

BANGLADESH

**Climate of impunity prevents
adequate protection of human
rights**

*Amnesty International
Submission to the UN Universal
Periodic Review*

**AMNESTY
INTERNATIONAL**



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INTRODUCTION

Amnesty International has prepared this submission for the UN Universal Periodic Review of Bangladesh in April 2013. Among the current human rights issues in Bangladesh, which the submission highlights, are torture and other ill-treatment by security agencies. A climate of impunity shields perpetrators from justice.

Amnesty International also highlights the failure by the authorities to prevent Bengali settlers from confiscating land from Indigenous Peoples in the Chittagong Hill Tracts, with the apparent acquiescence of the army and other law enforcement agencies.

The death penalty also remains a problem in Bangladesh, with over 1,000 people reportedly held on death row.

At least 10 people went missing in Bangladesh in 2012. In most cases the victims have not been traced although there are reports of state involvement. In a few cases, the bodies of those missing have been found, some bearing marks of beatings.

Amnesty International also raises concerns about aspects of the war crimes trials before the International Crimes Tribunal (a Bangladeshi court set up in 2010), and about harassment of journalists.

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

TORTURE AND OTHER ILL-TREATMENT

Torture and other ill-treatment are widespread in Bangladesh and committed with virtual impunity by all security agencies - the police, the Rapid Action Battalion (RAB), and the army - acting alone or together. Only in cases where the victim dies in custody are any allegations of torture or ill-treatment investigated within the criminal justice system. Even then, if the alleged perpetrators are RAB or army personnel, no credible investigation ever takes place. Many hundreds, possibly thousands, of surviving torture victims under successive governments have little hope of ever receiving justice.

Former detainees have told Amnesty International that police and RAB officers routinely torture and ill-treat detainees. Methods include beating, kicking, suspension from the ceiling, food and sleep deprivation, and electric shocks to the genitals. There are reports that detainees have been tortured until they “confess” to crimes. More than a dozen victims told Amnesty International that they were threatened with being killed in “crossfire” if they did not confess.¹

After the “confession”, RAB and other security forces would hand over the detainee to the police, who then file criminal cases against them, based on the security forces’ claims. The date of arrest in cases submitted by the RAB is recorded as the day the victim was handed over to the police and not the day the RAB made the arrest. Even in cases where detainees were initially arrested by police officers, the date of arrest is still recorded as being several days later than the actual arrest date. In this way, the police

and RAB distort the records to cover up the human rights violations they have committed against a detainee during the initial days following arrest.

Over the past three years, at least three people have died each year after allegedly having been tortured or otherwise ill-treated in the custody of police and other security forces. Human rights activists estimate that thousands more have been tortured or otherwise ill-treated in custody.

While criminal proceedings have begun against some police personnel on charges of committing torture or ill-treatment, other perpetrators, especially RAB, army or intelligence officers have never faced criminal proceedings for their alleged involvement in torture or other human rights violations.

* Rabiul Islam was arrested by plain-clothes officers at a hotel in the western city of Khulna on 24 October 2009. Blindfolded and handcuffed, he was taken to a RAB office in the Khalishpur area of the city. There, officers interrogated him while beating him, suspending him from the ceiling and applying electric shocks to his penis. In June 2010, he told Amnesty International that he was made to sit in a wheelchair with his hands and feet tied. He said: "First the wheelchair was swirled to make me dizzy and then I was beaten. Three men were beating me: the captain gave orders, another beat me, and the third person helped in the beating. I was blindfolded and tortured for about half an hour. Then I was left on the floor, handcuffed and blindfolded. The next morning they took me to another place. They kept saying 'we know you have arms so just admit it'. I was kept in that place for about 16 days. My hands were tied above my head and attached to the roof. I was told that if I didn't agree with what they were saying they would kill me. I was interrogated two or three times and hung from the roof for about one and a half hours at a stretch. At some point they attached wires to my penis and gave me electric shocks. I felt like I was dying. My whole body became rigid, followed by extreme shaking. After many days, I was taken to Mohammadpur Police Station on 9 November 2009. The police filed a criminal case against me saying that the RAB had told them to do so. I was then taken to court. My file showed 9 November 2009 as the date of my arrest, even though I had actually been arrested on 24 October 2009 and held in RAB custody from that date. I objected, but no one listened. Several days later, I was taken to court again and then sent to Dhaka Central Jail. Although I was arrested in Khulna, the police documents showed Mohammadpur Police Station in Dhaka as the place of arrest. I was held in Dhaka Central Jail for about six and a half months. Then the court granted me bail. Every month I have to travel from Khulna to the Dhaka court. This is a huge financial burden on me."

Rape in custody, which Amnesty International considers a form of torture, is common in Bangladesh. Victims usually decline to report the crime for fear they will not be taken seriously or of angering their attacker or having to face further harassment by the police, as the following case illustrates.

* Aleya Begum and her daughter were arrested on 9 September 2012 without a warrant and allegedly tortured and ill-treated at Khoksa police station in Kushtia district, including with electric shocks. After two days they were transferred to Kushtia city police station and kept in a dark room. The daughter, who is a college student, was separated from her mother during the night and sexually abused by the police officers. They were released on 18 September, after being taken to court. Police reportedly falsified the records by giving the date of their arrest as 15

September 2012. An eyewitness, another women detainee, saw them in detention on 10 September. After Aleya Begum and her daughter shared their story with the media, they were arrested again on 26 September and taken to jail.

INDIGENOUS PEOPLES IN THE CHITTATONG HILL TRACTS

Bengali settlers continue to confiscate Indigenous Peoples' land in the Chittagong Hill Tracts, while the army or other law enforcement agencies look on. The authorities have failed to settle Indigenous Peoples' claims to land that was taken from them during the years of internal armed conflict (1975-1997), or more recently occupied by the ever increasing number of Bengali settlers. Tension between the settlers and the Indigenous communities and the failure of the security forces to protect the Indigenous Peoples against attacks by the Bengali settlers have led to frequent clashes between the two communities and injuries on both sides. The authorities continue to fail to adequately prevent gender-based violence against Indigenous women and to effectively investigate and prosecute the perpetrators.

THE DEATH PENALTY

Over 1,000 people are reported to be on death row in Bangladesh. However, very few are likely to be pardoned or have their death sentence commuted unless they are loyal supporters of the ruling Awami League. There have been some executions in recent years, but none were reported in 2012.

ENFORCED DISAPPEARANCES

At least 10 people have gone missing in the course of 2012. In most cases the victims have not been traced although there are reports of state involvement. In a few cases, the bodies of those missing have been found, some bearing marks of beatings.

* Ilias Ali, the Sylhet division secretary of the opposition Bangladesh Nationalist Party, disappeared together with his driver, Ansar Ali, on 17 April 2012. The government has committed to establish what happened to them, but has so far revealed no information.

* Aminul Islam, a trade union leader, went missing on 4 April 2012. He was found dead a day later in Ghatail, north of Dhaka. His family saw evidence of torture on his body and believe he had been abducted by the security forces. He had previously been arrested and beaten by members of the National Security Intelligence for his trade union activities.

WAR CRIMES TRIALS

Amnesty International views the setting up in 2010 of the Bangladeshi court, the International Crimes Tribunal, as a historic opportunity with the potential to end more than 40 years of impunity for the mass-scale human rights violations that occurred during the country's 1971 war of independence.

The government has a responsibility to ensure justice for more than one million civilians who were reportedly killed by the Pakistani forces and their allied groups, tens of thousands of women who were allegedly subjected to rape and other sexual crimes, and more than eight million people who fled the country into India in search of safety.

There are a number of shortcomings in the conduct of these trials that may limit the Tribunal's ability to bring the perpetrators of these crimes to justice in fair trials. If convictions imposed by the Tribunal do not comply with internationally accepted

fair trial standards, the alleged perpetrators will themselves become victims of human rights violations. That would not be in the interest of justice.

Amnesty International has noted that those detained so far have all been members of two opposition parties – the Jamaat-e-Islami and the Bangladesh Nationalist Party. This has created the impression that the Tribunal is choosing to deal only with suspected perpetrators who are members of the current opposition parties. Even if there is no bias in the Tribunal's proceedings, the Tribunal has to avoid the appearance of bias. It cannot be assumed that other parties have been closed to membership of persons suspected of such crimes. A more rigorous search must be conducted to ensure that no suspects are able to shield themselves from prosecution simply by being members of the ruling party or its allies.

Furthermore, there are credible reports that elements within the Bangladeshi armed forces extrajudicially executed or attacked people labelled as collaborators after Bangladesh gained independence. In Amnesty International's view, no perpetrators of human rights violations during the 1971 war of independence should be immune from prosecution regardless of what party they supported or what political affiliation they had during the independence war. Otherwise the Tribunal will be seen as a vehicle for the ruling party to repress its opponents.

Amnesty International is also concerned that there are legal barriers that could weaken the possibility of a fair trial. These include a constitutional ban on the right of defence to challenge the jurisdiction of the Tribunal to try the crimes it is set up to try.

HARASSMENT OF JOURNALISTS

Journalists who write about corruption, judicial irregularities, and human rights violations, including extrajudicial executions, rape in custody, and other gender-based violence, are particularly at risk of being harassed by police or security agencies, detained on politically motivated charges and tortured or otherwise ill-treated.

* Mahmudur Rahman, editor of the Bangladeshi newspaper, *Amar Desh*, is facing sedition charges after he published details of a Skype conversation between the former chairman of the Bangladeshi court, the International Crimes Tribunal, and a Bangladeshi legal expert based abroad. *Amar Desh* is known to be highly critical of the authorities. The editor has been warned that he could be arrested anytime. He has remained in his newspaper's offices since 13 December 2012 for fear that he would be arrested if he leaves the premises. He has informed Amnesty International that security personnel have been keeping a close eye on the building.

There are a number of irregularities in the preparation of the charge against Mahmudur Rahman that support the suspicion that it might be politically motivated in order to harass him. A full report of the Skype conversation had already been published by the UK magazine, *The Economist*, and it had also been posted on the YouTube website. Besides, there was no legal ban on the publication of that material in Bangladesh during the time that *Amar Desh* was publishing it, i.e., from 9 to 13 December 2012. *Amar Desh* stopped publishing the reports on 13 December 2012 when a court injunction banned Bangladeshi newspapers from publishing them. It was after the court injunction that the government obtained a court order from a high court bench, which required the police to take "necessary

action” against Mahmudur Rahman on the basis of the allegation that he had committed sedition by publishing the Skype conversation. The Tribunal’s chairman resigned after the highly publicised allegations that his contact with the legal expert on Skype had been in breach of the principles of confidentiality and independence that he as a judge of the Tribunal should have observed. Mahmudur Rahman has been detained and tortured in the past, and has more than 50 cases pending against him. He is on bail on these charges, all of which appear to be politically motivated.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Bangladesh:

Torture and other ill-treatment

- To ensure that all allegations of torture and ill-treatment are impartially investigated, and that those found responsible brought to justice. No police or security personnel must be allowed to commit torture or ill-treatment with impunity.

Indigenous Peoples in the Chittagong Hill Tracts

- To put in place an effective mechanism to address land disputes between Indigenous Peoples and Bengali settlers;
- To conduct prompt and impartial investigations into all reported instances of violence against Indigenous women and girls while ensuring victim and witness protection.

The death penalty

- To build on the positive development of no executions in 2012 and to establish an official moratorium on executions with a view to abolishing the death penalty, as provided by UN General Assembly resolution 67/176 of 20 December 2012;
- To commute all death sentences to terms of imprisonment and to ensure that all death penalty cases comply with international standards for fair trials.

Enforced disappearances

- To carry out an impartial and independent investigation into the reports of abductions and enforced disappearances and to ensure that police and other security agencies fully co-operate with the investigation;
- To ensure that the truth about the disappearances is established and made public and that anyone suspected of being responsible for enforced disappearances is brought to justice.

War crimes trials

- To bring to justice all perpetrators of human rights violations and crimes under international law during the 1971 war of independence regardless of what party they supported or what political affiliation they had at that time;

- To remove the constitutional bar against challenging the jurisdiction of the Bangladeshi court, the International Crimes Tribunal.

Harassment of journalists

- To ensure that all journalists and editors are free to express their views and opinion peacefully without being harassed, intimidated, detained or tortured.

ENDNOTES

¹ Death in “crossfire” is a phrase used by the authorities to describe the death of people whose relatives say they had been detained by RAB and later found dead from gun shot wounds.

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE¹

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