, as I have already explained. The criminal justice institution does not have an independent position. In fact, it does not operate by any laws. It is operated by influences which come from the government, through money, from the existing layers of power in the country. The influence of the military will depend on how much the military is allowed to be involved in any institution or with the public. For example, there are people from the military in the RAB, which is a force that does not have any restrictions and is beyond any form of accountability. The RAB itself plays the roles of the criminals. If they act as a private force for those who are known criminals in different parts of the country, then it is very difficult to bring the RAB within the purview of the law, so it remains above the law. Many RAB personnel come from the military. Even though they commit crimes they still have scope for further influence.

For example, they are capable of physically threatening anyone. So, they can be hazards to the security of lawyers and judges who are working in the criminal justice system. No agency should be above the law. No agency in place should have a license to kill persons extrajudicially. No agency should exist, whose formation, training, operation, and structure remain out view of the public.

Article 2: What divides the mainstream civil society in Bangladesh along political lines and how far has it affected their independence?

Professor Anu Muhammad: There are two main political flows/currents in the politics of Bangladesh. They are the Awami League and the BNP. Both have associated parties. Certain populations of society are associated with these two political flows. These two parties have been in office by turns. Various allegations of misdeeds have been leveled against each one of them. The Awami League supporters defend their party by blaming the BNP for the latter's misdeeds. The pro-BNP people do the same thing to defend their party. They publicize the wrong-doings of their rivals so as to rationalize their own bad deeds.

Another group, who rejects these two parties, and who wants to stand up and help achieve the rights of the people, is not yet strong enough to do so. We hear few voices of protest among the populace. As yet, they have not been able to create a strong force in society.

In the process certain things happen, such as financial transactions in the form of consultancy. A group of intellectuals get involved in consultancy, corporate funding, advertisements or commissions from various foreign groups. Due to these factors many from the educated class, who are supposed to speak out, do not and do not tell the truth. Altogether, they constitute a large group of people who not perform their required duties in government because of greed for financial rewards. One segment desires governmental power. Another segment desires appropriate rewards from the opposition for giving them support. Yet another segment never clarifies their position. Now, on the other hand, the role of the media is influenced and curtailed by advertisements. The media keep silence once an injustice occurs involving those who have money to advertise, such as real estate companies, mobile phone companies and the like. These advertisers' crimes and corruption do not become news items due to media silence. The power of advertising, un-earned commissions, illegal financial transactions and various forms of corruption, is so encompassing that a significant portion of society does not fulfill their duties and responsibilities in actual fact.

Article 2: Are the human rights organizations of Bangladesh playing their roles, at least?

Professor Anu Muhammad: I don't believe that the human rights organizations of Bangladesh are vocal enough. The situation of human rights in Bangladesh, at present, is very bad. It deteriorates, day by day. In this context, I do not see any activity by the human rights organizations. Their works are limited to releasing one or two reports, once in a while. The areas of concern of the rights organizations might have narrowed down

“Another segment desires appropriate rewards from the opposition for giving them support. Yet another segment never clarifies their position.”

“They use ‘Islamic militancy’ to further their own agendas, focusing on a targeted area while saying, “There are Islamic terrorists!”

to what they are doing now. Perhaps, they are not finding suitable issues to take up. There might be fear-factors which panic them. Another aspect is their funding. Many issues depend on the types of funding on which they operate, and the sources of these funds. We rarely see the human rights organizations consistently playing their role from the perspective of principles. In an overview, they are still very weak.

Article 2: Is the global paranoia about growing Islamic militancy in Bangladesh true?

Professor Anu Muhammad: I don’t believe it is. It’s totally manufactured. What is the meaning of a ‘Muslim militant’, anyway? We don’t see any significant number of Islamists among the terrorist groups who operate and spread violence in our country. However, we do observe an international trend in believing this paranoia. The episode of ‘war on terror’ started by the USA in 2001, shows that the ‘war on terror’ itself terrorizes many human beings, many societies and the world. We observed that the United States uses the excuse of ‘Muslim terrorists’ to dissect and destroy many parts of the world by leading retaliations. The emergence of ‘Muslim militants’, in the previous secular countries of Iraq, Syria, Libya, and other places is due to actions of the United States. On one hand, the United States is blaming ‘Islamic militancy’ for terrorist attacks, but the growth and emergence of militancy is taking place due to their actions. By spreading propaganda against Islam and Muslims, they have caused outrageous feelings to surface against the West, among the Muslims of the world.

I see three types of militancy in the world, Bangladesh included. First, groups who operate, using violence and terrorism, to sustain themselves in politics. Second, powerful groups, using ‘militancy’ as an excuse, who engage intelligence agencies and international intelligence agents to conduct various types of operations. Their purpose is to make draconian laws to repress people arbitrarily. Third, various political, regional or international powers such as India and the United States, who want to satisfy their military interests. They use ‘Islamic militancy’ to further their own agendas, focusing on a targeted area while saying, “There are Islamic terrorists!”

What we need to understand is that the ‘terrorists’ are those who originate ‘terrorizing’. What the United States is spreading around the globe is nothing but terrorism. India, too, is using violence but against many communities of its own population; that is terrorism. The way they define ‘terror’ implies that the crimes they commit are not ‘terrorism’, but protesting their actions are ‘terrorism’! Thus, the reality indicates that there is more fiction than fact in the discussions on ‘terrorism’. Are those who use ‘terrorism’ as an excuse, really serious about addressing the issues concerning terrorism? Rather, it appears that their actions are pushing the problems in a different direction.

Article 2: Are there non-Bangladeshi interests that are involved in promoting this image?

Professor Anu Muhammad: The most interested parties in exploiting 'Islamic militancy' in Bangladesh are the United States and India. This issue is very useful for the US and India to effect a certain strategic influence. They have certain agendas, based on Bangladesh, and other countries in the Middle East like Saudi Arabia. They try to create a certain foundation of power. We need to remember that Saudi Arabia is a key ally of the United States. So, there is no need to see the roles of the US and Saudi Arabia as different. The Saudis support various Islamist groups which become excuses for the US for bringing out and using various draconian laws. As a matter of fact, there is no doubt that both of them maintain a relationship to promote 'Islamic militancy'.

Article 2: To what extent are freedom of association and freedom of expression and opinion guaranteed for the opposition and dissident voices in Bangladesh?

Professor Anu Muhammad: Constitutionally these rights are recognized. Even the government said it is so. But, in reality, we see an opposing picture. Here are five such examples: teachers protesting and demanding adequate pay; protests against secretly leasing coal mines and oil fields; protests against undisclosed agreements with a US company; protests against coal-based power plants; protests by workers to increase their wages. In all these cases, the police attacked the protestors so violently, that their actions established the reality that rights – the freedom of association and the freedom of expression do not exist in this country. The government may claim that they allow people to protest. However, attitudes and official behavior by law enforcement officers indicate that the government actually wants to snatch away all rights. Nevertheless, Bangladeshis' still attempt to protest due to their history of fighting a war of liberation and continue to fight in the post-liberation war years. We still see certain reflections of this.

Article 2: Is the culture of violence inseparable from polity, the specific form of government in Bangladesh?

Professor Anu Muhammad: Exactly true! At this moment, it is very difficult to differentiate who are law-enforcement agencies and who are private terrorist groups. If we look at incidents of abduction and disappearances for one month, we find that they are carried out by law-enforcement agencies. Despite who commits these crimes, law-enforcement agencies play a role in them which shows that they have done it on behalf of private terrorist groups. In cases where private terrorists carry out abductions and disappearances for their own internal criminal matters, it is found that these offenders are related to the law-enforcement agencies. Take the example of Shamim Osman, the main terrorist of Narayanganj. He has been responsible for incidents like child

“ It is very difficult to differentiate who are law-enforcement agencies and who are private terrorist groups. ”

“When there is a regime change, the next party takes the process of looting to a higher stage from their predecessors.”

assassinations, abductions and disappearances that go on unabatedly. Last year's picture is even worse. Despite committing an endless number of crimes, he is still at large, because the law-enforcement agents do not take any action against him. In some cases, the law-enforcement agencies themselves are directly involved in the crimes. Those [seven men] who were abducted and disappeared yesterday [27 April 2014] worked for Shamim Osman. Because they left his group, they were abducted in the name of law-enforcement agencies. This shows that the law-enforcement agencies are being used to protect the interests of terrorist groups or other vested groups. This is the dangerous situation, which now prevails in Bangladesh.

Article 2: Are political parties contributing to the process of establishing the rule of law in Bangladesh, as they promised?

Professor Anu Muhammad: The political parties in Bangladesh do not contribute to the process of establishing the rule of law. Their role is the exact opposite. When a political party assumes governmental power, their immediate target is to accumulate as much money as they can as quickly as they can. Their next target is to send the acquired money abroad as fast as possible. If the rule of law existed in Bangladesh, they would not be able to do this so easily and so quickly. As a result, they concentrate on illegally appropriating assets thus multiplying the resources within their disposal. When there is a regime change, the next party takes the process of looting to a higher stage from their predecessors. In the course of such consecutive plundering, regimes destroy all institutions and administration systems. As days pass by, the gravity and number of bad deeds mount higher and higher. If the previous regime takes some 10 items, for example, the following party picks up 20 or more, while in the next phase, another takes away 50. Thus, the rate of appropriating public wealth is racing on faster than ever. Subsequently, the level of violence and terrorist actions escalates, hand in hand with the rate of looting the public wealth. Most significantly though, insecurities in the ordinary person's life are on the rise, due to these conditions.

Article 2: To improve the situation of the rule of law in Bangladesh, what suggestions do you have, and how could leaders motivate ordinary people to participate in actual nation building?

Professor Anu Muhammad: All the people have been suffering from the absence of the rule of law. This includes the people at large, who support political parties like the Awami League and the BNP, plus the ordinary voter. Everybody is suffering. The small minority in power are the only beneficiaries of no rule of law. However, on the part of the people, there is a need to be realistic about their situation. They should reject their condition. They should reject the politics of power. They should banish the 'godfathers' from the political arena. They should work to take hold of their rightful power to reject these evil forces and conditions. I don't see any other alternative.

Article 2: Are there any other comments that you wish to add?

Professor Anu Muhammad: I believe that in Bangladesh, those who plunder the people's assets get to fulfill their dreams. But, they always want more. They want to hold on to power and do so through the use of violence. But, they are not immune to adverse psychological effects. They have fear within themselves. They are afraid of the people. To control this fear, they have to use and spread violence. On the other side, I see the possibilities that lie in the power and strength of the people. If that power and strength can be well-organized, the evil forces won't be able to continue to exist – regardless of their power in spreading violence. The powerful people won't be so powerful at all when the people stand together to resist them. There are numerous instances in some places in Bangladesh, where the vested violence-mongers attempted doing objectionable things, but were defeated by the people. At the end of the day, a people united together can defeat

“A people united together can defeat the evil forces.”

“The government survives as hostages in the hands of law enforcement agencies”



Saiful Huq
politician and social activist

(Saiful Huq studied Economics at the University of Dhaka. He became involved in student politics in 1967. He was among the first of few politicians who opposed the military takeover by Gen. Ershad in 1982. He is currently serving as the General Secretary of the Revolutionary Workers Party of Bangladesh from 2004.)

Article 2: Where does democratization in Bangladesh stand today?

Saiful Huq: The goal of our Liberation War in 1971 was to build a secular, humane state - free from discrimination and exploitation. When the constitution was written in 1972, provisions for the rights of human beings were cited. But, for the last 43 years, the people of Bangladesh have been repeatedly deceived by the governments. At present, what is going on in Bangladesh in the name of democracy is totally undemocratic. It is communal towards smaller ethnicities, a unilateral authoritarian, power-greedy system of governance. By commissioning the Fifteenth Amendment of the Constitution, the present government has put the last nail in the coffin of the democratic system in our country. Now, any constructive criticism of the government is considered seditious. This can be termed as the legitimatization

of fascism. So, what the incumbent government is doing in the name of democracy, is nothing but state-fascism. It can also be called constitutional absolutism.

Article 2: Is there any difference between on-going politics and the aspirations of the people?

Saiful Huq: The government has extremely limited the people's right to vote in the January 5th election. Winning 153 parliamentary seats, uncontested, is unprecedented in the history of the world. After the 'election' the government claimed that the turnout was 40%. In fact, the reality is that the government does not get its mandate from 90% to 95% of the people of Bangladesh, but from a small minority. Despite this fact, the government claims to be 'democratic'.

In the last election, the people either boycotted the vote or defied the election. A government of any form requires a minimum legitimacy, which comes from the support of the people. However, in general, this government does not have any support from the people. Not only this, but the government stands on a pyramid of lies, which has been proven in print. One of the truths of today is that, in fact, there is no opposition [*to the government in parliament*].

Article 2: To what extent has militarization contributed to making Bangladesh what it is today?

Saiful Huq: Militarization and democracy cannot exist together. Militarization was started in our country during the time of Ziaur Rahman. It was institutionalized by Ershad. In 1990, a people's uprising ousted Ershad, who was a military dictator. But, it cannot be claimed that we succeeded in ousting militarization completely.

Since the post-Ershad era, every regime has continued militarization internally, but in a less visible manner. An example would be the posting of military officers in important civilian offices and termed as 'deputation' or 'contractual' appointments. Practically, the truth is that none of the past regimes were free from the olive color skins [sic].

About six months before General Ershad's coup, we observed that a certain notion was circulating throughout the general public via the media. Basically, it was that military rule is essential for sustainable development in a third world country like Bangladesh. A group of theoreticians endorsed this notion at the time. Even today, we see love of military rule among people of different walks of life in Bangladesh. The concept of military bourgeois rule is dangerous for a democracy.

We know that the military budget is allocated from our tax money. However, this budget is never made public. In addition, I assume that the total monies spent on military purchases and

“Militarization and democracy cannot exist together.”

“The public has never been informed as to who the perpetrators were that had been punished for their criminal actions.”

a detailed list of the items purchased, has never been available to any of the Parliamentary Committees. But, yes, it is also true that certain military-related information is sensitive and cannot be made public. But, proportionately it is a small part. No one in our government has attempted to be transparent about military information. One of the reasons for doing so is to be able to continue the flattery of the military- done well by all the regimes.

Often, military forces have been used to implement the political agenda of the people. Whenever a regime realized that they had become isolated from the people, they kept the military on alert and certain elite forces were used for repressing the people. Members of the military forces have been brought together to constitute an elite force like the Rapid Action Battalion (RAB). The bad deeds of this force ensured that the entire military force is still criticized and stigmatized for such actions. Constitutionally, the military is supposed to be used for protecting the interests of the country. They have no right to go against the people. The abuse of the army as a political weapon has created questions about the role of the military itself within the force. Soldiers and officers in the military have understood this reality, and I believe, do not want to be in such a situation, yet, they do nothing

Article 2: Has violence in politics and the use of excessive force by state agencies against political groups become inseparable?

Saiful Huq: At present, the people do not believe any version of government communications, regardless of the format used, be it ‘press note’, ‘statement’, ‘announcement’, ‘notice’ or ‘speech’. This situation arose because the government either lies to the people, or hides the truth from the public. A civilized state cannot develop in such an environment.

We have heard that government agencies investigate incidents of extrajudicial murders and take necessary action against the perpetrators-or so the government claims. But, such information has never been made public. The public has never been informed as to who the perpetrators were that had been punished for their criminal actions. Also not known are the content of the so-called internal inquiries; were all the stories as true as the agencies claimed? It is often heard that the so-called criminals are taken out by law-enforcement agencies for ‘operation’. These are ambushed ‘criminals’, whose intention is to rescue their detained partner and attack the state agents. In self-defence, the police or RAB open fire, killing the ‘criminals’. In Bangla language, there is a term called ‘Asharey Golpo’, which means a bogus story told in the month of Ashar. Now, we are told the same ‘Asharey Golpo’ throughout the whole year.

I have not seen any fundamental difference between the incumbent Bangladesh Awami League (BAL) led regime and the regime led by the Bangladesh Nationalist Party (BNP), or others, in terms of extrajudicial killings. The number of extrajudicial killings

was less during the regime led by Fakhruddin and Mainuddin; however, it increased in 2009.

Recently, the BNP has been speaking out against on-going secret killings, disappearances, and ‘crossfire’ killings, because, their party leaders and activists have been victims of these incidents. Previously, they did not speak out on these very same issues.

“Our freedom of expression exists only on paper.”

Article 2: How much freedom of association, freedom of movement, and freedom to hold public rallies and meetings is granted to opposition activists and dissidents?

Saiful Huq: Our freedom of expression exists only on paper. One example of this is the Information and Communications Technology Act. On the other side of the coin, there is the surveillance of people being conducted in this country that is incompatible with democratic structures and norms. There is no reason to accept this as a ‘positive’ trend. The government is denying the people’s right to hold rallies and meetings, using the excuse of ‘public safety’. Opposition parties are limited in what business they are allowed to conduct. They may not do anything that will harm the regime continuing in office. Even peaceful and logical criticism from the opposition is not tolerated. Our citizens are hemmed in and suffocated by this form of autocracy.

Article 2: Do political parties keep their pledges to establish the rule of law once they assume office?

Saiful Huq: Bangladesh’s political parties make many public pledges prior to elections; they talk about the rule of law. After winning the election and once they assume office, they forget all about their pledges.

There are many reasons for this behavior. But first and foremost is the reality that they do not care about the people. Their interest lies in continuing in office, not in making progress or developing the country. Assuming office means rampant looting of public wealth. In simple terms, those in power are the kings and queens, and those not in power are beggars.

Governmental power, as it is exercised in Bangladesh, has relationships with political parties. This relationship is centered on having power and acquiring wealth. Civil servants do not have the interest of the public at heart. Some individuals and groups use their power to accumulate money at a fast pace. Their actions resemble the character and attitude of the East India Company, who exploited the wealth of India to enrich London with money and assets. In our country, the policymakers, in fact, see the country as a looting ground. We hear from different sources that in the last 43 years some 50 thousand billion taka have been taken out of the country and laundered abroad. The business and savings of many policymakers are also preserved abroad.

Article 2: Have the criminal justice institutions become independent and professional?

“Such bureaucratic politics is disastrous not only to the independence of the judiciary but also to furthering democracy.”

Saiful Huq: The independence of the judiciary and the criminal justice institutions is a long cherished dream of the people. It has been implemented on paper, not in reality. We observed that justice is not achieved even in the higher judiciary-the last resort. And why is that? We see in the higher judiciary that the judges are appointed because of their political identities. Professionalism doesn't enter into the equation. As a result, these judges have to think about the intentions of the government – who they want to detain in prison and who they want to set free. The judiciary often pronounces its judgments considering the wishes of the political regime in power.

Prior to the election, the BAL declared that, if they were in power, opposition leaders would not be imprisoned. The BNP boycotted the election, and the BAL government started arresting and detaining their members. The courts rarely granted bail. Does this indicate that the judiciary is independent? How did the BAL leaders know that the BNP leaders would be granted bail by the courts if they decided to join the election?

The judiciary has to become the last resort for the people. They can only be a last resort if they come out from under the control of the executive branch of the state.

Article 2: Did the politics of post-independent Bangladesh, the military, and the bureaucracy prevent the independence of the judiciary?

Saiful Huq: Most certainly! Since independence, on-going politics, the military, and the bureaucracy have prevented the independence of the judiciary during the post-independence era. We have observed for the last four decades that the political parties talk about the independence of the judiciary. But in practical terms, they do not want the judiciary to become independent. And to achieve this end, we see political parties cultivating friendly attitudes towards the judiciary.

Such bureaucratic politics is disastrous not only to the independence of the judiciary but also to furthering democracy. As judges are appointed because of their political allegiance, we should scrutinize what the government expects from them. However, in all this, I am not saying that every judge is politically biased.

In 2007, to a certain extent, the government separated the judiciary branch from the executive branch following public pressure and to fulfill pledges made to the people. But, this independence merely exists on paper.

Now, I will focus on the military and civilian bureaucracy. These

composite, self-centered groups keep up an indirect influence on the judiciary as they cannot always maintain a direct influence over them. In the past, military regimes have made the judiciary their first targets. The judiciary, which is supposed to uphold the freedom of our citizens and the supremacy of the constitution, has been used by the military as its means of retaining power. Some retired and senior judges have supported military rule and have functioned as advisors and even President of the republic. Judicial independence has not yet been fully achieved because the truth is the backbone of our judiciary is not strong enough.

Article 2: What is the difference between the disappearances and ‘secret killings’ that occurred before and during the independence movement and that which occurs today?

Saiful Huq: A different trend has been observed in the pattern of extrajudicial killings. In one word, disappearances are on the increase. Earlier, a great deal of public attention was drawn to extrajudicial killings done under the pretext of ‘crossfire’. The people were sensitized and concerned about crossfire killings and the situation required the government to release an official statement about individual, crossfire killings. In the cases of disappearances, the government appears to take no responsibility for them. In the government’s version, non-state agents are responsible for the disappearances. If we accept this, and they are telling the truth, then the government should not have any objection to public demands for independent commissions to investigate the matter. But, why does the government object, ignoring the need of forming a Commission who could investigate and indict the perpetrators?

Let’s assume that someone is arrested. Afterwards, the dead body of the arrested person is found floating somewhere. In such a circumstance, who should be responsible to investigate this murder? Who is the responsible entity among the police, the RAB, the BGB [Border Guards, Bangladesh], Army soldiers, or a private party? We don’t know. Who gives the green signal for such murders?

Article 2: What is your opinion about endemic custodial torture, extrajudicial execution, and the government’s oft-quoted excuses of ‘crossfire’ and ‘gun battle’?

Saiful Huq: I would not say torture is ‘endemic’. Rather, it is correct to say that torture is a matter of great concern. I wish to raise the matter of torture in the name of remand. In the past, we knew that, after being arrested, a detainee is supposed to be safe in police custody. Now, that knowledge has been proven wrong. People are being killed in ‘safe custody’ today. The state has become the murderers. Now, elections are not required for assuming power. Our Parliament is not effective. The government controls the media. They even decide who participates in which television talk shows and who does not.

“ The people were sensitized about crossfire killings, and the situation required the government to release an official statement about individual, crossfire killings.”

Article 2: Why do perpetrators of gross human rights abuse – personnel of various state agencies – enjoy impunity, despite public pledges by political parties to bring the perpetrators to justice?

“There are reasons for the growth of militancy. They are lack of education, poverty, unemployment, frustration, and severe forms of class-exploitation.”

Saiful Huq: Extrajudicial killings and impunity for crimes cannot be operative in any civilized or democratic country. In Bangladesh, whenever the ruling political parties have been unpopular and isolated from the people, they have been dependent on state agencies to take action. Regimes have given license to state agents to kill people, guaranteeing impunity to the killers. As the regimes' isolation from the people increases, the culture of impunity becomes more complex. When state's forces kill people, the victims' relatives are prevented from registering complaints. This state of affairs cannot continue! Due to a culture of impunity, governmental isolation from the people has given law-enforcement agencies the freedom of doing and un-doing whatever they wish. The government survives as hostages in the hands of these law-enforcement agencies. Both groups have their own interests in such a culture of impunity. We often see that investigating committees are made to investigate the crimes of these forces. However, the investigators belong to the same forces in question. Such investigations yield nothing but a conflict of interest! The people have their own insights. They do not believe that the truth behind the RAB's crimes will ever be revealed by RAB's own officers.

As to extrajudicial killings, I once personally questioned one of our Law Ministers. I said, “I witnessed law-enforcement agencies killing my father and brother. Now, by imposing the indemnity ordinance you are preventing me from filing cases against the perpetrators; who gave you such authority?” I did not receive an answer.

Article 2: Is the global paranoia about growing Islamic militancy in Bangladesh true?

Saiful Huq: We have to admit that there are varied activities of different militant groups in our country. But, the way it has been presented – the perspective is political. During the BNP-led regime the activities of the JMB [Jama'yetul Muzahidin Bangladesh] operated with state assistance. Later, when actions of the [JMB] were out of control, the government checked them.

The way the incumbent regime is presenting Bangladesh, as a militancy-prone terrorist nation, is ludicrous in the extreme. It is doing this for the purpose of gaining support and cooperation from the USA and other European countries.

There are reasons for the growth of militancy. They are lack of education, poverty, unemployment, frustration, and severe forms of class-exploitation. None of our governments have identified these reasons, nor have they initiated any programs for

removing these existing problems. Beside this [reality] someone is being handcuffed as a militant. It is not a solution. It must be remembered that militancy is driven by ideology. Such ideology cannot be defeated by handcuffs alone. In order to gain the upper hand in this situation, we need to defeat the regime by encouraging the general populace in a progressive and class-exploitation-free manner, in the spirit of the war of liberation.

Article 2: How can people be attracted to a true form of constructive politics?

Saiful Huq: I am always optimistic. Despite all our problems, I think that the time to do this is not yet over. My hope is that some day the voices of the ordinary people, will eventually reach the ears of the government. The people will become vocal in their demands. On that day, Bangladesh will move forward.

Article 2: How can the state be constituted, incorporating a functional rule of law and a flourishing democracy?

Saiful Huq: I think by holding the latest election, problems have increased. Instead of solving them, they have made them more complicated in the long run. The government should, as soon as possible, inaugurate some forms of self-criticism and self-realization about how things are. Dialogues should be arranged immediately to move towards solving the political crisis. Any failure to do so will change the fate of the people into a greater disaster.

Article 2: Are there any other additional comments that you wish to add?

Saiful Huq: I believe in the value of a heightened people's awareness. Those who love democracy and peace are becoming more aware of this reality. Our state has lots of problems. These problems have not grown up overnight. Likewise, they cannot be changed overnight. The good thing is that people's positive thoughts are flourishing day-by-day; the space for a heightened consciousness is increasing. This mass-awareness may well turn into a mass-protest. This is the ray of hope we rely on. It is the duty of the political parties' to unite the scattered voices of the people. Take for example, the people of Narayanganj, where their reaction put the RAB on a different footing. It is not true that people will protest only after being pushed to the wall. We have seen in Narayanganj that the people who were not directly affected have also taken to the streets; they too protested. And millions of people in Bangladesh will not commit suicide because of on-going frustration. For the sake of existing as a human being, for the sake of a future, for the sake of creativity, they will be aware and protest.

“ I believe in the value of a heightened people's awareness. Those who love democracy and peace are becoming more aware of this.”

“The criminal justice system is useless”



Shahed Kayes
Poet and human rights defender

[Shahed Kayes is a teacher, poet, social-cultural & rights activist. He graduated as an engineer in computer science and information technology. He initiated a movement for educating the dalit and deprived children of river-gipsy, cobbler, fisherfolk and indigenous communities in rural Bangladesh. He has authored two books of poetry.]

Article 2: As a rights defender, how do you see the criminal justice system of Bangladesh?

Shahed Kayes: The criminal justice system of Bangladesh is, in fact, useless. There are several reasons behind this uselessness. The main reason behind this problem is political influence on the judiciary. This influence is a constant presence everywhere, in a large scale. The way the ruling political party or groups use their influence on the judiciary damages the entire system.

Besides, the judiciary itself has not achieved the required mindset, competence, and commitment for administering justice, which an independent institution must have. What fellow activists and I, back in Mayadip, have gone through can prove the incompetence and uselessness of the criminal justice system.

Firstly, five cases were fabricated against my fellow activists, including one case against me. The activists and inhabitants of

Mayadip and I have been implicated in these fabricated cases in 2010, 2012, and 2013. These cases were deliberately filed in two different jurisdictions – the Sonargaon police station in Narayanganj district and with the Meghna police station in Comilla district. The complainants were thugs of the companies responsible for illegal sand mining at Mayadip Island¹. The police have filed distorted investigation reports against us in all five fabricated cases, due to political pressure and bribery from the thugs of the mining companies.

Secondly, the victims and inhabitants of Mayadip Island who had come under physical attack for protesting against the illegal sand mining and I have filed two cases, in person, against the perpetrators. The inhabitants of Mayadip filed two more cases against them. The police investigated these four cases and submitted weakened reports [*known as ‘charge sheet’ in Bangladesh*] to the Courts, widening the scope for the perpetrators to walk free. The police have done this due to the same reasons of political pressure and corruption. So, we have been compelled to be part of nine cases for no reason; this may help us interpret the character of the state apparatus of Bangladesh.

Thirdly, apart from these nine cases, the then Assistant Commissioner (AC) of Land, Sonargaon, Narayanganj, filed a case against the same group of perpetrators, against whom the inhabitants of Mayadip have been fighting, for illegal sand-mining. He filed this case for illegal extraction of sand without governmental permission and abducting him and me from the Meghna river. This case has put on ice now. After filing this case, the AC-Land was transferred away from Sonargaon; this is assumed to be punishment for him.

The behavior of the institutions – obliged to uphold the rule of law – in these nine cases, and the behaviour of the civil and police administrations as well as the political entities, have established that the criminal justice system is meant to be useless. Instead, the state apparatus remains a façade so that undeserving wealth can be earned by the use and abuse of political power in collaboration with criminal justice institutions.

Article 2: What sort of harassment did you and your fellow activists face during the course of the litigations you have been party to?

Shahed Kayes: I should say a little bit about the locations of the courts where we had to appear for the hearings in the five fabricated cases against us. Although the Comilla district is just on the opposite bank of the Meghna River, it requires a long time, lot of money, and trouble to reach there from Mayadip, due

“ The behavior of the institutions – obliged to uphold the rule of law – in these nine cases, and the behaviour of the civil and police administrations as well as the political entities, have established that the criminal justice system is meant to be useless. ”

¹ Mayadip is situated in the middle of the Meghna River, within the jurisdiction of Narayanganj district. The opposite side of the Meghna River is Comilla district.

“In order to appear before the courts in Comilla district, the defendants have to spend at least three days.”

to the complicated infrastructure, transportation system, and security risk. It takes at least five hours to reach Comilla district headquarters from Mayadip Island. This island is virtually cut-off from the basic infrastructures that the people deserve. There is no road connection with the main towns of the country from Mayadip. Around twelve thousand ultra poor people do not have any basic facilities such as the healthcare, education, drinking water supply, employment opportunity, or public transport.

For appearing before the court in Narayanganj, first one has to walk for about a mile. Then, by private boat may take to the Sonargaon sub-district town. From Sonargaon, a rickshaw or a three-wheeler auto rickshaw is required to reach the Dhaka-Chittagong Highway. From there, by bus or other available transport, one can reach Narayanganj district. It takes at least around two and a half hours to reach the court in Narayanganj.

If someone is supposed to appear before the court in Comilla district, the person has to waste double the energy and time required for traveling to the native district headquarter in Narayanganj. By the time one reaches Comilla from Mayadip, the person will be exhausted. The expenditure of money in this case is many times more than that for Narayanganj. Because, the litigants have to arrive in Comilla at least a day earlier, as it is impossible to find any transport in the early mornings to reach the Court, which starts at 9 a.m. The litigants need to consult with the lawyers before court proceedings start in the morning. Often, lawyers don't have time to consult with their clients in the morning, i.e. prior to the hearings in court.

In every case, around 15 or more activists are accused. Now, let's imagine that all these people pay for their round trip travel, hotel accommodation for at least two nights in Comilla, buy meals, pay for the lawyers, and the corrupt court staff. It's a huge amount of money for such poor people, who live basically hand to mouth.

Let's look at the livelihood of these activists who have been facing fabricated cases. In order to appear before the courts in Comilla district, the defendants have to spend at least three days. All of them are mostly day-labourers or fishermen. The fishermen don't have their own boats and nets. The owners of boats and nets employ them on daily basis for fishing in the river. They earn meagre amount of money every day for maintaining their families amidst extreme poverty. When these sole-breadwinners fail to work for three days, their families, including the children, literally starve on those days. Moreover, they have to borrow money from others to meet the litigation costs. Those who know the context of Bangladesh know very well that the poorest of the poor face unimaginable difficulty and humiliation when they have to borrow money. If the appearance before the court is scheduled more frequently, these poor victims will face multiple forms of problems in their socio-economic life.

In my case, I had to sell certain piece of my ancestors' land, which I got as my share from my father, and borrow money from micro-credit companies to manage the litigation costs. I also had to support some of these victims of fabricated cases.

Article 2: What is wrong with the criminal justice system?

Shahed Kayes: For a short answer to this question, one should rather ask what is not wrong in Bangladesh's criminal justice system.

The cases lodged against me and fellow activists in 2010 are still pending. The investigations have not yet been completed. The police are top to bottom corrupt. They get bribes from the thugs of the illegal sand mining companies. They keep the investigation pending while we have to appear before the court for years. There can be dozens of witnesses who are ready to tell the truth although their life will be at risk for asserting the truth. But, the police investigators don't go to the witnesses. What the police are doing is keeping enough room for the perpetrators to walk free. With such a criminal investigation system, justice is impossible. The judicial system has collapsed in Bangladesh.

It has been four years now. We are forced to waste our energy, time, and resources. The perpetrators are at large. They have attacked my colleagues and I on several occasions. Had this case been promptly and credibly investigated by the police the situation could have been opposite.

The Magistrates could have also held the police investigators accountable – as far as I have learned about certain legal provisions. But, they don't do it. They don't bother about the manifold problems the people face due to inordinate delays in the adjudication of criminal cases. The Magistrates of our country do not act like judicial officers. Rather, they appear to be 'service-holders', who just come to the office for sitting on certain chairs to rubber stamp few documents in a ritualistic manner and go home. By following this routine they get paid by the state, with taxpayer money. The cases continue for years, and the litigants, especially those who are the victims of fabricated cases, are ruined.

Article 2: Are the problems centered on the Magistracy and Police? What about the higher judiciary?

Shahed Kayes: We have experience with the higher judiciary too. I filed a public interest litigation, *writ petition no. 3325 of 2011*, with the High Court Division of the Supreme Court of Bangladesh. On behalf of the people of Mayadip, I challenged the illegal sand mining in Meghna River, adjacent to Mayadip Island, which was eroding as a result of sand extraction from the island. By that time, one tenth of Mayadip Island had eroded into the Meghna River due to constant extraction of sand. A High Court Division Bench ordered the relevant high ranking administrative

“The police are top to bottom corrupt. They get bribes from the thugs of the illegal sand mining companies.”

“Politics and corruption are above the order of the High Court.”

and police authorities to stop sand mining in the said area. Despite the High Court stay order, illegal sand mining continues; the police and civil administration are spectators. Reality proves that a High Court order can be ignored and undermined by those who are constitutionally obliged to implement the orders of the higher judiciary.

Article 2: Why has the High Court's order been ignored and undermined?

Shahed Kayes: Politics and corruption are above the order of the High Court. Let me share one of our experiences with the court. We went to the court in Comilla on a specific date of hearing. Fourteen of our fellow activists were defendants in a case [*First Information Report No. 3 of Meghna police station, Comilla, dated 10 September 2012*]. They were on bail. Everyone was continuously appearing before the court in person while on bail. On one occasion there was a hartal [general strike] called by the opposition political parties. The defendants could not reach Comilla for hearing on the hartal day, amidst political violence and the unavailability of public transport. On the following date, when the defendants appeared before the court the lawyers explained the situation to the Magistrate and told him that in a hartal people cannot afford public transport to travel from Mayadip to Comilla Court, which requires more than five hours of travel via different modes. The Chief Judicial Magistrate (CJM) of Comilla, while sustaining the bail of thirteen defendants, cancelled the bail of one key activist, Mr. Mohammad Jilani.

Once Jilani was detained, we observed how the thugs of the sand mining companies celebrated the court's decision. Our lawyers could not understand the legality of detaining Jilani. According to the lawyers, in similar cases in the past, the Court normally considers the reality and extends the bails of the accused, even in serious offences. All of us were trying to understand what was wrong that put Jilani behind the bars again.

We found that one of our friends, a prominent person based in Comilla city, had personal friendship with the CJM of Comilla district. Our friend heard our side of the story and decided to check with the CJM. The following day, we learned that the CJM expressed his helplessness to our friend. The CJM told our (and his) friend that he received a telephone call from a parliamentarian of the ruling political party. This parliamentarian also happens to be a retired Major General of the Bangladesh Army. The parliamentarian asked the CJM to detain the key activist. The CJM had claimed that he had no option but to entertain the request of the ruling party parliamentarian. We had to approach to the Sessions Court to secure bail for Jilani, who stayed in prison for 11 days. The courts, following political intervention, can deny the right to liberty of a victim of a fabricated case. We understood the type of 'judicial independence' we have in Bangladesh. This is why the High Court's order was undermined.

We should talk about the independence of the judiciary. At the same time, we need to see whether the judiciary is free from political interference or not.

Article 2: Do you think the government has played a considerable role in the process of the harassments that you have faced?

Shahed Kayes: The government's role has been ridiculous and shameless. The issue of illegal sand mining and its subsequent harmful impact in terms of the inhabitants' right to life, livelihood, and shelter has already become an important issue at the international level.

“The fishermen were prevented from fishing in the river. Their boats were damaged; their nets were snatched away.”

Let me tell you how we became victims of these cases. When the inhabitants of Mayadip protested against the sand-mining companies, they were intimidated directly by the goons of the sand-miners, who kept the islanders confined in the island in 2010. Musclemen of the miners indiscriminately attacked anyone who traveled out of the locality. The fishermen were prevented from fishing in the river. Their boats were damaged; their nets were snatched away. On 9 December 2010, the inhabitants of Mayadip resisted sand mining activities and captured four musclemen of the mining companies. Immediately, another gang linked to the companies threatened the villagers with guns and forced the released of the four detained men. From that day, for the following two weeks, gunmen prowled around the Mayadip Island. The thugs manned the entire island. Nobody was able to go out to work in those days. The thugs said openly and clearly to the islanders, “If you attempt to prevent us from sand mining, we will never allow you to catch fish from the river.”

The sand miners threatened the islanders when the latter did not agree to give up their protest against the illegal mining. When constant threats did not work, the mining companies fabricated cases, one after another, by bribing the police and abusing their political power through local parliamentarians in two different districts. As the islanders continued fighting the litigations, and appeared to be uncompromising, the mining companies tempted key leaders of the movement by offering money on a daily basis. For example, as the main organizer of the movement and Chief Advisor of the ‘Illegal Sand Extraction Prevention Committee at Myadip-Nunertek islands’ the companies offered me 10,000 Taka per day, which is approximately \$ USD 130 in those days, on condition of stopping the movement. When I rejected their offer, then they attempted to assassinate me on 25 July 2013. My fellow activists faced the same reality.

The Asian Human Rights Commission (AHRC) sent three Urgent Appeals on these matters. The AHRC also wrote to the UN Special Rapporteurs seeking their intervention. The Special Rapporteur on Adequate Housing communicated with the Government of

“Thugs of the sand-mining companies have threatened me with death after this investigation.”

Bangladesh through diplomatic channels². The Office of the Prime Minister of Bangladesh ordered the Deputy Commissioner of Narayanganj to inquire into the case involving illegal sand mining and into relevant issues of right to life, livelihoods, and shelter, as raised by the UN expert. There was an investigation conducted in April 2012 following the communication of the UN expert. But, the result is zero.

Moreover, the thugs of the sand-mining companies have threatened me with death after this investigation. In July 2013, they abducted me and attempted to assassinate me. I narrowly survived due to some of my best friends' prompt interventions, which forced the Sonargaon police to rescue me from my assailants.

Article 2: What is the situation of your cases and the subsequent reality now?

Shahed Kayes: We have not yet been relieved from these cases. They are still pending. The police keep their option open for bribery by keeping the investigation pending. The sand mining companies are extracting sand from Mayadip. The companies continue this illegal extraction despite the Narayanganj district administration not having given permission to any company for extracting sand or dredging the Meghna River at the said location since the High Court's stay order. In fact, the Comilla district has given permission to these companies for dredging within their jurisdiction. Instead of dredging in the Comilla district's jurisdiction, the sand-mining companies have been stealing sand from the Mayadip Island. The reason behind this is that dredging in the River requires comparatively bigger investment in terms of logistics and human resources. And, what the companies have been doing is using administrative permission to steal sand from a location beyond their jurisdiction. They don't help the administration by dredging the river; they only make money. They obtained permission for the so-called dredging through the ruling party's political influence due to the invisible partnerships of the ruling party parliamentarians. The parliamentarians of both Narayanganj and Comilla districts are directly and indirectly

2 Links containing a copy of letter referring to the communication sent by UN Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in this Context, and that was forwarded by Bangladesh's Permanent Mission in Geneva: https://spdb.ohchr.org/hrdb/21st/public_-_AL_Bangladesh_22.03.12_%282.2012%29.pdf
<http://www.humanrights.asia/news/urgent-appeals/images/2012/AHRC-UAU-033-2012-02.jpg/>
<http://www.humanrights.asia/news/urgent-appeals/images/2012/AHRC-UAU-033-2012-03.jpg/>
<http://www.humanrights.asia/news/urgent-appeals/images/2012/AHRC-UAU-033-2012-04.jpg/>

involved in the money making process of stealing sand. The administration and law-enforcement agencies know this truth very well. But, all the institutions of Bangladesh are meant to be the associate forces or tools that let the illegality of the powerful prevail. The entire administrative system is highly corrupted. They get their share from the illegal money-mongers, like the sand-mining companies. The public officials, the police, and other agencies get their individual and collective 'rewards' for 'serving' their political masters by not taking any lawful action, which they are obliged to do.

“ The fundamental rights of the people or the independence of the judiciary only exist on paper.”

On one hand, the politicians, the bureaucrats, members of law-enforcement agencies, and a group of thugs are becoming rich via theft. On the other hand, the majority of the poor taxpayers are forced to the verge of extinction, victim to the ongoing insane race of acquiring undeserved wealth practiced by the few.

Article 2: What is your opinion about the fundamental rights guarantees in the Constitution of Bangladesh?

Shahed Kayes: The fundamental rights of the people or the independence of the judiciary only exist on papers as far as Bangladesh is concerned. The constitution is violated everyday by powerful people, and even by the head of government. The laws are useless as far as the poor people's everyday life and livelihood are concerned. The laws also prove to be useless when the people having allegiance with ruling politicians and state agents abuse their power for undue benefit. Thus, there is no consistency between the rights and remedies written in the books of law and the real life of the ordinary people. The so-called constitutional guarantees of fundamental rights are meaningless.

We live in a state where numerous people starve every day, often for days. The state, which has obligation to ensure the rights of the people, ignores its responsibility. Nobody checks how many people are starving and how these starving-people live; nobody cares about their life-long unemployment. The majority of the population who are poor in terms of wealth, the dalits, and ethnic minorities, cannot afford their right to education. Their healthcare facilities are non-existent. Minimum dignity as human beings does not exist for them. These people are deprived every right they deserve, which the state is mandated to provide them. It is the state which destroys people's life and future by abusing the criminal justice system and other state apparatuses.

Article 2: What is wrong in Bangladesh?

Shahed Kayes: The police picked one of my neighbours. He was a young man. The police tortured him to death in custody. Nothing happened to the police officers responsible for this crime. In the rivers adjacent to Narayanganj, dead bodies are found floating one after another. There have been specific allegations and proof that the law-enforcement agencies abduct and kill people

“ Good governance, democracy, and the rule of law are pointless rhetoric or jargon to the ruling elites and bureaucrats.”

for money. And, later the dead bodies are dumped in the rivers for the purpose of disappearing the bodies. Nothing happens to the perpetrators, other than certain ‘eye-wash’ interventions. When such things happen in a country recurrently it is clear that the rule of law does not exist in that particular country. The people also understand very well that the state is investing its utmost efforts to uphold lawlessness.

The Mayadip sand mining case involves every branch of the state – the executive, the legislature, and the judiciary. The High Court order became useless in stopping the illegal actions of the sand mining companies. Why? Because, local parliamentarians are involved in this money making process. The country’s Foreign Ministry and the Prime Minister’s office have been involved due to the intervention of the UN Special Rapporteur. If the state apparatus had minimum concern about the image of Bangladesh, the institutions should have been allowed to function to the extent that they could tell the truth to the UN expert by taking fair action in the matter. In fact, the state’s priority is to allow the ruling party’s thugs to earn undeserved money by maintaining lawlessness across the country. Good governance, democracy, and the rule of law are pointless rhetoric or jargon to the ruling elites and bureaucrats. They use these terms to keep up their lawless actions at the cost of immeasurable public plight. That’s where the things are frustratingly wrong in Bangladesh.

Article 2: What should be done in these circumstances?

Shahed Kayes: First, we need to admit that we have certain self-created problems. We have a rotten polarised political culture, which is inseparable from violence, hatred, and vindictiveness. We have entrenched corruption in our criminal justice system. We have a culture of impunity to protect the perpetrators of fundamental rights violations. The politicians, the civil, and military bureaucrats of our country have endless, and uncontrollable, greed for public assets. These are the worse evils in Bangladesh. Having these evils is enough to ruin a nation. The unity and combination of these evils offer us one of the worst policing systems, based on torture, coercion, and extortion. These evils offer us a puppet judiciary. We are offered an anti-people public administration, which deprives the majority of citizens, by all means, for protecting interests of rulers.

We don’t have any guiding principles to run the state, in fact. Norms and values hardly have any space, at least as it is reflected throughout the actions of the state itself. That’s why extrajudicial executions continue. The judiciary enjoys witnessing the rampant torture and extrajudicial executions instead of holding the perpetrators accountable.

There should be massive reforms of the entire system: the policing, the judiciary, the civil administration, and the military; all institutions require thorough reforms immediately.

We have to wake up before it is too late. Everyone needs to see the things without any fascination or unconditional trust and inclination to any of these evil forces and practices. We need to sharply identify the rooted problems that ruin our existence as human being and citizens of Bangladesh. If we fail to accept the truth – even the ugliest ones – and don't want to change to a system every civilised society deserves, we cannot move forward.

“The ordinary people know better than anybody else about how they suffer in their everyday life.”

There is no one-word solution to the countless problems in Bangladesh. I think, we should start listening to the people. The ordinary people know better than anybody else about how they suffer in their everyday life. There should be a mass hearing from the people across the country. The untold and unrevealed stories of people's sufferings should be heard and comprehended. The state's constitution, principles, and policies have to be developed on the basis of the needs of the people in general. Our priority must be the opinion of the people. What type of politics do the people want? What type of policing system do they want? What type of judges and judicial system do they need? What sort of attitudes and behaviour do the people expect from the state and its institutions? Do the people want to engage the military in a policing job or not? All of these issues should be determined as per the requirements of the ordinary people and should comply with the universal normative principles.

Then, we may think of moving ahead.

‘Independence of the judiciary was never ensured’



Mr. Nur Khan
Human Rights Defender

(Nur Khan is a leading human rights activist in Bangladesh. He has been engaged in documenting cases on torture, extrajudicial killings, enforced disappearance, violence against women, and repressions against ethnic minorities. He leads discourses on fundamental rights issues in various local and international forums. He escaped from an attempted abduction on 15 May 2014.)

Article 2: As a Human Rights Defender, four decades after independence do you think that the promises made at the time of constituting Bangladesh as an independent democratic State have been met?

Nur Khan: There have been premeditated murders in the pretext of ‘crossfire’ or ‘gun battle’. There is nothing more to talk about it. All these actions are against human rights and the values of the Constitution.

Article 2: What is the actual status of the ‘separation of power’ and ensuring the ‘independence of judiciary’ as one of the three basic pillars of the state in Bangladesh?

Nur Khan: In the name of separation of power, in fact, all the past regimes have centralized the powers – political parties,

administration and governance – everything has been centralized in the capital city. All decisions have made centrally. The independence of the judicial system has not been ensured in its true sense.

Article 2: Is there any inconsistency between the aspiration of the people of Bangladesh with that of the political elite and the bureaucracy?

Nur Khan: Of course, it is inconsistent! The aspirations of the general people along with their thoughts, spirits or expectations have never been taken into consideration with the deserved importance. The expectations of the politically and economically powerful elite and bureaucrats stand opposite to the expectations of the people.

Article 2: To what extent has militarization contributed to making Bangladesh what it is today? How could things have been different without militarization?

Nur Khan: The progress of natural democratization has been hindered by militarization, and, the institutions have put on the clothes of undemocratic arbitrariness to pull the country backward. As a result, the expected progress has not been achieved.

Article 2: What are the challenges in realizing the independence of judiciary in its fullest sense in Bangladesh?

Nur Khan: the independence of the judiciary is not being considered beyond the partisan interests. The ruling regimes have never considered the significance of an independent judiciary. The lack of political will of the ruling class, financial constraints of the judiciary along with the colonial mindsets among the relevant professionals, and the system of trial itself are the key challenges on the path of achieving the independence of judiciary.

Article 2: What is your opinion about the endemic custodial torture, extrajudicial executions, and the government's often quoted excuses of 'crossfire' and 'gun battle'?

Nur Khan: As I mentioned earlier, there have been premeditated murders in the pretext of 'crossfire' or 'gun battle'.

Article 2: What is the difference between disappearances and 'secret killings' that happened before and during the independence movement and those which happen today?

Nur Khan: Whatever types of undemocratic and unexpected incidents that happened during the struggle for independence in the pre-independence era and during the war of liberation are not expected and acceptable in an independent-democratic country. That's why comparative discussions about those matters are not

“ The expectations of the politically and economically powerful elite and bureaucrats stand opposite to the expectations of the people.”

“The Judiciary itself has confined its own freedom and independence. It seems that they have imposed self-censorships upon themselves.”

important now. But, ‘disappearances’ and ‘secret killings’ were illegal in those days, and they are also illegal today. In those days, such crimes were committed by the occupying forces and their collaborators while today the same crimes have been committed in an independent state by its ruling class.

Prior to the beginning of the struggle for independence or during the war of independence, crimes like ‘disappearance’ and ‘secret killing’ were not covered up with legal-coats as is happening today. The so called stereo-type stories of ‘crossfire’ and ‘gun battle’ were not endorsed by the state authorities, in the pre-independence period, for the purpose of avoiding the responsibilities [of the government], that have been happening now.

Article 2: How far are the criminal justice institutions and the Supreme Court of Bangladesh independent and capable enough to prevent gross human rights abuses?

Nur Khan: The independence of the judicial institutions or the Supreme Court can be observed through how much of the freedom these institutions have been actively exercising to secure their independence.

Legally, they are independent. But, in preventing the incidents of human rights violations they are dependants on the cooperation of the government, law-enforcement institutions, civil society, human rights organizations, and so on. The judiciary alone is not capable enough [to secure its independence]. However, the individual and collective honesty and courage of the judges can play effective roles to do so.

Article 2: To what extent has the judiciary contributed towards limiting its own freedom and independence?

Nur Khan: The Judiciary itself has confined its own freedom and independence. It seems that they have imposed self-censorships upon themselves. Brave decisions and initiatives from the judiciary are not being visible as per the requirements.

Article 2: Do you think that the criminal justice institutions in Bangladesh have become puppets under various political parties and the military?

Nur Khan: I cannot answer that in one sentence. The criminal justice institutions conduct the judicial proceedings with the cooperation from the administration. And, the government under political parties runs the administration – sometimes by an emergency regime or by martial laws under the controlled by military commanders. As a result, the criminal justice system becomes subjugated under these two powers; however, it does not go to the level of being a wanton.

Article 2: Do you think that the human rights organizations of Bangladesh are playing the roles they should have done in principle?

Nur Khan: I think the National Human Rights Commission and other human rights organizations are not playing their due roles or not being able to play according to the expected roles they should have played in principle.

Article 2: Is the global paranoia about growing Islamic militancy in Bangladesh true?

Nur Khan: Yes, I think, the global paranoia about the increase of Islamic militancy in Bangladesh is partially true. But, their public base is still weak. Since the 1990s Islamic militancy has been patronized and protected here for different reasons. I don't think that without the assistance or patronization from the ruling party, government and administration the religious militants have any possibility of growing as the main power in this country.

Article 2: Are there non-Bangladeshi interests that are involved in promoting this image?

Nur Khan: I don't think so.

“ I don't think that without the assistance or patronization from the ruling party, government and administration the religious militants have any possibility of growing.”

‘Disappearance becomes a means to settle political differences’



Professor Akmal Hussain
Department of International Relations
University of Dhaka

(Prof. Akmal Hussain obtained his Bachelor and Master's degrees in Political Science from University of Dhaka. He earned a PhD in International Relations from the Institute of Law, Academy of Sciences, Czechoslovakia. He has been teaching at the Department of International Relations, University of Dhaka for 36 years. He has written two books in vernacular language on domestic politics, and foreign policy.)

Article 2: As a Professor, four decades after independence do you think that the promises made at the time of constituting Bangladesh as an independent democratic state have been met?

Professor Akmal Hussain: The people of the then East Bengal participated in the Pakistan movement with an aim to live in a new State that would be free from the evils that were existing at that time. But within a short time they realized that their dreams could not be fulfilled in Pakistan. They again aspired for some ideals and goals that inspired them to fight a bloody war to realise an independent Bangladesh. They wanted the end of all economic inequalities, the creation of a non-communal state, a society based on rule of law and above all, recognition of their linguistic identity.

But after a lapse of more than four decades most of these goals have not been achieved. The growing divide between the rich

and poor, the creation of a wider space for communal thinking and serious lack of the rule of law demonstrate that the dreams remain unfulfilled even today.

Article 2: What is the actual status of the ‘separation of power’ and ensuring the ‘independence of judiciary’ as one of the three basic pillars of the state in Bangladesh?

Professor Akmal Hussain: The separation of judiciary from the executive is an old demand in Bangladesh. The logic behind this demand is that if the judiciary can act independently of the executive then citizens can get more protection of the law. Officially there has been a separation of powers between the executive and the judiciary in Bangladesh by a Court verdict. But in reality the judiciary is still under the influence of the executive branch. Under the circumstances the independence of judiciary is yet to be realized.

Article 2: Is there any inconsistency between the aspirations of the people of Bangladesh with that of the political elite and the bureaucracy?

Professor Akmal Hussain: We may notice the inconsistency when the elected governments quite often do not follow what they have promised in the election manifesto. The government is more interested in serving vested interests. The members of bureaucracy are also inspired by their own petty interests. The bureaucracy is still under the influence of an elitist culture that hinders them to play their constitutional responsibility to the citizens.

Article 2: To what extent has militarisation contributed to making Bangladesh what it is today. Could it have been different without militarisation?

Professor Akmal Hussain: In Bangladesh, like Pakistan, the political process of nation-building was disrupted once the country came under military rule in 1975. Though there was a phase of civilianized military rule it did not contribute to strengthening the political institutions like political parties, parliament, elections etc. The politicians have become opportunists and corrupt under the influence of military rule for 16 years. Parliament has not been functioning in its expected role. The accountability of governments has not been questioned. Even the elected governments are habituated to using military intelligence to face their political opponents.

Article 2: What are the challenges in realizing the independence of the judiciary in its fullest sense in Bangladesh?

Professor Akmal Hussain: There could be many challenges among which the primary is the government’s interference in lower levels of judiciary. Secondly, the selection of the judges in Supreme Court is based in many instances on political affiliation. Thirdly, the courts sometimes come under undue pressure from either the government or citizen’s group to give verdicts of the latter’s choice.

“The bureaucracy is still under the influence of an elitist culture that hinders them to play their constitutional responsibility.”

Article 2: What is your opinion about endemic custodial torture, extrajudicial execution, and the government's often quoted excuses of 'crossfire' and 'gun battles'?

“The incidence of ‘disappearance’ was a rare phenomenon. Since 2004 these have become the means to settle political differences.”

Professor Akmal Hussain: These actions by government agencies indicate the absence of rule of law in the society. The custodial torture and extrajudicial killings have negated the rights of an individual, even if she/he is a criminal, for fair trial. Criminals and political opponents of the regime have the constitutional right of self-defence. The growing incidents of these types may turn to fascism. The government is accused of using these extra-constitutional means to silence the opposition. Being encouraged by political inaction to stop these the police are reported to take bribe by making threats of 'cross-fire'.

Article 2: What is the difference between disappearances and 'secret killings' that happened before and during the independence movement and that which happens today?

Professor Akmal Hussain: Though I have no statistics but I should say that before independence these did not happen regularly. In particular the incidence of 'disappearance' was a rare phenomenon. Since 2004 these have become the means to settle political differences with the regime in power. These cannot be civilized norms.

Article 2: How far are the criminal justice institutions and the Supreme Court of Bangladesh independent and capable enough to prevent gross human rights abuses?

Professor Akmal Hussain: As these institutions have been gradually politicized they often fail to act independently. The lower courts and police department are more influenced.

Article 2: To what extent has the judiciary contributed towards limiting its own freedom and independence?

Professor Akmal Hussain: With the passage of time their politicization has contributed to their limits of freedom. The lawyers in Bangladesh are polarized to the extent that they show unbecoming behaviour like chanting of slogans in the court premises. It creates an anarchic situation.

Article 2: Do you think that the criminal justice institutions in Bangladesh have become puppets under various political parties and the military?

Professor Akmal Hussain: Yes, these institutions do not very much act independently. They have to receive instructions from the government in power. This is very true for the police department.

Article 2: What divides the mainstream civil society in Bangladesh along political alliances and how far has it affected their independence?

Professor Akmal Hussain: Basically their ideology divides them among pro and anti-government camps. As the citizens groups are organized along political lines they move in a fashion that pleases their mentors. There is also some sort of patron-client relationship between a group of citizens and the political party they support. There is tendency of the citizens groups to blindly support their respective political mentors.

Article 2: Do you think that the human rights organizations of Bangladesh are playing the roles they should have done in principle?

Professor Akmal Hussain: I can't comment about all human rights organisations due to lack information. But some are playing their role in expected manner.

Article 2: Is the global paranoia about growing Islamic militancy in Bangladesh true?

Professor Akmal Hussain: No. I think the threat of Islamic militancy in Bangladesh is exaggerated. It is to be added that Bangladeshi Islamic militancy is not comparable with that of Pakistan, Afghanistan, and Indonesia etc.

Article 2: Are there non-Bangladeshi interests that are involved in promoting this image?

Professor Akmal Hussain: If Bangladesh can be portrayed as a country infested with militancy then external intervention in the name of fighting terrorism will be easy.

Article 2: To improve the situation of rule of law in Bangladesh what suggestions do you have, and how could leaders motivate the ordinary people to participate in actual nation-building?

Professor Akmal Hussain: First the sectarian interests of the national leaders should be minimized to accommodate collective interests, secondly, the law should be indiscriminately applied, and thirdly, the leaders should practise the dictum, 'example is better than precept'.

Article 2: Is the culture of violence inseparable from polity in Bangladesh? What should be done to end widespread violence in the country?

Professor Akmal Hussain: In no society can violence be a permanent phenomenon. In this country violence occurs for a variety of reasons like social deprivation, political repression, weakness of policing the crime etc. The rate of violence can be minimized with corrective measures in all these areas.

Article 2: Would you like to make any additional comments?

Professor Akmal Hussain: Thank you. I have covered the main points of the problem of rule of law, accountability of the political parties, transparency of administration etc. I have no additional comments.

“Violence occurs for a variety of reasons like social deprivation, political repression, weakness of policing the crime etc.”

‘On torture... no comment’



Professor M. Shahiduzzaman
Department of International Relations
University of Dhaka

(Prof. M. Shahiduzzaman teaches international security and foreign policy at the Department of International Relations, University of Dhaka. He is known as an observer and commentator of regional dynamics of the foreign affairs from South Asian and Asian perspectives.)

Article 2: As a Professor, four decades after independence do you think that the promises made at the time of constituting Bangladesh as an independent democratic state has been met?

Professor M. Shahiduzzaman: Right now, we are neither independent in qualitative terms, nor as a democratic State. Bangladesh has been thrust into the status of a puppet state under Indian dictation.

Article 2: What is the actual status of the ‘separation of power’ and ensuring the ‘independence of judiciary’ as one of the three basic pillars of the state in Bangladesh?

Professor M. Shahiduzzaman: Too sensitive to respond.

Article 2: Is there any inconsistency between the aspiration of the people of Bangladesh with that of the political elite and the bureaucracy?

Professor M. Shahiduzzaman: Not only inconsistency, there is formidable contradiction between people's aspirations with that of the political elite and the bureaucracy. Majority of the people appear to reject elite perceptions of political values.

“I cannot relate militarization to the present political situation.”

Article 2: To what extent has militarisation contributed to making Bangladesh what it is today? Could it have been different without militarisation?

Professor M. Shahiduzzaman: I cannot relate militarization to the present political situation. Rather the creation of politicized foreign-aided cadres in vital institutions is responsible.

Article 2: What are the challenges in realizing the independence of judiciary in its fullest sense in Bangladesh?

Professor M. Shahiduzzaman: Financial autonomy and professionalism. Removing all executive roles in appointment to judicial positions in higher courts, neutralization of the Law Ministry and limiting its power.

Article 2: What is your opinion about endemic custodial torture, extrajudicial execution, and the government's often quoted excuses of 'crossfire' and 'gun battles'?

Professor M. Shahiduzzaman: No comment.

Article 2: What is the difference between disappearances and 'secret killings' that happened before and during the independence movement and that which happens today?

Professor M. Shahiduzzaman: These are beyond my academic interests.

Article 2: How far are the criminal justice institutions and the Supreme Court of Bangladesh independent and capable enough to prevent gross human rights abuses?

Professor M. Shahiduzzaman: Reasonably free if they are actually willing to act.

Article 2: To what extent has the judiciary contributed towards limiting its own freedom and independence?

Professor M. Shahiduzzaman: As much as it is reflected in other developing societies.

Article 2: Do you think that the criminal justice institutions in Bangladesh have become puppets under various political parties and the military?

Professor M. Shahiduzzaman: It is inappropriate to be so harsh.

“Proper
parliamentary
elections under a
caretaker government
and thorough and
neutral overhaul of
corruption and
trials.”

Article 2: What divides the mainstream civil society in Bangladesh along political alliances and how far has it affected their independence?

Professor M. Shahiduzzaman: Political values divide them. That is an independent choice.

Article 2: Do you think that the human rights organizations of Bangladesh are playing their roles what they should have done in principle?

Professor M. Shahiduzzaman: More or less.

Article 2: Is the global paranoia about growing Islamic militancy in Bangladesh true?

Professor M. Shahiduzzaman: More of a propaganda.

Article 2: Are there non-Bangladeshi interests that are involved in promoting this image?

Professor M. Shahiduzzaman: Certainly – Indian media and the government are the real culprits.

Article 2: To improve the situation of rule of law in Bangladesh what suggestions do you have, and how could leaders motivate the ordinary people to participate in actual nation-building?

Professor M. Shahiduzzaman: Proper parliamentary elections under a caretaker government and thorough and neutral overhaul of corruption and trials.

Appendix

Parallel event at the UN HRC on the Rule of Law in Bangladesh



(From the left to right) Renate D. Bloem, Adilur Rahman Khan, Md. Ashrafuzzaman, Mandeep Tiwana, Gerald Staberock and Reema Omer were the panelists of a parallel event on “Rule of Law in Bangladesh” on 19 June 2014 at the UN Human Rights Council in Geneva, Switzerland. Photo: OMCT

Rights experts urge international community to aid criminal justice reforms in Bangladesh

Six international human rights organisations met recently to consider the rule of law in Bangladesh.

The meeting was organised on 19 June 2014 as a parallel event at the 26th Session of the UN Human Rights Council in Geneva. The Asian Legal Resource Centre (ALRC) and CIVICUS:

World Alliance for Citizen Participation, along with the World Organisation Against Torture (OMCT), International Federation for Human Rights (FIDH) and Human Rights Watch (HRW) hosted the event. The International Commission of Jurists (ICJ) was also a participant.

At the meeting, human rights experts from Asia and Europe urged the international community, and the UN human rights mechanisms, to help effect radical reforms in the criminal justice institutions of Bangladesh so that the rule of law may be established and upheld in the country.

The speakers discussed the functionality and credibility of the primary institutions related to the rule of law in Bangladesh. Hong Kong based ALRC Programme Coordinator, Md. Ashrafuzzaman, stated that the justice apparatus in Bangladesh is unable to protect and guarantee rights to citizens. He explained that institutions central to upholding the rule of law in Bangladesh, such as the judiciary, and the entire administrative framework, lack moral, intellectual, and infrastructural capacity to fulfil their mandate.

Adilur Rahman Khan, Secretary to *Odhikar*, a Bangladeshi rights group, highlighted the abuse of Bangladesh's Information and Communication Technology (ICT) Act, 2006. He also expressed apprehension at the move to create a law to control NGOs. Being a victim of 62 days' arbitrary detention in a fabricated case under the ICT Act, Adilur Khan shared information with the audience about how he and his organisation have been persecuted by the government.

OMCT Secretary General, Gerald Staberock, underlined the culture of impunity for perpetrators of human rights abuses that prevails in Bangladesh. The military, the paramilitary, and the police commit crimes like torture, extrajudicial executions, and disappearances. Such torturers and murderers in uniform go unpunished. And, the same perpetrators get the opportunity to participate in UN Peacekeeping Missions.

ICJ's International Legal Advisor, Reema Omer, shared her research findings about the ICT Act. She explained how the abuse of this law stifles the freedom of expression in Bangladesh. Ms. Renate D. Bloem, UN Representative of CIVICUS, on the other hand observed that Bangladesh is following the government of Rwanda in adopting a special law to control NGOs.

The speakers demanded the release of citizens and professionals arbitrarily detained in prison without trial, including newspaper editor Mahmudur Rahman. They urged the international community to intervene and help usher positive changes in the rule of law realities in Bangladesh.

The parallel event was chaired by Mandeep Tiwana, Head of Policy and Research, CIVICUS.

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APPENDIX

- Parallel Event at the UN HRC on the Rule of Law in Bangladesh

Cover photo: Bangladeshi human rights defender and Secretary of Odhikar, Mr. Adilur Rahman Khan, being produced before the Chief Metropolitan Magistrate's Court of Dhaka on 11 August 2013. Adilur was arbitrarily arrested the previous night by police, and later charged under the Information and Communications Technology Act, 2006. His detention lasted 62 days, as part of the government's quest to stifle independent opinion in Bangladesh. For details, see page 68-69; Story No. 1, page 74-76. *Photo: AHRC*



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